JURISDICTION: **PRINCE EDWARD ISLAND**

**ENVIRONMENT**

Population Size 136,100 (1995, Stats Canada)

Labour Force 69,000 (1995, Stats Canada)

Demographic and Economic Indicators

The major industries in PEI are fishing, farming, forestry and tourism. PEI is known around the world for "its potatoes, lobsters, and Anne of Green Gables". These three items, in fact, are of significant economic importance to PEI.

In constant dollars, GDP was estimated to have grown by 2.4% in 1996 over the 1995 level (GDP in 1996 at market prices estimated at $2.648 million, Stats Canada). A number of factors influenced the strong growth rates seen from 1994 to 1996, including the construction of the Confederation Bridge, expansion in manufacturing, strong agricultural production and prices, and continued gains by the tourism sector.

PEI enjoyed significant employment growth between 1994 and 1996 - 3.1% in 1994, 4.6% in 1995 and 2.4% in 1996. There were 60,100 people employed in PEI in 1996. The unemployment rate in 1995 was 14.7%, dropping slightly to 14.5% in 1996.

The population grew at a rate of 1.0% from 1991 to 1995.
## GOVERNANCE & ADMINISTRATION

<table>
<thead>
<tr>
<th>Nature of System</th>
<th>An exclusive, provincial fund.</th>
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</table>
| Principles and Mandate | The mission of the Worker's Compensation Board of PEI is to  
  • serve workers and employers through the operation of an  
    efficient and effective compensation insurance program for  
    losses arising from workplace-related accidents;  
  • deliver services that are fair and equitable to both employers  
    and workers;  
  • deliver its services in a cost effective manner;  
  • act in partnership with workers, employers and others to  
    increase understanding of the need for a safe and healthy  
    workplace and to encourage the development of standards  
    to promote safety and health in the workplace. |
| Access to Litigation | Workers' compensation is an exclusive remedy in PEI.  
  However, a worker has the option of electing to claim  
  compensation or pursue an action against a third party.  
  There is a six month time limit for making this election.  
  Where an action is taken, the WCB is subrogated to the rights of the party  
  taking the action. As well, there is provision for right of action  
  if the injury or death involves a motor vehicle.  
  The Act also provides for a right of action for a worker not  
  covered by the Act against an employer or a person contracting  
  with a contractor or subcontractor. |

### Scope of System

| Who is Covered? | The Act covers every employer having at least one employee,  
subject to exclusions in the Act and by regulation. The Act  
covers all provincial employments, but excludes municipal  
employees. Coverage is elective as to corporate officers.  
Current exclusions include, outworkers, farm labourers,  
domestic servants, taxi industry, fishing and the clergy.  
Exempt employments may apply for coverage, subject to the  
Board's acceptance.  
In 1997, there were 4,652 employers registered (an estimate on  
the percentage of the labour force covered by the PEI system is |
What is Covered? All personal injuries "arising out of" and "in the course of" employment are covered.

Occupational disease, meaning any "disease arising out of and in the course of employment and resulting from causes and conditions peculiar to or characteristic of a particular trade or occupation or particular employment", is also covered.

Occupational disease does not include stress, other than an acute reaction to a traumatic event, or an ordinary disease of life (the illness must be clearly work related).

Self Insurance Not permitted.

Organizational Framework The Workers' Compensation Board of PEI is a statutory body responsible for the administration of the Workers' Compensation Act.

The Board had 50 full-time equivalent staff at 1997. Its office is centrally located in Charlottetown.

Governance Structure The WCB is governed by a board of directors consisting of a Chairperson and four members, two representing labour and two representing employers, appointed by the LGIC.

The LGIC also appoints the President and Chief Executive Officer of the WCB, after consultation with the board of directors.

Policy Development A Policy and Program Analyst position was created in January 1997. Ongoing collaboration occurs with other boards.
### Accountability
There are no statutory reporting requirements respecting the Board to government. The Board does, however, report organizationally to the Minister of Provincial Affairs and Attorney General, the minister responsible for the WCB in PEI.

### Performance Assessment
The board does not have an ongoing, systematic performance appraisal process in place, though the board, similar to other Canadian boards, collects and calculates a number of statistical measures.

### Claims Adjudication Process
The Board and its staff are responsible for all aspects of claims processing, management and adjudication.

All employers are required to report an accident to the board within three working days of having been notified about the accident or injury. The PEI legislation provides that an objection to a filed claim can be made by an interested party. The objection must be made in writing within 10 days of the claim being reported to the person who objects, and a copy must be sent to the employee.

The Office of the Workers' Adviser, a branch of the Labour and Industrial Relations Division of the Ministry Community Affairs and Attorney General, provides advice, counseling and assistance to workers on workers' compensation matter. Workers' adviser are appointed by the LGIC and are completely independent of the WCB. There is no cost to workers for the service; the government is reimbursed for the costs of this service by the accident fund.

### Dispute Resolution
**Mediation / Conciliation**
There is no formal or statutory mediation / conciliation requirement in PEI.

The office of the Workers' Adviser does however play a role in dispute resolution through assisting workers in the claims adjudication process and acting on their behalf in the preparation and presentation of appeals.
Appeals Process

As of January 1, 1995, an internal appeals process has been established and set out in board policy. A worker may appeal a decision of an adjudicator or case manager to the Director of Client Services (level one) and if a worker is not satisfied with the decision of the Director they may appeal the decision to the Chief Executive Officer of the board (level two).

Disputed decisions of the board concerning both employers and workers can be appealed directly to the Appeals Tribunal, a body independent from the WCB, composed of a Chairperson and an equal number of members representing labour and employers, appointed by the LGIC. Members of the Tribunal may not be a member of the board of directors or staff of the WCB. Panels of the Tribunal, consisting of three members, including the Chair and one member representative of labour and one of employers, may be formed to hear appeals of board decisions.

The PEI legislation contains a provision allowing the board to bring a question of law to the Appeal Division of the Supreme Court for opinion, but only on a question of law.
ASSESSMENTS / FINANCING

Assessment or Premium Setting Process

Premium rates are set by the Board in the form of assessments per $100 of payroll. Employers are classified by industry and subject to an assessment rate set for that industry rate group on the basis of the rate groups' claims cost experience over the past five year period. In 1996, there were 342 industries, 38 rate groups and 6 sectors or classes in PEI.

PEI also applies an experience rating system to individual employers. Introduced in 1996, after being tested on a pilot basis in 1995¹, the program is a prospective system whereby employers are eligible for a rebate of up to 25% or a surcharge of up to 25% on their premiums bases on their individual variance from the claims cost experience of their rate group over the past three year period². To ease transition to the new program, a participation factor has been built in whereby employers with $1,000 in annual assessments participate at the rate of 25% and for each additional $1,000 in annual assessment, an employer participates a further 5% until at $16,000 in annual assessments they participate fully in the program³.

Assessment/Premium Rates

The average assessment rate in 1997 was $2.02, with a low of $0.27 and a high of $12.00 (in 1996, the average was $2.03, also with a low of $0.27 and a high of $12.00). The maximum assessable earnings for 1997 was $35,900.

Second Injury Funds / Disaster Funds

There is no legislative provision in PEI providing for supplemental coverage for second or subsequent injury or other special coverage.

¹ In 1995, experience rating only applied to three rate groups in the construction sector; in 1996 its was expanded to include all 38 rate groups.

² The rate adjustment is based on 1% for each 4% of employer variance.

³ In 1996, 1,109 of approximately 4,700 employers or about 24%, were affected by the new rating system.
Comparative Review

Prince Edward Island

COMPENSATION

BENEFITS

Claim Rate
In 1996, there were 6,688 claims reported to the board of which 2,445 were time loss claims. In 1995, there were 6,837 reported claims, 2,449 of which were time loss claims and in 1994, 5,591 reported claims of which 2,098 were time loss. Three fatalities were compensated in 1996, two in 1995 and three in 1994.

Medical Aid

Nature of Aid
Coverage is provided for all necessary medical costs.

Choice of Provider
The worker has the right of choice of physician.

Medical Cost

Containment
The board has a set fee schedule for medical services negotiated with the PEI Medical Society. Physiotherapy limits were put into place July 1, 1996.

Initiatives

Rehabilitation

Physical/
Occupational/
Vocational
Vocational rehabilitation services are provided at the discretion of the board. Where it is determined that rehabilitation will aid the worker in returning to work the board will cover all necessary rehabilitation expenditures.

Social
The PEI board will cover the costs associated with academic retraining, including tuition, fees, books, and provide an allowance for approved travel, room and board.

Rehabilitation

Incentives
The PEI legislation includes a reemployment provision. An employer is required to reemploy or offer an employee who was injured on the job their job back, or an alternative suitable job, when the worker is ready to return to work within a two year period from the date of the accident or injury. A worker must have been employed by that employer for at least a one year continuous period in order to qualify for reemployment. This provision is designed to fit with collective bargaining provisions, but will supersede any collective agreement if there is a conflict.

Trends in

Treatment of
The Ease Back program is a participative partnering process based on employer education and support from the board to
Subjective Complaints

encourage employer initiated transitional return to work programs.

Disability Benefits

Short-Term Benefits - Temporary Disability

Weekly "loss of earnings or wage loss" compensation:
Rate: For the first 39 weeks, Temporary Earnings Loss benefits equal to 80% of net earnings (less deductions for U.I., C.P.P., and income tax); 85% of net earnings after 39 weeks to set maximum (1997, $39,500).
Indexed: After two years, if client still on compensation.
Duration: Term of disability (or until determination as to permanent disability).
Taxable: No.
Employer's Excess/Waiting Periods: One day waiting period.
Long-Term Benefits - Permanent Partial and Total Disability

Economic "loss of earnings or wage loss" awards or pensions:
Rate: For PTD and PPD, Extended Earnings Loss benefits at 90/85% of the difference between pre- and post-accident earnings capacity to set maximum (1997, 39,500)\(^4\).
Indexed: CPI adjustment made July 1 each year.
Duration: Age 65 (however, the board may pay an amount equal to the loss of pension, if the worker can demonstrate to board's satisfaction, the loss of pension benefits).
Taxable: No.
Offset Against Other Social Security Benefits: C.P.P. benefits.

Award for permanent physical impairment:
Periodic (pension or annuity): None.
Lump-sum: Impairment award in recognition of "loss of opportunity" of not less than $500 for first 1% of impairment and not more than the maximum annual earnings in effect on the day of the accident for 100% impairment\(^5\).
Covers Disfigurement: No specific statutory provision, but disfigurement recognized in impairment awards.

Impairment Schedule: AMA Guidelines.

Supplemental Awards: The board will cover personal care expenses as required and provide a clothing allowance of $225 per year for a single prosthesis and $450 for double prosthesis or if wheelchair bound.

Hearing Loss

The board will cover traumatic hearing loss and noise induced hearing loss. To be compensated for noise induced hearing loss, a worker must have a history of exposure to hazardous levels of noise in the workplace (at least two years). The average hearing loss must be 35 decibels or more in one ear to be eligible for compensation benefits. There is a presbycusis allowance of 0.5 for every year over age 65.

\(^4\) Earnings loss system was introduced in 1995. Prior to that maximum permanent partial disability pension was to a maximum of $1,687.50 based on 75% of $27,000 and no minimum.

\(^5\) Only applies to accidents occurring after December 31, 1992.
## Death Benefits

### Funeral Expense Benefits

**Funeral Costs:** A lump-sum of $4,000.00 (1997) is provided to cover funeral costs and costs associated with the transportation of the body.

**Emergency Lump-sum:** None.

### Survivor Benefits

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<tr>
<th>Survivor Category</th>
<th>Lump-sum</th>
<th>Pension</th>
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</thead>
<tbody>
<tr>
<td>Dependent spouse, with or without children</td>
<td>$10,000</td>
<td>70% of the deceased's monthly P.T.D. pension, less C.P.P., available until age 65 or worker would have been 65, whichever is later. On remarriage, lump-sum equal to 1 year spouse's pension.</td>
</tr>
<tr>
<td>Dependent children, surviving parent</td>
<td>None.</td>
<td>10% of deceased's P.T.D. pension until 18, or 22 if attending school (30% total all children).</td>
</tr>
<tr>
<td>Dependent children, no surviving parent</td>
<td>$10,000 for education fund.</td>
<td>20% of deceased's P.T.D. pension per child paid to guardian until child 18 (maximum 60% all children).</td>
</tr>
</tbody>
</table>
HEALTH & SAFETY & PREVENTION

Programs or Agencies Responsible
Since April 1996, the WCB in PEI has been responsible for occupational health and safety, including the administration of the *Occupational Health and Safety Act*.

Source of Funding
Occupational health and safety programs and activities in PEI have always been funded by employers' assessments through transfers from the workers' compensation fund.

Accident Reporting
Under section 17 of the OHS Act, employers are required to report any accident where an employee is injured and which causes or may cause a fatality, loss of limb, or may require hospitalization, immediately to the OHS division of the board.

OHS Representatives & Committees
There is no requirement for OHS committees or safety representatives in PEI.

Offenses & Penalties

Types of Offenses and Maximum Fines:
Any person contravening the act or regulations or failing to comply with an order are liable on conviction to a fine of up to $50,000 and $5,000 for each day the offense continues AND/OR up to one month imprisonment.

Convictions:
1995 - none.
1996 - none.

Administrative Penalties
There is no provision for administrative penalties in PEI.

OHS Legislative Review
There is no legislated review requirement for the OHS act or regulations.

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6 At one point most Canadian workers' compensation boards had responsibility for health and safety. However, throughout the 1970s and 1980s many provincial government's stripped this role from workers compensation boards because the combined role was seen to be a conflict of interest. Only the boards in Quebec and British Columbia retain this responsibility. Recently, this power has been granted to the boards in New Brunswick, the Yukon, the NWT and reassumed by the board in PEI.
Comparative Review

*Prince Edward Island*

<table>
<thead>
<tr>
<th>Health and Safety and Loss Prevention Initiatives</th>
<th>One of the primary initiatives conducted by the OHS division of the board was the implementation of a computerized inspection tracking system.</th>
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<tbody>
<tr>
<td>FRAUD PREVENTION</td>
<td>Surveillance is done selectively as required. There are no statistics publicly available on the number of investigations and fraud prevention activities of the board. There was one successful prosecution in 1996.</td>
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</tbody>
</table>