

New occupational diseases regulation comes into effect this fall

On September 1, 2023, the new Occupational Disease Regulation will come into effect. The regulation will make it easier to establish work-relatedness for certain occupational diseases.

An occupational disease is a disease that is attributable to workplace activities or exposures that are closely associated with a particular industry, trade or type of employment.

There are often both work-related and non-work-related factors that contribute to someone contracting an occupational disease. And any years may pass after workplace exposure(s) before a worker knows they have a health problem. This is why *The Workers Compensation Act* (the Act) imposes a higher standard of causation on occupational diseases claims (called "dominant cause") than other types of injury claims. For an occupational disease claim to be accepted, evidence must show that workplace activities or exposures are the main cause of the worker's disease.

The WCB currently adjudicates all occupational disease claims on case-by-case basis. However, the Legislative Review Committee 2016-2017 recommended Manitoba follow the approach of several other Canadian jurisdictions and develop a two-tiered approach to occupational disease adjudication.

As a result, the provincial government amended the Act last year, and then passed a new regulation that comes into effect this fall. The WCB also revised and renamed its associated policy. The *Adjudication of Occupational Disease Claims* policy applies to accidents on or after January 1, 2022. All of these changes mean that while many occupational disease claims will continue to be adjudicated on a case-by-case basis, some will be adjudicated using a **presumption**.

On September 1, 2023, the *Occupational Disease Regulation* will come into effect. The schedule is part of regulation 69/2023, which can be found on the provincial government website at <https://web2.gov.mb.ca/laws/regs/current/069-2023.php>. It contains a schedule of occupational diseases. If a worker's occupational disease is listed on the schedule (in Column 1) and they meet the corresponding employment criteria (in Column 2), there is no need for the WCB to collect and weigh evidence to establish cause: it is presumed.

However, this presumption is **rebuttable**. That's means if there is sufficient evidence to prove that the worker's employment is not the dominant cause of the occupational disease, the presumption will not apply.

A separate occupational disease presumption applies to certain cancer claims for firefighters and Office of the Fire Commissioner personnel. As well, a separate WCB policy provides guidance on adjudicating claims related to noise-induced hearing loss, a particular type of occupational disease.

[Click here](#) to read answers to frequently asked questions (FAQs) about how the WCB adjudicates occupational disease claims.

For more information, email policy@wcb.mb.ca.