

Worker's Compensation

Commission des normes, équité et Santé
et Sécurité au Travail (CNESST) / Workplace
Safety and Insurance Board (WSIB)

History of worker's compensation

Meredith Principles

- In 1910 Sir William Meredith is appointed by the Ontario government to head a Royal Commission to study worker's compensation systems throughout the world and make recommendations.
- 1913 Meredith presents his recommendations and his draft legislation came into effect in 1914. These principles were later adopted by most provinces.
- Principles
 - Compassionate compensation system!?
 - No fault system

Statistics

- On average over one thousand Canadians die will at work every year.
- Number of accepted lost time claims
 - 2012- 18,554
 - 2013-17,379
 - Québec
 - 1982-159,288
 - 2017-73,879
 - Ontario
 - 1982-141,917
 - 2017-59,529



1 fatality

60 serious
accidents

600 minor injuries or near
misses

Government Employee's Compensation Act

- As a federal government employee, GECA defines your rights and responsibilities, as well as the employer's rights and responsibilities under the Act. The Act contains 16 sections.
- ESDC Labour Program administers the Act on behalf of government departments, Crown corporations and agencies.
- Section 4.(3) gives the power to the provincial or territorial authority (CSST-WSIB) to adjudicate the claims utilizing the applicable provincial or territorial legislation.
- Section 9- Third party claims- employees have to make the one of the following choices: claim benefits under the Act, have ESDC sue the 3rd party on their behalf, sue the third party on their own.

Where do I file my claim?

In the province where you work

Definition of an accident

- **GECA**
- “accident” includes a wilful and an intentional act, not being the act of the employee, and a fortuitous event occasioned by a physical or natural cause;
- **Workplace Safety and Insurance Act (WSIA)- Ontario**
- “accident” includes,
 - (a) a wilful and intentional act, not being the act of the worker,
 - (b) a chance event occasioned by a physical or natural cause, and
 - (c) disablement arising out of and in the course of employment; (“accident”)

Definition cont'd

- **An Act respecting industrial accidents and occupational diseases- Québec.**
- “industrial accident” means a sudden and unforeseen event, attributable to any cause, which happens to a person, arising out of or in the course of his work and resulting in an employment injury to him;

What to do in case of injury

- Report the accident to the employer
- Seek medical treatment
- Ensure investigation takes place
- Co-operate with CNEST-WSIB and employer in process

Types of injuries

- First aid injuries
- No lost time injuries
- Lost time injuries
- Fatalities

Lost time injuries

- Medical treatment required
- There could be time away from work after day of injury
- Might require modified duties for a short or long period of time
- Could be deemed to be of a permanent nature.
- In both provinces the employer is required to pay you for your full pay for the day of the accident, provide and pay for transportation to the hospital
- After the first day of the accident the employer is required to pay for all lost time as approved by the CNESST or WSIB. Your collective agreement may provide more protection.

Forms to use

- Ontario

- Form 6
- Form 7
- Form 8

Québec

- Worker's claim
- Avis de l'employeur – Employer's notice
- Temporary work assignment
- Attestation médicale- Medical treatment form

Ontario Form 6

- This is the employee's **report**. His or her version of the events.
- Be precise, make the link between the accident, the injury and the work performed.
- Include all relevant information, who, what ,when, where, why and how.
- List all potential witnesses.
- During the process of the claim the adjudicator may call you, be courteous with him/her. Remember they are workers too!

Ontario form 7

- Employer's report of the accident
- The employer must provide a copy of the form 7 to the injured worker.
- Additional report by the member should be sent to WSIB if the information on the form does not correctly describe the event.

Ontario Form 8

- Form required to be completed by treating physician.
- It is important that the worker makes the link between the work performed and the injury. Clearly explain the event and details to the physician, be specific.

CNESST-Worker's claim

- Worker's claim form and guide
- Be precise, make the link between the accident, the injury and the work performed
- Include all relevant information, who, what ,when, where, why, how.
- List all potential witnesses
- Be courteous with the CNESST workers. Remember they are workers too!
- Return all phone calls within the time frame requested by the CNESST-WSIB worker.

Avis de l'employeur CNESTT (employer's notice)

- This is the form utilized by the employer to advise the CNESTT of an injury.
- The worker has to sign this form and provide her/his version of the event on the form.
- Additional report by the member should be sent to CNESTT if the information on the form does not correctly describe the event.

Attestation médicale CNESST (medical form)

- It is important that the worker makes the link between the work performed and the injury. Clearly explain the event and details to the physician.
- It is crucial that the treating physician be precise and correct about the diagnosis. The CNESST is bound by this diagnosis and it can be detrimental to the member's claim if the diagnosis is incorrect.
- As per the Act the worker must provide a copy of the “attestation médicale” to the employer.

Adjudication process

- Once the forms are completed they are sent the HRSDC Labour Program to be countersigned.
- Then the forms are sent to the appropriate provincial agency. I.e. CNESST, WSIB etc.
- In some cases the injured worker will have to chose to sue or not sue a third party. This is called “election to claim”.

Adjudication process

- The CSST has 30 days to render a decision on a claim.
- There is no time frame for the WSIB to render a decision on a claim.

Appeal process

- CNESST- a member has **30 days** from the date of the decision letter to request a review of the decision
- There is no hearing the reviewer contacts the parties by telephone.
- If the member does not agree with the reviewer he/she has **45 days** from the date of the decision letter to appeal the decision to the Tribunal Administratif du Travail (TAT).
- The TAT's decision is final, unless a judicial review is requested.

Appeal process

- WSIB- the member has **6 months** to appeal the adjudicator's decision from the date of the decision.
- This level is called the Appeal Officer level. The AO will decide if an in person hearing is appropriate alternatively the parties will be asked to make written submissions.
- Once the AO decision is rendered the member has **6 months** to appeal this decision from the date of the decision to the Workplace Safety and Insurance Appeals Tribunal (WSIAT).
- The WSIAT is final, unless a judicial review is requested.

PSAC NCR Regional Office

- Provide support-advice to member in filing their WCB claims
- Represent members vis à vis the CSST and WSIB.

Questions?

Have a question, need support, need help,

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Websites

- [PSAC NCR: www.psac-ncr.com](http://www.psac-ncr.com)
- [WSIB: www.wsib.on.ca](http://www.wsib.on.ca)
- [CNESST: www.cnesst.gouv.qc.ca](http://www.cnesst.gouv.qc.ca)
- [TAT; www.TAT.gouv.qc.ca](http://www.TAT.gouv.qc.ca)
- [WSIAT: www.wsiat.on.ca](http://www.wsiat.on.ca)
- [CCOHS: www.ccohs.ca](http://www.ccohs.ca)
- [Labour Program: www.labour.gc.ca](http://www.labour.gc.ca)