
**COMPARATIVE REVIEW
OF
WORKERS' COMPENSATION SYSTEMS
AND
GOVERNANCE MODELS**

FINAL REPORT UPDATE

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I. THE PROJECT

This report provides a comparative review of workers' compensation systems in several select jurisdictions. It compares the workers' compensation systems in various jurisdictions on the basis of the environment the system operates within, the governance and administration of the system, how the system is financed, compensation benefits provided by the system, health, safety and accident prevention related to the system and performance monitoring of the system.

The remainder of the report includes the following sections:

- II. Selection of Jurisdictions -- A discussion of the nature of workers' compensation systems and how the jurisdictions reviewed were selected.
- III. Topic Areas Covered for Each Jurisdiction -- A discussion of the topic areas covered for each jurisdiction and the approach taken to complete the comparative summary for each jurisdiction.
- IV. Comments and Observations -- Comments and observations arising from the information collected.
- V. Summary Matrix -- A summary matrix of the information collected.
- VI. Detailed Summaries for Each Jurisdiction -- Detailed comparative review summaries for each jurisdictions reviewed in the study, including a glossary of terms used and an annotated bibliography.

II. SELECTION OF JURISDICTIONS

Categorization of Systems

Workers' compensation systems can be categorized based on a number of different characteristics of the systems, including:

- by the *type of system* - national or sub-national jurisdiction based;
- by the general *structure of the system* - a stand alone workers' compensation program or part of a general compensation or social insurance scheme;
- by the type of *coverage* - is coverage of employers mandatory or voluntary;
- by who *underwrites the risk* - a government insurer, private insurers or some combination;
- by who *administers the system* - government directly, a government body, or a non-government association; and,

- by who *funds the system* - employers only, employers and employees or employers, employees and general government revenues.

The jurisdictions chosen for this study are intended to provide a cross section of systems that cover as many of the combinations of these characteristics as possible (see Table 1, following page, "Categorization of Selected Jurisdictions by General Characteristics of Workers' Compensation Systems"). The jurisdictions have been first broken down into two general categories: sub-national systems (state or province based systems) and national systems.

Selection of Jurisdictions

Of the 136 countries with workers' compensation legislation, only three countries operate on a sub-national jurisdiction basis: Canada, the USA and Australia. Though the vast majority of systems are national, because British Columbia is a sub-national system, this project focuses on a review of sub-national systems, including all the Canadian jurisdictions, and select states in both the USA and in Australia. Select national systems are also included for the purpose of comparing the sub-national systems against national systems.

Sub-national Systems:

All Canadian provinces have been reviewed as part of this project because they are the obvious comparators to the B.C. system. The Comparative Review is also useful in noting the differences among the Canadian jurisdictions.

Workers' compensation for employees of the Canadian federal government and its agencies is provided for under the federal *Government Employees Compensation Act*. However, responsibility for administering the federal legislation and program has been delegated to the provincial workers' compensation boards for federal government employees working in their province¹ and the benefits for federal government employees in a given province are the same as for other employees working in that province. Thus, workers' compensation for federal employees has not been reviewed separately.

¹ The Alberta board administers federal government employee claims for Alberta, the Yukon and the Northwest Territories; a worker in the Yukon or Northwest Territories is deemed employed in Alberta. The Ontario board administers claims for federal government employees injured while working outside of Canada.

Table 1
CATEGORIZATION OF SELECTED JURISDICTIONS BY CHARACTERISTICS OF
WORKERS' COMPENSATION SYSTEMS

	TYPE	SYSTEM	COVERAGE	RISK UNDERWRITING	ADMIN.	FINANCING
Canadian Provinces	State	Workers' Comp. (WC)	Mandatory, Employee- ²	Gov't insurer - some self insurance (SI)	Gov't body	Employers
Washington State	State	WC	Mandatory, Employee-	Gov't insurer - moderate SI	Government	Employers
Oregon	State	WC	Mandatory, Employee-	Gov't and private insurers, some SI	Government	Employers
Michigan	State	WC	Mandatory, Employee-	Private insurers, SI	Government	Employers
Texas	State	WC	Voluntary, Employee-	Gov't and private insurers, some SI	Government	Employers
New South Wales	State	WC	Mandatory, Employee+	Gov't insurer; private delivery	Gov't body	Employers
Victoria	State	WC	Mandatory, Employee+	Gov't insurer; private delivery	Gov't body	Employers
Queensland	State	WC	Mandatory, Employee	Gov't insurer - no SI	Gov't body	Employers
Comcare (Aus. fed)	National	WC	Mandatory, select group	Gov't insurer - some SI	Gov't body	Employers
Germany	National	WC	Mandatory, Employee+	private insurers - no SI	Non-Gov't Association employer & worker reps	Employers
Sweden	National	Integrated	Mandatory, Employee+	Gov't insurer - no SI	Government	Hybrid ³
New Zealand	National	Social Insurance	Mandatory, Employee++	Gov't insurer - no SI	Gov't body	Employers

² "Employee-" means statutory exclusions regarding covered employees; " is broader than the normal legal meaning of employee: "Employee++" includes New Zealanders working abroad and visitors to NZ.

³ Employers, wage earners and government contribute to sickness benefits insurance fund.

Select jurisdictions from the USA and Australia have been reviewed in order to compare similarities and differences in those sub-national systems with the British Columbia system.

Of the states in the USA, Washington State, Oregon, Michigan and Texas have been reviewed. These states were chosen for a number of reasons.

First, these four states represent the different types of workers' compensation systems found in the USA. This provides a contrast in the types of systems:

- Washington State is an exclusive state fund (the central government fund is the exclusive workers' compensation insurer for the state).
- Oregon and Texas are competitive state funds (there is both a government insurer and private insurers who compete for business).
- Michigan is a competitive workers' compensation system with no state fund, only private insurers.
- Texas is one of just three states where workers' compensation insurance coverage of employers is voluntary (the others are New Jersey and South Carolina). It also has an interesting model of governance and accountability through a form of legislative oversight committee.

Second, Washington State and Oregon are relatively similar to British Columbia in terms of geography, population size, and type of economy (strong resource base), whereas Michigan is relatively similar to Ontario which provides for a comparison of an external jurisdiction against another Canadian jurisdiction. As well, all four of these states have recently undergone reform aimed at refocussing the system and constraining costs.

With respect to Australia, the states of Victoria, New South Wales and Queensland were chosen for review. These Australian states are the three largest Australian states and therefore closest to British Columbia in terms of population. The general standard of living in these three Australian states is also similar to British Columbia.

Victoria and New South Wales are both central government fund systems with the interesting option of service delivery through private insurers. That is, the government fund underwrites all risks but private insurers provide administration (claims management) services. Queensland, the smallest of the three Australian states reviewed and closest in population size to British Columbia, has a exclusive state fund and administrative structure similar to British Columbia. All three Australian states have recently been subject to significant reform affecting policy, legislation and structural organization.

The federal government system in Australia, Comcare, has also been reviewed as it represents an interesting alternative to the Canadian system for federal government employees.

National Systems:

Of the national jurisdictions included in the comparative review, Germany and Sweden are included because they are considered to be European models of particular types of workers' compensation systems.

The origins of modern workers' compensation arose in Germany. Canadian workers' compensation systems were initially modeled on the German system in place early in this century, although both have evolved since that time. As well, the German workers' compensation system is of interest because administration of the system is through non-profit industry "institutes" governed by employers and employees (a form of industrial relations model).

Sweden has been included because its system of workers' compensation is highly integrated with its broader social insurance system. As well, as a result of the recent economic downturn, Sweden's social system has come under close scrutiny and a number of adjustments to coverage and benefits entitlements have been made. Furthermore, Sweden provides a contrast with the German system in that Sweden is more similar to British Columbia in terms of population size and economy (Sweden is more resource based while Germany is highly industrialized).

New Zealand has been included because it is a commonwealth country with similar language, broad customs and civil law base to British Columbia. However, it has a dramatically different approach to workers' compensation, with coverage forming part of a system of universal, 24 hour, no-fault accident insurance coverage. The New Zealand system was fundamentally reformed in 1992, with further changes in 1996, to refocus the system on rehabilitation and provide for more efficient management.

III. TOPIC AREAS COVERED FOR EACH JURISDICTION

Development of Topic Areas

Information collected on each of the workers' compensation systems has been organized according to common topic headings to facilitate a comparative review of the systems selected. The result is notionally a matrix, with jurisdictions forming one axis and the topic headings forming the other axis. However, it was only practical to present a very brief summary of the information in matrix form, with the bulk of the information being included in jurisdiction specific summaries. Section V. is the summary matrix and Section VI. the detailed summaries.

It is expected that the Summary Matrix will be primarily used as a reference tool to locate topics and jurisdictions of interest in the detailed summaries. Because of the complexity of workers' compensation systems and provisions, care should be taken in interpreting the information in the summary matrix and conclusions should not be drawn without at least reviewing the relevant information in the detailed summaries.

The information collected on each jurisdiction and included in the detailed summaries is intended to be comprehensive, covering a wide range of topics from quantitative indicators such as claim volumes, compensation benefits and premium rates to more subjective topics such as approach to policy development, prevention and rehabilitation. Many of the areas covered in this review are not normally covered in comparative reviews of workers' compensation systems.

The topic areas covered are listed in Table 2 (following page).

Project Methodology

A four step approach was taken to complete the summary for each jurisdiction:

- research and collection of relevant information, including meetings and contact with identified resource people who have expertise in, or knowledge of, particular jurisdictions;
- detailed review and analysis of the information, interpretation of the data and statistics; and preparation of a draft of the summary for each jurisdiction using all information currently available;
- follow-up with contacts in each jurisdiction and review of the draft summary by contacts to confirm information and clarify outstanding issues;
- completion of final summary for each jurisdiction.

To the extent possible, given the parameters of the project, diligence was taken to assure the accuracy and currency of the information in the summaries by confirming the information with contacts in the various jurisdictions. However, Germany has not verified the information in the summary, except for the information in the sections on Occupational Health and Safety, and most jurisdictions have not reviewed a final draft of the summary for their jurisdiction.

Table 2

Topic Areas Included in Comparative Summaries

Environment

Population Size
Labour Force
Demographic and Economic Indicators

Governance & Admin.

Nature of System
Principles and Mandate
Access to Litigation
Scope of System (Coverage)
 Who is covered?
 What is covered?
Self Insurance
Organizational Framework
Governance Structure
Policy Development
Accountability
Performance Assessment
Claims Adjudication Process
Dispute Resolution
 Mediation / Conciliation
 Appeals Process

Assessments / Financing

Assessment or Premium Setting Process
Assessment/Premium Rates
Second Injury Funds / Disaster Funds

Table 2 (Continued)

Compensation Benefits

Claim Rate

Medical Aid

Nature of Aid

Choice of Provider

Cost Containment

Rehabilitation

Physical/Occupational/Vocational

Social

Rehabilitation Incentives

Treatment of Subjective Complaints

Disability Benefits

Short-term Benefits

Long-term Benefits

Hearing Loss

Death Benefits

Funeral Expense Benefits

Survivor Benefits

Health, Safety & Prevention

Organization Structure

Agencies Responsible

Source of Funding

Accident Reporting

OHS Committees and Safety Representatives

Offenses and Penalties

Contraventions of the Legislation

Administrative Penalties

OHS Legislative Review

Health & Safety and Loss Prevention Initiatives

Fraud Prevention

IV. COMMENTS AND OBSERVATIONS

General Comments

As a general comment on the information collected, caution should be exercised in undertaking inter-jurisdictional comparisons of the information, particularly the comparison of quantitative data on specific issues such as claim volumes and injury or claim rates and premium rates. Because the basis for calculating these rates and the classification and recording methods differ significantly between jurisdictions, there is no standardization or consistency in the reported information and inter-jurisdictional comparisons are therefore difficult⁴.

Care should also be taken in contrasting and comparing the national to sub-national systems. The differences in approach and philosophy between the national schemes and the sub-national schemes is significant, making comparisons difficult. The structure and approach of the national systems with their high degree of coordination and interrelationship of workers' compensation with broader social programs and policies is fundamentally different than for the sub-national systems.

Governance and Administration

Nature of the System

Of the 136 nations with workers' compensation insurance programs, both national and sub-national, in 91†countries (67%), the workers' compensation program forms part of the general social insurance system and there is little distinction between compensation provided for work and non-work related accidents, although in two-thirds of the cases the funding of work-related accidents is solely from employers.

Of the 45 countries (33% overall) with a separate workers' compensation system, 40 countries (29% overall) make workers' compensation insurance compulsory⁵ (although 30 countries permit private insurers) and only 5 countries (4% overall) make workers' compensation coverage voluntary. In jurisdictions with a separate workers' compensation system, the nature of the system ranges from exclusive government administration and fund management through mixed public and private funds to completely privatized schemes and includes hybrid systems with a central government fund, but privatized service delivery (such as, Victoria and New South Wales, Australia).

⁴ For example, because each jurisdiction has a different way of grouping industries into classes and sub-classes and rate groups it is nearly impossible to compare assessment rates and claim or injury statistics by industry. As well, low and high assessment rates should be treated with caution because whereas the rates for some jurisdictions represent actual minimums and maximums, for others these rates are theoretical limits which may never be reached in practice.

⁵ The USA is included in this category because all but 3 states make coverage compulsory.

The Canadian model, a comprehensive, compulsory, no fault system with exclusive provincial government funds, found uniformly across all Canadian jurisdictions, is the minority approach throughout the world (only 10 countries or less than 1/4 of those with separate workers' compensation systems have exclusive government funds).

Principles and Mandate

Over the past decade, many of the workers' compensation systems reviewed in this study have undergone fundamental reform. The impetus for these major reform movements appears to be cost control and/or a response to systemic problems leading to a high degree of employee and employer dissatisfaction. The response to these issues in many of the jurisdictions has been to put a greater priority on prevention, rehabilitation and return to work as a way to reduce costs and deal with the continuing issues associated with the compensation side of the program.

In Canada, Nova Scotia, New Brunswick, PEI, the Yukon, NWT and Ontario have recently reformed their systems. Most now place a greater emphasis on prevention, rehabilitation and return to work. Oregon underwent fundamental reforms in 1990 and 1993 to refocus its system and to gain control of the costs of its system, including considering 24 hour coverage which it is currently testing through select pilot projects. Michigan recently moved to a totally privatized system from a competitive state fund. New Zealand, New South Wales, Queensland and Victoria, Australia and Comcare, the Australian federal government system, have all undergone fundamental reform processes. These have all included significant changes to their legislation, most with an increased emphasis on prevention and rehabilitation and changes to compensation benefits entitlements. The objectives have been generally to curb escalating costs and promote early return to work.

Access to Litigation

Most workers' compensation systems, including all Canadian jurisdictions, remain true to the original principle of workers' compensation as an exclusive remedy⁶. There are some exceptions to this rule, including Sweden which allows civil law action remedies against employers who do not hold labour market insurance that provides benefits over and above the benefits provided through the national workers' compensation program and several Australian jurisdictions which permit a right of action for seriously injured workers. It is notable that the issue of civil law remedies is a source of concern in those Australian

⁶ A worker covered by the workers' compensation scheme which provides an exclusive remedy has no right of action against an employer or another worker for an injury that occurs while in the course of employment. Similarly, the employer has no cause of action and neither is there a right of action against the board or its members. Most Canadian jurisdictions allow a right of action against third parties and in some cases provide for an election between coverage under the workers' compensation scheme and civil law remedies. A summary of all "right of action" provisions, including subrogation provisions, in Canadian workers' compensation legislation is provided in the *Canada, 1995*, prepared by the Association of Workers' Compensation Boards of Canada.

jurisdictions that provide for it. In response to concerns that access to civil law remedies causes the system to be overly litigious, to the disadvantage of the injured worker, certain Australian jurisdictions have recently amended their legislation in this area and others are considering changes⁷.

Several jurisdictions offer programs to cover the legal costs of claimants. Canadian jurisdictions do not as a rule provide financial support to cover claimants' legal costs in the appeal process because it is considered that this would contribute to the litigiousness of the system.

Scope of System

The range of workers covered by compulsory systems is generally broad in scope, ranging from universal coverage⁸ in some national systems to fairly broad coverage with select exemptions in the sub-national systems (some schemes cover only 70% of the workforce, but the average coverage appears to be between 80 to 90%). The Canadian jurisdictions and the select USA jurisdictions studied are fairly uniform in terms of providing coverage for injuries that "arise out of and in the course of work", including occupational illnesses, whereas the national and Australian jurisdictions studied generally extend coverage to accidents that occur on the way to work, on work journeys and off the work site provided there is a work related reason for the employee to be off-site (or as in New Zealand, provide 24 hour coverage for all accidents).

Self Insurance

Several of the jurisdictions studied, including some jurisdictions with an exclusive central government fund, permit some degree of self insurance. Several jurisdictions have also begun to provide for and permit forms of self administration. Generally, there are established prudential requirements and ongoing regulation and monitoring that apply to employers self-insuring under a workers' compensation scheme.

⁷ In Australia, common law rights for federal government employees were abolished in 1988; in NSW common law rights were abolished in 1987 and then reinstated in 1990, but only for seriously injured workers (NSW is currently reviewing its provisions respecting access to common law); in Queensland, seriously injured workers' have access to both workers' compensation and common law and non-seriously injured workers may elect compensation or common law, but all injured workers considering common law action must first go through a pre-proceedings process designed to promote early settlement and ensure all parties are fully informed (this provision was introduced in 1996 amendments to the Queensland legislation); and Victoria allows access to common law only for seriously injured workers (common law action was restricted to seriously injured workers in 1992).

⁸ That is, not limited to employees. In those cases, compensation benefits generally do not differ depending on whether or not the injury is work-related, but the funding of the compensation for work-related injuries is usually primarily from employers.

Organizational Framework and Governance Structure

There is a range of approaches to governance in the jurisdictions studied from direct government control⁹ (Oregon, Washington, Michigan), to the statutory board model (uniform throughout Canada and the Australian states studied in the review¹⁰) to the German system that is administered through a private non-profit industry-labour organizational structure.

Most of the jurisdictions with a statutory board model have equal representation of employers and employees on the board of directors of the agency. Some also provide for some form of public representation.

Policy Development

Most workers' compensation boards or agencies have an internal policy development division to provide internal research and policy advice and assist in the development of board or agency policy. Some jurisdictions have a formal established process for the development of board policy, including in some cases opportunity for public consultation and comment. New South Wales stands out in terms of its provisions for public input, access and involvement in the system.

Accountability / Performance Assessment

In some jurisdictions there is government oversight and formal accountability provisions that apply to the statutory body or agency (such as the Research and Oversight Council in Texas, and in New Zealand and Queensland, the formal annual agreement with government respecting the operations and performance of the board). Few Canadian boards are subject to formal or legislated government accountability and reporting relationship (one exception is Ontario), though there is generally an informal reporting relationships with the Minister responsible for workers' compensation.

One of the clear gaps in the information available is the general absence of a systematic approach to performance evaluation. All workers' compensation agencies collect a large amount of statistical data, including data on the number of claims by type (i.e., short term disability, long-term disability), by duration, by employment sector and sex; the number of fatalities and fatalities per total accident, etc. The collection, tracking, and reporting of these measures is intended to assist the workers' compensation agency in monitoring the operation of the system. However, as noted earlier, there is little standardization and

⁹ That is, officials within the executive branch of government have regulatory authority over the system. In Washington, that includes operation and administration of the whole system, which is an exclusive state fund, but Oregon has a competitive state fund operated by a government corporation and Michigan has only private sector service delivery.

¹⁰ Until this year, the Queensland WCB was part of government, but the 1996 reforms removed workers' compensation from direct government control and created a separate statutory agency responsible for the workers' compensation system as a way to reduce political interference in the operations and management of the system.

consistency in the information collected across jurisdictions, there is little ability to routinely prepare and present statistical indicators which are useful in guiding management decisions and, in some cases, critical information to guide and inform the system is apparently not being collected.

In August 1996, Nexus Actuarial Consultants Ltd., undertook for the WCB BC a survey of the "performance measures" used and considered important by the Canadian jurisdictions. The study also identified "blockers" and obtained information on workers' compensation classification, pricing, and experience rating. The study observed that whereas all Canadian jurisdictions collect some performance measures there is no consistency and that "there are a number of measures that most (if not all) jurisdictions consider to be key outcome measures and yet very few jurisdictions collect (for example, the number of LTD claims where the worker returns to their pre-injury job; the number of STDs that are reopened)"¹¹.

The lack of standardized information to undertake a performance based comparison of different systems is of concern to sub-national workers' compensation systems. The Heads of Workers Compensation in Australia recently launched an initiative to develop "best practice" principles and standards to guide the development of high quality, effective and consistent workers' compensation practices across all Australian jurisdictions. The International Association of Industrial Accident Boards and Commissions (IAIABC) is currently undertaking a benchmarking study to develop a "list of data elements that are essential to creating a comprehensive and standardized data set for workers' compensation administrative agencies ... to help identify the causes of workplace injuries and illnesses, monitor the benefit delivery system, measure aggregate system costs, identify system cost drivers, evaluate the impact of legislative and regulatory changes, and facilitate inter-jurisdictional comparisons."¹²

Many of the systems studied do not appear to have a formal performance evaluation system, though a few systems do have some form of rigorous ongoing strategic planning process in place to guide operations and to establish goals against which performance can be checked.

Claims Adjudication and Dispute Resolution Process

Normally the agency responsible for workers compensation in the jurisdiction is responsible for claims adjudication, except in those jurisdiction that allow private insurance or private service delivery. Even then, there is usually some role played by the workers' compensation agency in the adjudication or review of disputed claims.

¹¹ Page 27, Nexus Actuarial Consultants, Ltd., *WCB BC Survey of Canadian Workers' Compensation Jurisdictions: Final Report*, August 8, 1996.

¹² Ann L. Clayton and Roger J. Thompson, "Workers' Compensation Benchmarks", *John Burton's Workers' Compensation Monitor*, January/February 1995 page 15

All the jurisdictions have some form of appeal process, but there is wide variance in the type and nature ranging from highly structured internal and external appeal systems, including ultimate appeal to the courts, to relatively informal internal reconsideration of disputed decisions.

Assessments and Financing

A common feature of all the systems studied in this review is that the basic workers' compensation program is funded solely by employers¹³ (even New Zealand provides for a segregated fund for employer's contributions to support the work accident portion of the New Zealand scheme). In some jurisdictions, initial coverage for injured workers is provided through the health or sickness insurance program, the costs of which are supported by employers, employees and government (Sweden and Germany¹⁴), and in some jurisdictions there is employee contribution to special funds, but in the main, employers are responsible for bearing the financial burden of workers' compensation insurance.

Across the jurisdictions studied there has been a general move toward introducing some form of employer level accountability into the system of collective employer liability through the introduction of experience rating programs. These types of programs are intended to reduce claims cost and increase safety by applying assessment surcharges or rebates at the individual firm level based on the firm's experience compared with the rest of the industry of which the firm is a member.

Compensation Benefits

Medical Aid

Generally, all the workers' compensation systems studied provide comprehensive medical coverage. Several jurisdictions have undertaken a number of measures to try to control costs such as limiting the choice of service provider, introducing the use of fee schedules, establishing managed care models and using MCOs. Some Australian jurisdictions also impose deductibles and limit total medical coverage and the duration of medical coverage.

¹³ This is consistent with the majority of workers' compensation systems throughout the world; in 71% of jurisdictions employers pay the entire cost, in 14% of jurisdictions employers and government share the costs; in 13% of jurisdictions, employers, government and employees share the costs and in only 3% are costs shared between employers and employees.

¹⁴ In Germany the use of the national health program for the first 18 days of medical benefits for an injured worker is designed to reduce incentives for cost shifting.

Rehabilitation

All jurisdictions reviewed support rehabilitation and return to work of injured workers. However, the priority of rehabilitation services and the approach taken differs significantly across jurisdictions. In some jurisdictions early return to work is a key goal or priority of the system. Substantial incentives to encourage rehabilitation efforts by both employees and employers are provided in these jurisdictions. The approach to rehabilitation also differs significantly - some jurisdictions place the onus on the employer and rehabilitation is workplace based, in other jurisdictions the insurer takes the lead in rehabilitation. A movement in the USA toward mandatory rehabilitation seems to have been reversed in recent years due to excess costs, with several states amending statutes to once again make rehabilitation activities discretionary or put responsibility for rehabilitation back into the hands of the employer. In all Canadian jurisdictions, the provision of rehabilitation services is at the discretion of the board.

Disability Benefits

There is considerable diversity in both the approach to compensating injured workers for loss of wages and the level of compensation. The two main approaches to compensation are to base compensation on the degree of disability suffered by the injured worker or to base compensation on actual wage loss (the difference between pre- and post-injury earnings capacity). Some jurisdictions offer a "dual award" approach, whereby a permanently disabled worker is compensated for both economic loss, their loss of earnings, and for the permanent physical impairment they have received. Several jurisdictions have recently tightened their eligibility requirements for receiving benefits and introduced amendments to their benefit levels to control the long-term costs of workers' compensation (such as the Australian jurisdictions, Oregon, Ontario and Sweden).

Death Benefits

There is a wide range of approaches and rates across jurisdictions respecting the compensation of dependents on the death of a worker. Some jurisdictions provide generous ongoing pensions that continue for the life of the dependent spouse, whether or not they remarry, while others provide a lump-sum grant or a pension of limited duration.

Health, Safety and Prevention

Agencies Responsible

In many jurisdictions, though the workers' compensation agency plays an important role in accident prevention and workplace health and safety education and training, there is a separate agency with ultimate responsibility for occupational health and safety. In other jurisdictions, the agency responsible for workers' compensation is also responsible for workplace health and safety as these functions are seen as complementary. Where there

are separate bodies responsible for workers' compensation and for occupational health and safety, the agencies often act in partnership in prevention of workplace accidents and the promotion of a safe and healthy work environment¹⁵. Generally, where there is a separate agency responsible for OHS, government provides some level of funding for the OHS program in addition to assessments on employers; and where the workers' compensation agency is responsible for OHS, the program is fully funded from by employers' assessments.

At one point most Canadian workers' compensation boards had responsibility for occupational health and safety. However, throughout the 1970s and 1980s many provincial governments stripped this role from the workers' compensation board because the combined role was seen to be a conflict of interest. Only the boards in Quebec and British Columbia retained this responsibility. Recently however, responsibility for occupational health and safety was transferred to the boards in New Brunswick, the NWT, and the Yukon and, in April 1996, the P.E.I board reassumed responsibility for this function. Currently, a government Ministry retains responsibility for occupational health and safety in Alberta, Manitoba, Newfoundland, Nova Scotia, Ontario and Saskatchewan.

OHS Representatives and Committees

Most jurisdictions have a legislated requirement for workplace based OHS committees and/or safety representatives, though there is considerable variation in the size thresholds and specific requirements across jurisdictions.

Offenses and Penalties

Some jurisdictions have strong OHS investigation and prosecution programs, other jurisdiction prefer to focus their efforts on administrative sanctions, including the imposition of administrative fines, or "on the spot" penalties because of the complexity and time consuming nature of pursuing criminal prosecutions. Despite this, several jurisdictions, including several Canadian jurisdictions, have recently significantly enhanced the maximum penalties under their legislation.

OHS Legislative Review

Very few jurisdictions have a legislated or mandated requirement to regularly review their OHS legislation. Many jurisdictions do, however, have in place some form of regular systematic process for reviewing OHS standards and regulations to ensure that they are kept up-to-date and kept abreast of technological developments. Several jurisdictions have recently reformed their OHS legislation, or are currently in the process of undertaking a comprehensive review of their legislation.

¹⁵ This is the case in the national jurisdictions studied and the federal Australian system; in its recent reforms, Ontario is introducing a partnership model respecting workplace accident prevention between the board and the Ministry of Labour

OHS Programs and Initiatives

Jurisdictions have introduced a wide range of programs aimed at both employers and employees to encourage safe workplaces, ranging from, the statutory imposition of workplace health and safety committees, to financial incentives to employers with low claims cost and accident rates. Many jurisdictions believe that greater efforts and resources devoted to prevention and workplace health and safety initiatives will have an overall positive effect on injury or claims rate thus ultimately reducing the overall costs of the system.

V. SUMMARY MATRIX

This section provides a summary level comparison of the jurisdictions reviewed in matrix form.

Note that the information presented here is, of necessity, very brief. It is expected that this matrix will act primarily as a reference guide to the more detailed summaries for each jurisdiction. Care should be taken in drawing conclusions from the information in the summary matrix without at least reviewing the relevant information in the detailed summaries.

Notes to Summary Matrix

- (1) Where the worker was over 50 at the time of injury, the loss of earnings pension may be subject to adjustment at age 65. Under this policy, generally one-fifteenth of the loss of earnings pension continues after the claimant reaches 65 years of age.
- (2) "Cosmetic disfigurement is recognized in the B.C. disability awards schedule and a worker is entitled for an award based on the degree of disability associated with that disfigurement based on a proportion of 75% of their earnings.
- (3) Alberta introduced a dual award approach in January 1, 1995. It established a wage loss system, Economic Loss Payment (ELP) for loss of earnings, and a Non-Economic Loss Payment (NELP) as an award for permanent impairment, replacing an earnings loss supplement approach based on degree of disability. ELP for 100% disabled workers is not offset against earnings. ELP is reviewed every 36 months.
- (4) Manitoba introduced a dual award system effective January 1, 1992 with a wage loss earnings approach for compensation benefits and a lump-sum award for permanent impairment. Before that, short-term weekly benefits and long-term loss of earnings pensions were based on 75% of average gross earnings based on degree of disability.
- (5) After 24 months of wage loss benefits, the WCB contributes up to 5% of the workers' wage loss amount toward an annuity payable at age 65. The worker can elect to match this amount. Workers on wage loss compensation for longer than 24 months also covered under a group life insurance plan.
- (6) From 1982 onwards New Brunswick has had dual award approach including a "wage loss" system for economic loss and a lump-sum award for permanent impairment. Prior to that L-T pensions were for life and compensation was based on a prescribed rating schedule. Under the former system the injured workers' earnings are multiplied by the percentage of disability established by a board physician and the claimant is paid 75% of that amount. Pre-1982 compensation was paid for life and was not offset against other benefits. Under the wage loss system, benefits are based on 85% of the net loss of earnings between pre-accident net earnings and post accident capable earnings. Benefits are paid to age 65 and are offset against CPP disability benefits and other remuneration.
- (7) Effective January 1, 1993, Newfoundland adopted a dual award system with a wage loss approach to compensating injured workers for economic loss and a lump-sum award for permanent physical impairment. Prior to this, compensation was based 90% of pre-accident earnings according to the degree of disability.
- (8) Effective with the new Act that came into force in February 1995, Nova Scotia introduced a dual award system with a wage loss approach to compensating injured workers for economic loss and a lump-sum award for permanent physical impairment.
- (9) At age 65 the wage loss benefit is replaced by an annuity equal to 5% of the total of the wage loss benefit received to date and the permanent physical disability award.

- (10) Effective January 1, 1990 Ontario adopted a dual award system with a wage loss approach to compensating injured workers for economic loss and a lump-sum award for permanent physical impairment. The current rate of 90% is to be reduced to 85% with the passage of the new Act expected in the summer of 1997.
- (11) At age 65 workers receiving future loss of earnings compensation receive a retirement pension based on 10% of the total loss of earnings payments made to the worker.
- (12) YMIR means yearly maximum insurable remuneration.
- (13) SAIF, the competitive state fund, is regulated by the Workers' Compensation Division of the Department of Consumer and Business Services (DCBS) and is governed by a five member Board of Directors appointed by the governor and confirmed by the Oregon Senate
- (14) The Texas Workers' Compensation Insurance Fund, the competitive state fund, is regulated by the Texas Department of Insurance. The state fund is administered by the Texas Workers' Compensation Commission, which is governed by a nine member board with a rotating chair and 4 representatives of workers and 4 representatives of employers. The TWCC is also primarily responsible for workers' compensation in the state, including the adjudication of appeals.
- (15) Employees may not sue for injuries or illness covered by workers' compensation, but may sue for "intentional injury" - e.g. assaults.
- (16) An earnings loss system was introduced in P.E.I in 1995. Prior to that, maximum permanent disability pension was based on 75% of a set maximum (\$27,000) according to the injured workers' degree of disability.
- (17) At age 65 if the worker can demonstrate to the board's satisfaction, that they have suffered a loss of pension due to their disability the board may pay an amount equal to the loss of pension.
- (18) At age 65 an annuity equal to 10% of the compensation benefit payments is paid by the board.
- (19) A wage loss earnings award system was introduced in January 1983. The wage loss system was retained when the new Act came into effect, but with different benefit levels.
- (20) After 24 cumulative months of wage loss benefits, the board sets aside an amount equal to 10% of benefit to provide for an annuity when worker reaches age 65.
- (21) Workers not covered by labour market no fault liability insurance, which provides benefits over and above the benefits provided by the workers' compensation program may pursue a claim against their employer. Most employers have labour market no fault liability insurance so suits are rare.
- (22) In July 1997, premium rates will be completely experienced based.
- (23) Employers pay 1.38% of payroll and self employed persons pay an amount equal to 1.40% of their income.
- (24) 90% PIAWE for seriously injured, 70% total disability, and for partially disabled workers, difference between 60% PIAWE and workers notional earnings to a set maximum amount (\$650 in 1996).
- (25) To continue to receive temporary wage loss benefits, an injured worker must provide regular certification from their physician that they are unable to work because of a continuing disability.
- (26) In 1992, permanent pensions (pensions that were paid even if the person returned to work) were phased out. Since 1992, workers with a capacity for work greater than 85% are ineligible to receive earnings-related compensation beyond 12 months.
- (27) Earnings related compensation will normally cease once the claimant reaches 65 years, the age of eligibility for Guaranteed Retirement Income.

VI. DETAILED SUMMARIES FOR EACH JURISDICTION

This section contains:

- a glossary of terms and words used in this report;
- a bibliography of sources used to collect the information on each jurisdiction, including the addresses for internet sites; and
- a detailed summary prepared for each of the select jurisdictions, organized by Canadian jurisdictions first, followed by the USA jurisdictions, the Australian states and finally the three national systems.