

**Construction Employers Coalition  
(for WSIB and Health & Safety and Prevention)**



March 20, 2023

The Hon. Monte McNaughton, Minister of Labour,  
Immigration, Training and Skills Development  
Ministry of Labour, Immigration, Training and Skills Development  
400 University Avenue, 14<sup>th</sup> Floor  
Toronto, ON M7A 1T7

Dear Minister McNaughton:

**Re: WSIB loss of earnings benefit payment levels**

It is our understanding the government is still in the process of considering adjusting the WSIB wage replacement level from 85% of net to 90% of net. The CEC wrote to you on July 21, 2022 (copy at **Appendix A**) suggesting that an academic level analysis, similar to that set out in the April 04, 1997 British Columbia paper, “**Compensation Rate, A Briefing Paper**” (“Briefing Paper”) be undertaken before the government decides this important policy issue. The Briefing Paper was presented to the **Royal Commission on Workers’ Compensation in British Columbia**.<sup>1</sup>

At present, the CEC neither supports nor is opposed to an adjustment of the benefit wage replacement level. The overarching position of the CEC is that the WSIB wage replacement level should be carefully and prudently assessed to ensure that it represents a fair and equitable level of compensation that neither promotes over or under compensation. We trust that the government shares this objective.

We suggest that any study of workers’ compensation wage replacement levels be mindful of past work undertaken by the **Institute of Work and Health [“IWH”]**. We draw your attention in particular to the March, 2011 IWH study entitled, “**The adequacy of workers’ compensation benefits**” (link [here](#)) and the IWH’s March, 2016 follow up report, “**Measuring the adequacy of workers’ compensation benefits in Ontario: An update**” (link [here](#)). These studies concluded that the current benefit structure fully compensates for lost earnings. As highlighted in the March 2016 report, “*Workers’ compensation benefits for permanently disabled claimants in Ontario under the program that took effect in 1998 fully compensated for lost earnings, on average.*”

As outlined by the IWH’s studies, the establishment of a wage replacement level requires a complex and in-depth analysis.

We again submit that it important that the government consider the complexity of this issue, understanding that this is not as simple as “winding the clock back” to pre-1998 levels (90%) or to make changes to simply emulate the benefit level in other jurisdictions. It is important that a full assessment is undertaken to ensure the level of compensation is correct, and to ensure there is not a misstep, in either direction, that will irreparably harm the Ontario workplace safety and insurance framework or inadvertently lead to unintended adverse consequences of under or over compensation.

We therefore are writing to repeat our suggestion that the government undertake an academic review not at all dissimilar to the one undertaken by the BC government in 1997, similar in depth and quality of the Harry Arthur’s 2011 **Funding Fairness** report.

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<sup>1</sup> “**Compensation Rate, A Briefing Paper**” is attached to the forwarding email of this letter.

We look forward to addressing this issue with you. Please reach out at any time.

Your truly,



Andrew Pariser, CEC Chair

Attached to the forwarding email: ***BC Royal Commission Report***

## Appendix A

Construction Employers Coalition  
(for WSIB and Health & Safety and Prevention)



July 21, 2022

The Hon. Monte McNaughton, Minister of Labour,  
Immigration, Training and Skills Development  
Ministry of Labour, Immigration, Training and Skills Development  
400 University Avenue, 14<sup>th</sup> Floor  
Toronto, ON M7A 1T7

Dear Minister McNaughton:

**Re: WSIB loss of earnings benefit payment levels**

Congratulations on your appointment as Minister of Labour, Immigration, Training and Skills Development. We look forward to working with you and your office relating to WSIB issues.

Today we are reaching out with respect to the April 20, 2022 Government announcement (and media reports) that advised that the Government will explore options about increasing benefits from 85% of net to 90% of net.

We submit that it is critically important that the Ministry's first step should be to commission a report similar to the *BC Royal Commission Report* (attached to forwarding email). This report was part of the mandate of the Royal Commission to examine proper wage replacement levels, specifically:

This paper discusses the history of the "75% gross" compensation rate in BC and the "90% net" compensation rate in other jurisdictions, more recent developments with respect to the establishment of compensation rates and the adequacy, equity, cost, and return to work incentive/disincentive factors that might be considered in evaluating alternatives [at page 2].

The Ontario experience is highlighted in that report at pages 1-14.

This is the only report we were able to locate that assesses this issue. For your immediate reference, we have included a brief history of WSIB benefit levels over the years at **Appendix A**.

As the Government's announcement was to "consider" and "explore" this issue we look forward to an opportunity to participate and learn about the next steps the Government plans to take, or direct the Board to take, and the timeline for any consultations that will explore this issue.

Please reach out at any time to arrange a meeting (virtual or in person).

A handwritten signature in black ink, appearing to read "David Frame".

David Frame, CEC Chair

## Appendix A

## A brief history of WSIB benefit levels

1. History: Workers' compensation wage replacement levels.
  - a. 1914: 55% of gross
  - b. 1920: 66 2/3% of gross
  - c. 1950: 75% of gross
  - d. 1985: 90% of net
  - e. 1998: 85% of net
2. The November, 1980 paper "*Reshaping Workers' Compensation for Ontario*" presented an argument for the move from 75% of gross to 90% of net (pages 38-40).
3. The 1981 Government "*White Paper*" outlined an argument for 90% of net (Recommendation #2, pages 6 - 9).
4. The December, 1983, Standing Committee on Resources Development, Final Report, the majority agrees with 90% of net (pages 15-16).
5. Bill 101 in June, 1984 amended s. 40 of the *Worker' Compensation Act* ["WCA"] and provided compensation based on 90% of net.
6. In 1995 as part of PCPO Common Sense Revolution, a 11 point-plank on WCB reform included #5: reduce benefit levels to 85% of net.
7. In June, 1995 Mike Harris PCs were elected and appointed Elizabeth Witmer as Minister of Labour and Cam Jackson Minister for Workers' Compensation Reform.
8. The June, 1996 Cam Jackson Report "*New Directions*" (at page 23) noted regarding 90% of net: "... a worker on WCB benefits for up to 39 weeks can" ... "receive net income that exceeds" pre-injury net.
9. "*New Directions*" (page 23) re 90% of net: Employers advocated for 80% of net for the first 39 weeks then 85% thereafter.
10. Three principles were identified: compensation should not exceed pre-injury income; compensation should be less than pre-injury to ensure return to work incentive, and funding pressures influenced 85% move.
11. Bill 99 introduced on November 26, 1996 created a new s. 43 (2) that set the wage replacement rate at 85% of net.
12. Bill 99 debates (House and Committee) took place between November, 1996 to September, 1997. The 85% issue was a small element of these debates. Government comments re 85% net: Focus on "*financial viability*" (Witmer, Nov. 26, 1996) and consistency with trends in other provinces (Witmer, April 24, 1997) & other similar.
13. From 1997, little public dialogue regarding the adequacy of 85% net. Significantly, a March 2016 Institute for Work and Health report regarding the impact of Bill 99 states: "*fully compensated for lost earnings, on average*".
14. Very little academic level analysis has been undertaken with the exception of the *BC Royal Commission Report*.

15. *Compensation Rate: A Briefing Paper*, April 4, 1997 by the Royal Commission on Workers' Compensation (75 pages) provides an academic level comprehensive analysis. This was written after Ontario Bill 99 introduced. Therefore, aware of Ontario argument for 85% of net (BC later adopted 90% of net).
16. Extrapolating from WSIB 2021 Q3 report, an increase from 85% to 90% will result in a 5.9% increase. Applying the modern funding policy (2015 - today's premiums must fund today's costs) employer premiums must cover the increase, and therefore must increase at least 5.9%.