

# WORKPLACE HEALTH, SAFETY AND COMPENSATION REVIEW DIVISION

## *CLIENT SERVICE MANUAL*



March 31, 2014

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## 1.00 The Workplace Health, Safety And Compensation Review Division

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### 1.10 Introduction

The workers' compensation system in Newfoundland and Labrador has two levels of review where applicants may request a review of decisions of the Workplace Health, Safety and Compensation Commission (the Commission). The first level of review is the Internal Review process within the Commission. The second level of review is the external review process of the Workplace Health, Safety and Compensation Review Division (the Review Division).

The Review Division is a quasi-judicial entity, independent of the Commission and reports to the Minister for Service NL. The Review Division is responsible for the review of the Commission's final decisions to ensure they comply with the *Workplace Health, Safety and Compensation Act* (the *WHSCA*) and *Regulations*, as well as the policies of the Commission. If a Commission decision is found to be in error, the Review Division may direct an appropriate remedy where necessary.

The purpose of this Client Service Manual (the Manual) is intended as a reference guide to enhance all parties' understanding of the review process and Review Division procedures. The Review Division is providing the Manual for information purposes. It is not intended to provide legal advice. If there is an inconsistency between the *WHSCA*, *Regulations* and this Manual, the *WHSCA* and *Regulations* will take precedence.

The Manual sets out the practices review participants should follow to ensure an efficient and fair review process for all parties. The Review Division recognizes there may be particular instances where it may be necessary to deviate from these practices due to the evolving nature of the review process. The Review Division reserves the right, therefore, to modify or waive certain practices in exceptional circumstances, while ensuring fairness to all parties involved in the review process.

The Manual is available through the Review Division's website at <http://www.gov.nl.ca/whscrd> and in hard copy upon request. In addition, the Review Division has prepared information pamphlets for additional guidance titled: *General Information, Review Process, Hearing Process, Employer Participation, Representation, Access to Information, Reconsideration Process and Witnesses and Subpoenas*. The pamphlets are also available on request from the Review Division's office or may be printed from the Review Division's website.

In order to provide additional information, relevant sections of legislation are noted at the end of each topic in the Manual where applicable as presented below:

*Reference:*  
*WHSCA, Part II Appeals, S. 21-37*  
*WHSCRD Regulations, S.1-15*

## 1.20 Jurisdiction

Section 26.1 of the *WHSCA* provides the jurisdiction for the Review Division to review the Commission's decisions in relation to:

- compensation benefits;
- rehabilitation and return to work services and benefits;
- an employer's assessment;
- the assignment of an employer to a particular class or group;
- an employer's merit or demerit rating; and
- the obligations of an employer and a worker under part VI of the *WHSCA*.

The review process is not considered to be an appeal process whereby a workers' compensation case is heard in its entirety. Review Commissioners are merely authorized to review final decisions of the Commission and to confirm whether a particular decision is consistent with the *WHSCA*, *Regulations* and Commission policies. If a Review Commissioner finds a Commission's decision was not consistent, he or she must:

- identify how the decision of the Commission was contrary to the *WHSCA*, *Regulations* and policies;
- specify the contravened provision;
- set aside the decision, and either:
  - a) make a new decision, or
  - b) refer the matter back to the Commission with direction on the appropriate remedy.

*Reference:*  
*WHSCA, S. 26.1, 28 (4.1)(4.2)*

## 1.30 Review Division Structure

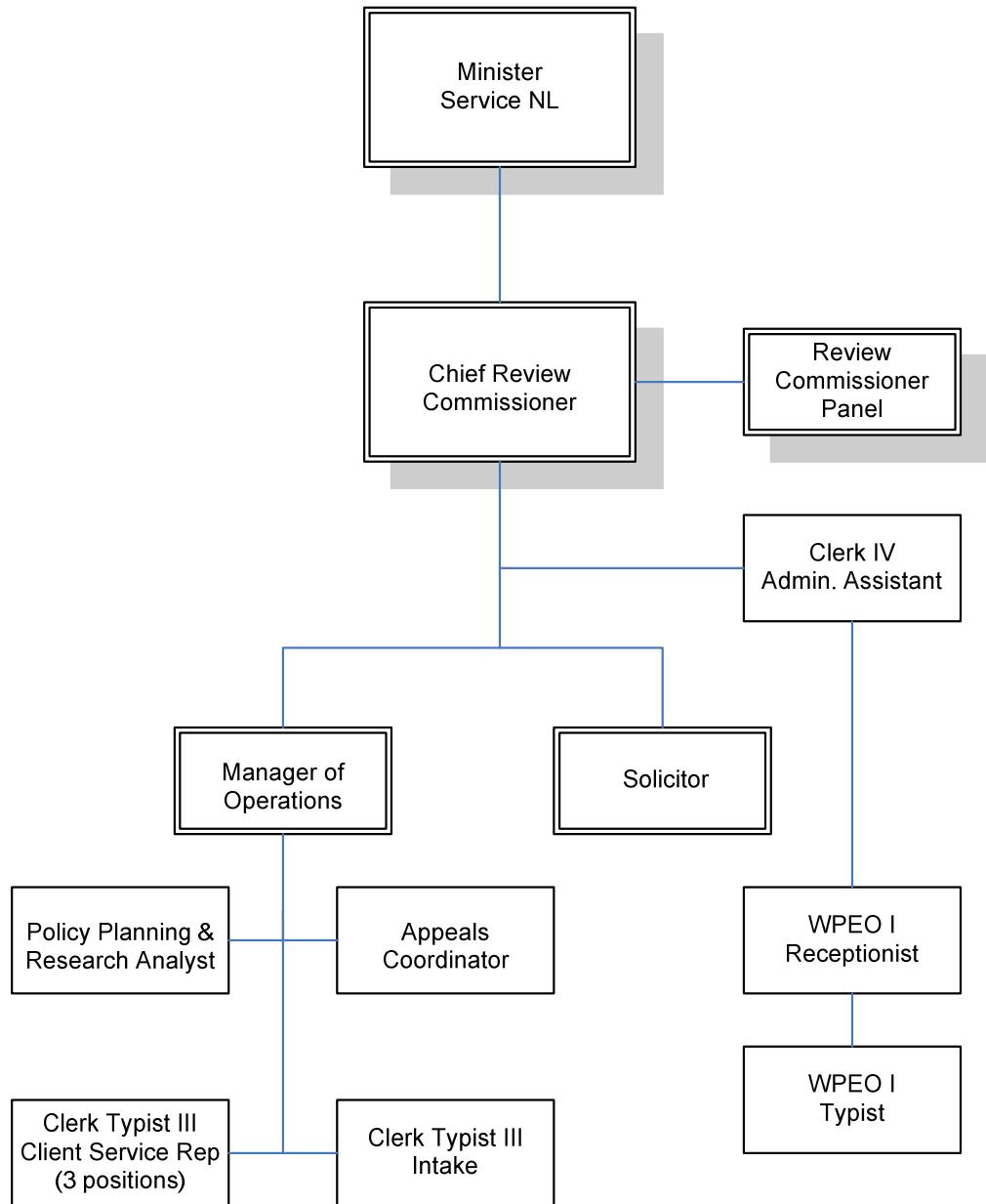
### 1.31 *Review Commissioners*

The Review Division consists of a Panel of Review Commissioners, one of whom is appointed Chief Review Commissioner by the Lieutenant-Governor in Council. Up to seven Review Commissioners, including the Chief Review Commissioner, may be appointed to the Panel from various areas throughout the Province.

Under Section 23 of the *WHSCA*, the Chief Review Commissioner shall review a matter brought before him or her under Section 28(1) of the *WHSCA*, or shall refer the matter to another Review Commissioner. Review Commissioners act as single adjudicators in conducting the hearing process and in reviewing Commission decisions.

*Reference:*  
*WHSCA, S. 22-23, S.26.1, S.28(1)*  
*WHSCRD Regulations, S.2*

### 1.32 Review Division Organizational Chart



### **1.33 Review Division Staff and Office Location**

The Review Division staff support the functions of the Division to ensure *Request for Review* applications are promptly processed and cases are efficiently managed. The Review Division staff also provide support to the Chief Review Commissioner and the Panel of Review Commissioners throughout the hearing and decision-making process.

The Review Division's office is situated in Mount Pearl, NL and may be contacted at:

Workplace Health, Safety & Compensation Review Division  
2<sup>nd</sup> Floor, Dorset Building  
6 Mount Carson Avenue  
Mount Pearl, NL A1N 3K4

Telephone: (709) 729-5542      Toll Free: 1-888-336-1111  
Fax: (709) 729-6956      Email: [whscrd@gov.nl.ca](mailto:whscrd@gov.nl.ca)

Additional information regarding the Review Division and the review process may be found on the Review Division's website at <http://www.gov.nl.ca/whscrd>.

*Reference:*  
**WHSCA, S.21 and S.24**

## 2.00 GENERAL

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### 2.10 Protection of Personal Information

The Review Division collects information necessary for the adjudication of workers' compensation cases and is subject to the provisions of the *Access to Information and Protection of Privacy Act (ATIPPA)*. The release of personal information through the review process is also subject to restrictions under the *ATIPPA*.

The Review Division recognizes the sensitive nature of information collected and maintained for the purpose of the review process. The Review Division is responsible for ensuring the privacy and protection of personal information through secure physical, administrative and technical safeguards appropriate to the sensitivity of the information.

The Review Division will release information concerning a case under review only to individuals who are authorized to receive the information. These include the worker, a worker's dependent, the employer and the authorized representatives for these parties. For instance, the Review Division will not release information to a representative unless there is an *Authorized Representative* form submitted to the Review Division authorizing the release of information to that individual.

All parties are responsible for ensuring they do not disclose the information provided to them for reasons other than the review process and for keeping the information confidential and secure. If an employer is participating in a review of a worker's case, the employer's access to documents will be subject to certain restrictions under the *ATIPPA*. To request access to a worker's documents, the employer must first submit an *Employer's Notice of Intention to Participate* form. The employer must agree, in writing, to keep the documents confidential and secure and not to use or disclose the documents other than for the purpose of participating in the review proceedings.

The Review Division will make every effort to ensure that personal information needed for the review process is as accurate and as up-to-date as possible. In instances where a change or correction may be required to a party's personal information, the Review Division should be immediately notified. Changes may include: address, telephone number, or a change in the status of the claim with the Commission.

In the event of unauthorized disclosure of personal information on the part of the Review Division, the Review Division will take all necessary steps to contain the unauthorized release. The Review Division will notify the affected individuals as soon as possible and will take immediate action to recover the information. The Review Division will investigate the cause of the unauthorized access or disclosure and take all reasonable steps to ensure future situations do not happen again.

For assistance regarding the protection and privacy of personal information, please contact the Review Division's Manager. Refer to **Section 8.00** of this Manual, or the Review Division's website at <http://www.gov.nl.ca/whscrd>, for copies of the *Authorized Representative* form and the *Employer's Notice of Participation* form.

*Reference:*  
**Access to Information and Protection of Privacy Act (ATIPPA)**

## 2.20 Definition of Review Participants

For the purpose of the review process, any or all of the following parties may be considered review participants:

- (a) **Authorized Representative:** means an individual who is authorized to represent a worker, employer, or dependent (e.g. union representative, lawyer, friend, family member, consultant, etc.). An *Authorized Representative Consent* form must be completed and submitted to the Review Division before any information will be released to the representative. Refer to **Section 8.00** of this Manual, or on the Review Division's website at <http://www.gov.nl.ca/whscrd>, for a copy of the *Authorized Representative Consent* form.
- (b) **Chief Review Commissioner:** means the head of the Panel of Review Commissioners who is appointed under Section 22 of the *WHSCA*.
- (c) **Commission:** means the Workplace Health Safety and Compensation Commission. The Commission has standing and may appear at the Review Division hearings anytime.
- (d) **Dependent:** means a dependent of a worker who may have the right to initiate an application, or a dependent may continue an application on behalf of a deceased worker's claim.
- (e) **Employer:** means an employer of a worker who has a right to participate in a worker's hearing to address the Commission's decision under review. Employers may also request a review of a final decision of the Commission that affects them. Employers who wish to participate in a worker's review proceeding must complete an *Employer's Notice of Intention to Participate* form. Refer to **Section 8.00** of this Manual, or the Review Division's website at <http://www.gov.nl.ca/whscrd>, for a copy of the *Employer's Notice of Intention to Participate* form.
- (f) **Review Commissioner:** means a single Review Commissioner who conducts the hearing and reviews the Commission's decision. Following the hearing, the Review Commissioner will render a decision, in writing, on the case of the worker, employer or dependent.
- (g) **Witness:** means an individual who provides testimony at a Review Division hearing and who would have generally been involved in the case under review.
- (h) **Worker:** means a worker who has the right to request a review of the Commission's Internal Review decision respecting their workers' compensation claim. The employer may also object to an Internal Review decision of a worker's claim and the worker has the right to participate in the employer's application.

*Reference:*  
**WHSCA, S.22, S.23, S.28(1)(3)**  
**WHSCRD Regulations, S.5**

## 2.30 Rights and Responsibilities of Review Participants

### ***Rights of the Review Participants:***

- All review participants have the right to be treated in a respectful manner and are entitled to a timely, independent and fair hearing.
- Review participants have the right to be notified of a filed *Request for Review* application and will be provided with a copy of the application once it has been accepted by the Review Division.

- Workers and employers have the right to representation, or they may choose to represent themselves, throughout the review process.
- Workers, employers and their representatives have the right to receive a copy of the Commission's file information (the Case Description), subject to restrictions under the *ATIPPA*. The Case Description consists of documents used by the Commission to make its decision, such as medical reports, Return to Work Plans, assessment information, etc.
- Confirmed review participants have the right to be notified by the Review Division of the date, time and location of the hearing.
- Workers, employers and their representatives involved in the review proceedings have the right to receive a copy of the Review Division's final decision. The Commission will always receive a copy of the final decision.

***Responsibilities of the Review Participants:***

- Workers, employers and dependants are responsible for ensuring their *Request for Review* application is completed in full.
- Review participants, who have access to the relevant Commission file information, are responsible to ensure the protection of the information and must sign confidentiality agreements as required by the Review Division.
- Review participants are responsible to be prepared to proceed when contacted for a hearing date.
- Review participants are responsible for respecting the protocol and decorum of the proceedings in the Hearing Room. Refer to **Section 5.44** of this Manual for additional information regarding disruptive behaviour.
- Workers, employers and dependents are responsible to notify the Review Division of any change in the status of their claim with the Commission or to their contact information.
- Upon receipt of the Case Description, review participants are responsible to review their copy and notify the Review Division immediately of any discrepancies in the file, or with the issues under review stated in the Case Description. Review participants should also advise the Review Division if they believe the time allotted for the hearing is adequate. Refer to **Section 4.30** of this manual for matters relating to Scheduling.

## **2.40 Representation**

A worker, employer or dependent, may choose to represent themselves, or may designate someone to represent them throughout the review proceedings, such as a lawyer, union representative, Member of the House of Assembly (MHA), consultant, friend, etc.

An *Authorized Representative Consent* form must be signed by the person requiring representation and submitted to the Review Division as soon as possible. The *Authorized Representative Consent* form authorizes an individual to act on the person's behalf and provides consent to the release of their file information. The authorized representative will receive a copy of the file information pertaining to the case and a copy of the final decision when rendered. The Review Division will not

release any information respecting a worker, employer, or dependent to a person who is not deemed to be their authorized representative. Refer to **Section 8.00** for of this Manual, or the Review Division's website at <http://www.gov.nl.ca/whscrd>, for a copy of the *Authorized Representative Consent* form.

It is important for representatives to become familiar with the case file and be ready to proceed when contacted for a hearing. The representative should also understand the proceedings during the hearing. Representatives should refer to *Part II* of the *WHSCA*, as well as this Manual, for general direction and information regarding the review process.

Only representatives, or parties who represent themselves, have the right to ask questions of witnesses at the review hearing. Representatives must conduct themselves in a respectful manner throughout the review process and maintain proper protocol with respect to their questioning conduct. The presiding Review Commissioner has the authority to remove a representative or any other individual from the Hearing Room if they become disruptive to the proceedings.

There are worker and employer advisors independent of the Review Division and the Commission who can provide assistance throughout the review process.

### **Office of the Workers' Advisor**

#### **St. John's Office:**

P. O. Box 8597, Stn. A	Phone: (709) 754-3927
330 Portugal Cove Place	Toll Free: 1-800-563-1998
St. John's, NL A1B 3P2	Fax: (709) 754-3928

Or

#### **Grand Falls Windsor Office:**

P.O. Box 248	Phone: (709) 489-9193
Grand Falls-Windsor, NL	Toll Free: 1-877-489-9193
A2A 2J7	Fax: (709) 489-9194

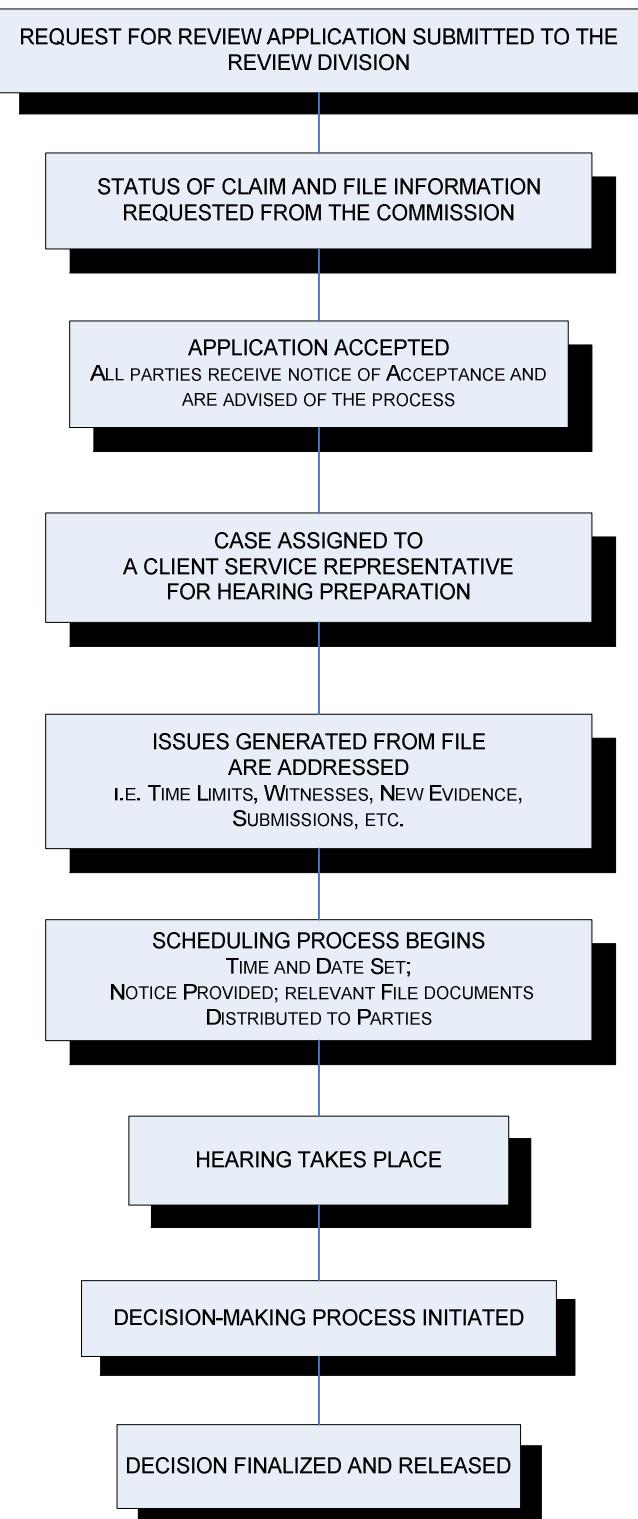
### **Office of the Employers' Advisor**

#### **Newfoundland & Labrador Employers' Council:**

129 Glencoe Drive	Phone: (709) 368-6532
Donovan's Industrial Park	Toll Free: 1-888-738-5900
Mt. Pearl NL A1N 4S7	Fax: (709) 368-6543

**Reference:**  
**WHSCA, S.28(5)(6)**

## 2.50 Review Process Chart



## 3.00 APPLICATION PROCESS

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### 3.10 Who May Request a Review

A worker, a dependent of a deceased worker, or an employer may request a review of a decision of the Commission's Internal Review Division pursuant to s.28 of the *WHSCA*. Refer to **Sections 3.30** and **3.40** of this Manual for time limits and further information about requesting a review.

*Reference:*  
*WHSCA, S.28(1)*  
*WHSCRD Regulations, S.5*

### 3.20 What May be Reviewed

A Request for Review of the Commission's Internal Review decision may be in relation to a variety of issues. The following list is a sample of some of the issues the Review Division would consider:

- Temporary Earnings Loss benefits
- Extended Earnings Loss benefits
- Permanent Functional Impairment Awards
- Proportionate compensation
- Rehabilitation services
- Reopening requests
- Recurrence requests
- Return to work obligations of a worker or employer
- Objection to an assessment decision
- Objection to a worker's claim
- Pension Replacement benefits
- Medical aid issues such as chiropractic care, physiotherapy services, etc.

*Reference:*  
*WHSCA, S.26(1)*

### 3.30 Time Limits for Requesting a Review

Before requesting a review by the Review Division, a workers' compensation case must have "exhausted" all levels of review at the Commission. The case has been "exhausted" when a party is in receipt of a decision from the Commission's Internal Review Division. The Internal Review Division is the last level of review at the Commission and represents the final decision on any matter reviewed within the Commission.

An applicant will have 30 calendar days from receipt of the Commission's Internal Review decision in which to request a review by the Chief Review Commissioner. If the application is not received in the required timeframe by the Review Division, an application for an extension of time will be required to be submitted to the Chief Review Commissioner. The Chief Review Commissioner will decide extension requests on a case-by-case basis. Refer to **Section 8.00** of this Manual, or the Review Division's website at <http://www.gov.nl.ca/whscrd>, for a copy of the *Extension of Time Application*.

Pursuant to s.28(1.1) of the *WHSCA*, the Review Division cannot accept a *Request for Review* application more than one year (365 days) from the date the Commission communicated its Internal Review decision to the person making the application.

*Reference:*  
*WHSCA, S. 28(1), S.28(1.1)*

### 3.40 How to Request a Review

To begin the review process an application must be made to the Chief Review Commissioner for a review of the Commission's Internal Review decision. To be valid, the Request for Review application must contain all the required information, be signed and dated by the applicant. The Request for Review application is also required to:

- be submitted within 30 calendar days of receiving the final Internal Review decision from the Commission;
- be in writing and identify how the Commission's decision is contrary to the *WHSCA, Regulations* and Commission's policies; and
- be as specific as possible when indentifying how the Commission's decision is contrary to the *WHSCA, Regulations* and Commission's policies. Providing this information will identify the issues that will be reviewed. If the application is too vague, or is missing important information, it may not be accepted by the Chief Review Commissioner.

The Review Division encourages all applicants to provide as much information on their *Request for Review* application as possible to ensure it will be processed without delay. The following should be included on the application:

- ensure that the *Request for Review* form is signed by the person requesting the review (i.e. the worker, the employer or a dependent);
- include the Commission claim number or firm number;
- provide the worker and employer contact information;
- identify the decision of the Commission to be reviewed and attach a copy of the decision;
- state why the decision is incorrect; and
- identify the type of benefit or remedy requested.

To make applying for a review easier, the Review Division has a *Request for Review* application form. Refer to **Section 8.00** for a copy of the *Request for Review* application. The *Request for Review* application may also be obtained upon request from the Review Division's office or it may be printed from the Review Division's website at <http://www.gov.nl.ca/whscrd>.

In some cases, the Review Division will accept written correspondence to initiate the request for review; however, the applicant will likely be asked to also submit a completed *Request for Review* application form. In either case, the Review Division recommends that a copy of the Internal Review decision be included with the request.

The *Request for Review* application may be submitted by mail or in person at the Review Division office in Mt. Pearl, NL.

*Reference:*  
*WHSCA, S.28(1.2)(1.3)*  
*WHSCRD Regulations, S.5*

### **3.50 Costs and Expenses of Participating in the Review Process**

The Review Division does not pay for expenses associated with the review process. Workers, employers, dependents and representatives are responsible for any costs related to their participation in the *Request for Review* and their attendance at the review hearing. For further information on witnesses, fees and costs refer to **Section 4.60** of this Manual.

### **3.60 Dismissing a Request for Review Application**

The Chief Review Commissioner may dismiss a request for review that he or she considers improper or dilatory.

*WHSCRD Regulations, S.14*

## 4.00 Pre-Hearing Process

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### 4.10 Intake and Acceptance

Once the Review Division receives the *Request for Review* application, a Review Division case number will be assigned to the application. This case number is used to process the *Request for Review* application and should be quoted whenever contacting the Review Division concerning the application.

The Review Division intake staff will screen the application to determine:

- if sufficient information has been provided on the application;
- whether the applicant will need to be contacted to clarify their request;
- whether an Extension of Time application is necessary; and
- whether other parties are required to be notified of the application (i.e. the employer may be notified of a worker's application).

If a *Request for Review* application has been submitted after the legislative time frame of 30 days from receipt of the Commission's Internal Review decision, the applicant will be required to submit an *Extension of Time* form. The Review Division will not take any further action until the *Extension of Time* form has been received. Refer to **Section 8.00** of this Manual, or the Review Division's website at <http://www.gov.nl.ca/whscrd>, for a copy of the *Request for Review* application and the *Extension of Time* forms.

The Review Division will next notify the Commission in writing that the *Request for Review* application has been received. The Review Division will also ask the Commission to confirm if the case has been finalized through all levels of review within the Commission and to provide a copy of the file documents used in making the Commission's decision.

Once the Commission confirms the matter has finalized all levels of review and its staff supplies the necessary information, the Review Division will notify the applicant and other interested parties (i.e. worker, employer and representatives) in writing that the *Request for Review* application has been accepted.

The case will be assigned to a Review Division Client Services Representative (CSR). The CSR will act as the parties' liaison for all action on the case. The CSR will prepare a Case Description (a copy of the Commission's file) for the purpose of the hearing and contact all parties to schedule a hearing date.

*Reference:*  
**WHSCA S.28**  
**WHSCRD Regulations 5, 6, 14**

### 4.20 Documents for the Review

#### 4.21 Case Description

At least two weeks before the scheduled hearing, the Review Division will send a copy of the workers' compensation file documents (the Case Description) to the review participants who have confirmed their participation in the hearing (i.e. the worker, the employer, the representatives and

the Commission's representative). The Review Commissioner assigned to hear the case will also receive a copy.

The Case Description consists of documents used by the Commission to make its decision. The Case Description may include corresponding medical reports, Return to Work Plans, assessment information, claim notes, decision letters and other relevant correspondence. The Review Division staff will prepare the Case Description sections in chronological order with numbered pages for easy reference.

Review participants are responsible for identifying any omissions or errors in the file and immediately notifying the Review Division. The issue(s) to be reviewed will also be stated in the Case Description and any discrepancies with the issues should also be reported immediately to the Review Division.

*Reference:*  
**WHSCA, S.27(1)**  
**WHSCRD Regulation 6, 7**

#### **4.22 Written Submissions**

Any of the review participants (worker, employer, dependent, or representative) may present written submissions in support of their position to the Review Division for the review hearing. If a hearing is scheduled at the Review Division's location in Mount Pearl, the submissions should be provided three days in advance of the hearing so that the Review Division can prepare and distribute copies to the other review participants. Where hearings take place in regions throughout the province other than the Mount Pearl location, written submissions should be submitted to the Review Division office at least five days in advance of the hearing. This is to ensure that staff will have time to prepare and distribute the copies to the out-of-town location. Participants who fail to provide their submissions within these timeframes will be responsible for arranging their own delivery of the submissions to the hearing location in time for the hearing.

The Review Commissioner has the discretion to accept written submissions that are presented at the hearing. If a participant is submitting a written copy of their argument at the hearing, additional copies should also be provided for the other participants.

When providing a submission, it is important to note that neither the Review Division, nor the Review Commissioner, will accept information not previously reviewed by the Commission in making their final decision. Information not previously reviewed by the Commission is considered new evidence. Refer to **Section 5.61** for further information and an explanation of new evidence.

*Reference:*  
**WHSCA, S.27**

#### **4.30 Scheduling**

The CSR assigned to the case will contact the review participants and make every reasonable effort to set a hearing date that is mutually convenient for everyone. On hearing days, the Review Division generally allows for two hours between each scheduled hearing. Please advise the CSR assigned to the case if more than two hours is required for the hearing.

In certain cases where efforts to schedule a mutually convenient date are not successful, the Review Division reserves the right to set a date to ensure an efficient and fair process for all participants. Once a hearing date is set, the Review Division will notify the Commission and the

review participants in writing to confirm the details of the hearing. If a participant fails to appear at the scheduled hearing, the Review Commissioner may proceed in their absence.

**Reference:**  
**WHSCA, S.28(6), S.28(4)(a)**

#### **4.40 Postponements**

If a review participant is unable to attend the scheduled hearing, they are required to contact the Review Division in writing as soon as possible. Satisfactory explanations **must** be submitted if a postponement of the hearing is required. A request for a postponement should include the reason(s) for the request and the amount of time needed for the postponement. If an applicant fails to appear at a hearing without having first requested a postponement, in writing, the hearing may proceed in the absence of the applicant without further notice.

Given the extensive coordination efforts that are often required to schedule a hearing, the Review Division does not automatically grant postponements. The Review Division will consider the following factors in considering a request for postponement:

- whether granting or denying the request would negatively affect any party;
- whether sufficient efforts were made to avoid the need for a postponement;
- whether the request for postponement was made at the earliest possible time;
- whether there were previous postponements in the case in question;
- whether there were serious factors for postponement such as an illness or death; and
- whether there may need to be a postponement due to adverse weather conditions.

If the Review Division grants a postponement, staff will notify all the participants and set a new hearing date.

**Reference:**  
**WHSCA, S.28(7)**

#### **4.50 Withdrawals**

Applicants may also withdraw their *Request for Review* at any time during the review process without explanation. If an applicant chooses to withdraw, this will terminate all current and future activity on the case with the Review Division respecting the decision under review.

The Review Division should be notified in writing of the intention to withdraw as soon as possible. The Review Division will then provide written notification and confirmation of the withdrawal to all other review participants.

#### **4.60 Witnesses and Subpoenas**

##### **4.61 Witnesses**

In certain circumstances, review participants may bring witnesses to the hearing to support their case. Generally speaking, witnesses should only be those individuals previously involved in the claim or in the issue under review and would have already provided information to the Commission in the form of medical reports, functional assessments, or statements. For example, a physician

can be a witness if the Commission has already reviewed their medical report and this material was considered in its decision-making process.

The Review Division requires written notification at least two weeks in advance of the hearing if it is necessary for a witness to appear at the hearing. Not providing adequate notice to the Review Division may result in hearing delays. The witness notification should contain the following information:

- a. the name of the witness;
- b. a summary of the nature of the evidence the witness will provide; and
- c. a listing of relevant documentation and information that the witness may bring.

Once the Review Division receives the notice, it will advise the other participants of the witness' participation in the case. Review participants who are calling witnesses are responsible for all costs associated with their attendance at the hearing.

A worker may be a witness in a hearing, however, notice of the worker as a witness is not necessary.

*Reference:*  
**WHSCA, S.27(2)**  
**WHSCRD Regulations S.8, S.9**

#### **4.62 Subpoenas**

Any of the parties involved in the review may ask the Review Division to issue a subpoena. A subpoena is a legal document used to compel the attendance of a witness at a hearing. If the Review Division accepts the request for a subpoena, it will prepare the subpoena. However, the party requesting the subpoena is responsible for serving (delivering) it to the witness and for the expenses involved in serving it to the witness, or any costs associated with the attendance of the witness at the hearing.

##### **A. Requesting the Subpoena**

Parties who wish to subpoena a witness may submit the request in writing to the Review Division at least two weeks before the hearing date. The request should contain the following information:

- a. name and address of the person to be subpoenaed;
- b. a summary of the nature of the evidence the witness will provide;
- c. a listing of relevant documentation and information the witness should bring; and
- d. the reason why the subpoena is necessary to compel attendance.

The Review Division will examine the request and determine whether it is appropriate to issue the subpoena. In determining the appropriateness of issuing a subpoena, the Review Division may consider, among other factors, the following:

- a. whether the witnesses' evidence is relevant to the Commission's decision under review;
- b. whether the documents requested are necessary for the review of the issue; under review;
- c. whether the request is made in good faith or whether it is an abuse of the Review Division's processes;

- d. whether the witness requires a subpoena to obtain time off from work to attend the hearing and;
- e. whether a subpoena is necessary to compel the witness' attendance.

The Review Division will prepare and issue the subpoena to the requesting party who will then serve it to the witness. The Review Division will keep a copy for its records.

## B. Serving the Subpoena

It is the responsibility of the requesting party to serve the subpoena to the witness. It is also the responsibility of the requesting party to pay for any and all fees, or expenses involved in the serving of the subpoena and for the attendance of the witness.

Under the *Rules of the Supreme Court, 1986*, the procedure for serving a subpoena requires that:

- A copy of the subpoena must be personally served to the witness by the requesting party or their representative.
- The witness is entitled to see the original subpoena issued by the Review Division upon their request.
- A witness is not bound to appear or give evidence unless the appropriate witness fee has been provided to the witness by the requesting party when serving the subpoena:
  - i. a \$100 fee if the witness is to testify as an expert or in relation to matters pertaining to their profession; and
  - ii. a \$50 fee in every other case.
- The party requesting the subpoena must demonstrate to the Review Division that they have properly served the subpoena by signing an *Affidavit of Service*. The affidavit confirms the personal service of the subpoena and the payment of the appropriate witness fee.

If a subpoenaed witness does not appear at the hearing, the Review Commissioner will determine whether the subpoena was properly served and may:

- proceed without the witness if it is established their attendance is not essential to the case;
- adjourn the hearing and reissue the subpoena; or
- proceed with contempt proceedings against the witness as per Section 4 of the *Public Investigations Evidence Act*.

Refer to **Section 8.00** for an example of the *Subpoena* and *Affidavit of Service*.

*Reference:*  
**WHSCA, S.27 (2)**  
**WHSCRD Regulations, S.8,S.9,S.13**  
**Supreme Court of NL: Rule 46.23, 46.25 and 55 (Appendix)**  
**Public Investigations Evidence Act**

## **5.00 HEARING PROCESS**

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### **5.10 How to Prepare for the Hearing**

It is important that all parties involved in the hearing be familiar with the contents of the Case Description and the Commission's Internal Review decision under review. The parties should be prepared to explain to the Review Commissioner why they believe the Commission's decision is either correct or incorrect. The parties should also reference the documents contained in the file to support their position.

The Review Commissioner will take into account the evidence and submissions presented at the hearing, as well as testimony and any other relevant documentation. The Review Commissioner will provide a written decision with reasons after the hearing.

The Review Division provides a Decision Search System (DSS) on its website where decisions are published on a regular basis. The DSS is a useful research tool for preparing for the review hearing and may be found at <http://www.gov.nl.ca/whscrd>. Decisions may also be accessed by Review Commissioner on the Review Division's website from 2013 onwards.

*Reference:  
WHSCA, S.28*

### **5.20 Hearing Methods**

The Review Division may conduct a hearing in one or both of the following ways:

- an oral hearing, where the parties participate in person or via teleconference; or
- a "documents only" review conducted by the Review Commissioner in the applicant's absence. That is, where there is an applicant who does not wish to attend the hearing and where there are no other parties involved in the case, or the other parties also do not wish to attend.

*Reference:  
WHSCA, S.28(5)(6)(7)*

### **5.30 Hearing Locations**

The Review Division hearings are held regularly in the following locations throughout the Province:

- St. John's
- Gander
- Grand Falls-Windsor
- Corner Brook
- Labrador City
- Happy Valley-Goose Bay

## 5.40 Hearing Procedure

A single Review Commissioner conducts the Review Division hearings. The Review Commissioner is empowered by the *Public Inquiries Act* and the *Public Investigations Evidence Act* to ask questions and call witnesses. The worker, the employer and/or their representatives may attend the hearing. The Commission has standing at Review Division hearings and its representatives may also appear on any case.

All participants should appear at the hearing on time. Hearings generally last between one or two hours in length, depending on the complexity of the issues. If it is anticipated that a hearing may take longer, the hearing may be adjourned or reconvened for another time convenient for all participants. If a participant anticipates that they will require more than two hours for the hearing, they should advise the Review Division at the time of scheduling. Refer to **Section 4.30** of this Manual for additional information on scheduling.

Dress is informal and breaks may be taken as required. Cellular devices must be set to mute or silent while in the Hearing Room. The Review Division should be advised in advance of any special arrangements required for the hearing.

The procedure at the hearing may vary slightly, depending on the particulars of a case.

- i. All participants will meet in the Hearing Room and the Review Commissioner will greet everyone and explain the hearing procedure.
- ii. The hearing proceedings are recorded. The Review Commissioner will state for the record the name, Review Division case number, the Commission claim or firm number, the date of the Commission decision under review, and the party who is objecting to the decision.
- iii. The Review Commissioner will identify the issues under review and ask the participants if they agree whether these are the issues to be reviewed.
- iv. The Review Commissioner will ask participants to confirm, for the record, their consent to the use of the Case Description.
- v. The Review Commissioner will ask the participants whether they feel there are any errors or omissions contained in the Case Description.
- vi. The Review Commissioner will ask all participants to state, for the record, their names and their role at the hearing (e.g. the worker, the employer, or a representative).
- vii. The applicant (the party who requested the review) will be the first to present their case. There may be questions from the Review Commissioner and/or other participants.
- viii. The other participants will then have an opportunity to present their case. Again, there may be questions and the applicant will receive a further opportunity to address the presentations of the other participants.
- ix. All participants will be given sufficient time to present their case, including presenting evidence and calling witnesses. The Review Commissioner, however, reserves the right to limit presentations which are unnecessary, excessive, or not relevant to the proceedings.
- x. The applicant or their representative may summarize their position at the end of the hearing.

- xi. The Review Commissioner has the discretion to accept written submissions at the hearing. If a party is submitting a copy of their argument in writing at the hearing, additional copies should also be provided for the other review participants. Refer to Section 4.22 of this Manual for additional information regarding written submissions.
- xii. The Review Commissioner will not accept new evidence. Refer to **Section 5.61** of this Manual for additional information and a description of new evidence.
- xiii. The Review Commissioner will exclude witnesses from the Hearing Room until they are required to give testimony. This exclusion does not apply to the worker, employer, dependent or the representatives, as they are considered parties to the review process.
- xiv. Witnesses will be affirmed, or sworn in, before giving their testimony. After providing testimony and answering questions, the witness may be dismissed from the Hearing Room and asked to wait until the hearing is concluded.
- xv. The Review Commissioner will conclude the hearing by asking the participants if they have finished their presentation.
- xvi. The Review Commissioner will explain that a written decision will be sent to the participants, taking into consideration the evidence and testimony at the hearing, as well as any submissions and the relevant file information.
- xvii. The Review Commissioner will thank the participants for their presentations and will end the hearing.

*Reference:*  
**WHSCA, S. 27(2) and S.28**

#### **5.41 *Hearing Recorded***

The Review Commissioner will record the review proceedings. No other recording equipment is permitted in the Hearing Room.

#### **5.42 *Breaks***

In some cases, it may be necessary to take a break if the Review Commissioner anticipates the hearing will continue for longer than one-and-a-half to two hours. The Review Commissioner may also recess for a break at any time during the hearing if he or she deems it necessary, or if a participant indicates to the Review Commissioner that they require a break.

#### **5.43 *Observers***

The Review Division hearings are not open to the public, however, observers such as family members, union and employer officials may be permitted to sit in on the hearing. Observers may be permitted in the Hearing Room unless there are compelling reasons for being excluded. These reasons could include sensitive issues, matters of space, or potential security problems. The Chief Review Commissioner must approve any request from media representatives to attend a hearing as observers.

A staff member from the Review Division may also attend the hearing in support of the review process and provide assistance as required.

#### **5.44 Disruptive Behaviour**

As previously noted, all participants at the hearing shall behave respectfully. Should a participant's conduct become disruptive during the hearing, the presiding Review Commissioner will advise the participant that their behaviour is unacceptable and that they will be excluded from the hearing if such behaviour continues. If the disruptive behaviour continues, the Review Commissioner has the authority to order the participant to remove themselves from the hearing and the hearing may continue in their absence. The Review Commissioner may also adjourn the hearing for a later date if necessary.

#### **5.45 Adjournments**

An adjournment is a temporary ending to the hearing process. A Review Commissioner may adjourn a hearing at any time during the hearing process for any reason deemed appropriate. For example, an adjournment may take place if a subpoenaed witness failed to appear, if there is a disruption, if the hearing is longer than anticipated, or if the Review Commissioner requires additional information to review the case. After the adjournment, the Review Division staff will contact the participants to schedule a new date for the follow-up hearing.

#### **5.50 Disclosure**

The Review Commissioner may order a party to provide information or documents that he/she deems necessary for the review process. If the party does not provide the required information by the specified date, the Review Commissioner has the authority to make a decision without that information.

*Reference:*  
**WHSCA, S.27**  
**WHSCRD Regulations S.7,S.8**

#### **5.60 Evidence at the Hearing**

Evidence at a hearing may be presented in several forms:

- **Oral:** first-hand accounts or verbal statements by a party or their witness;
- **Documented:** written, videotaped, or another form of prerecorded evidence;
- **Expert evidence:** oral or documentary statements from an expert pertaining to particular areas of a case.

*Reference:*  
**WHSCRD Regulations, S.7**

#### **5.61 New Evidence**

The Review Division will not review new evidence at the hearing that was not previously reviewed by the Commission. If there is new evidence for review, it should first be submitted to the Commission for their review before the Review Division accepts it, as the new evidence may affect the status of the claim. Some examples of new evidence may include:

- Medical reports
- Co-worker statements
- Witness statements
- Payroll information

The Review Division does not generally consider information and reference material from internet sites as new evidence, but they may be submitted as the Review Commissioner considers appropriate. Review Commissioners are not bound by any precedent or document submitted with respect to the nature of the information from internet sites or reference material.

*Reference:  
WHSCRD Regulations, S.7*

### **5.62 Witness Testimony**

Parties may bring witnesses to the hearing to support their case. Witnesses should have been involved in the case under review and would have already provided information to the Commission in the form of medical reports, functional assessments, or statements. For example, a physician can be a witness if the Commission has already reviewed their medical report and this material was considered in its decision-making process. Refer to **Section 4.60** of this Manual for additional information on witnesses.

A worker or employer may testify on their own behalf at the hearing. Other witnesses are subject to a notice of confirmation of attendance by the Review Division.

*Reference:  
WHSCRD Regulations, S.9*

### **5.70 Hearing Transcript**

The Review Division does not provide typed transcripts of the recorded hearing except in exceptional circumstances. The Review Division will supply digital copies of the recorded hearing in CD format upon written request by a review participant.

There may be circumstances where typed transcripts will be provided:

- When a hearing has been adjourned for a lengthy period, the Review Division may provide a typed copy of the transcript to the participants in order to prepare for the matter on an ongoing basis.
- If the assigned Review Commissioner is unable to complete their review of a case, a copy of the transcript may be provided to another Review Commissioner chosen to complete the case.
- The Review Division will provide typed transcripts of the hearing to participants who are involved in a judicial review of a decision made by the Review Division as part of the disclosure of file information to the Supreme Court.

## **5.80 Failure to Attend**

Given the extensive coordination efforts that are often required to schedule a hearing, parties are required to notify the Review Division immediately if they cannot attend the review hearing.

If a party fails to attend the review hearing without providing notice to the Review Division and the Review Commissioner is satisfied that they had received adequate notice of the scheduled hearing, the Review Commissioner may:

- hear the matter on the basis of the Case Description before the Review Commissioner and represented parties who are attending the hearing; or
- delay the case until a later date, subject to any conditions imposed by the Review Commissioner.

The decision to proceed with the hearing rests with the presiding Review Commissioner.

*Reference:  
WHSCA, S.28(7)*

## **5.90 Confirmation of Hearing Attendance**

The Review Division may provide a letter confirming a participant's attendance at the review hearing if requested. Upon arrival at the Review Division's office for the hearing, please indicate to staff that such a letter is required and it will be provided after the hearing concludes.

## 6.00 Decision Process

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### 6.10 Who Makes the Decision

- The Review Commissioner who conducts the hearing is the only person authorized to provide the decision. Under the principles of natural justice, the Review Commissioner who heard the evidence and argument in a matter makes the decision arising out of it.
- A Review Commissioner will communicate his/her decision, with reasons, in writing usually within 60 days from the date of the hearing.
- The Review Division will not disclose the outcome of a matter by telephone, email, or in-person inquiries.
- Final decisions are released to review participants by mail, or may be picked up in person at the Review Division office. The Review Division will not email or fax decisions.

*Reference:*  
**WHSCA, S.28(4)(b),(4.1),(4.2),(8)**

### 6.20 Types of Decisions

Under Section 28 of the *WHSCA*, a Review Commissioner will provide reasons for a decision in writing and may confirm, reverse, or modify a Commission decision. The Review Commissioner may uphold the Commission's decision, or set aside the decision and identify how the Commission's decision was contrary to the *WHSCA*, *Regulations* and policies. The Review Commissioner also has the authority to refer any matter back to the Commission for further action or decision-making.

The Review Division decisions are final and binding. The end of the decision will indicate its status as:

- Allowed
- Denied
- Allowed/Denied in Part
- Referred Back to the Commission

If the Review Commissioner allows, or refers, a decision back to the Commission, parties must follow-up with the Commission for action on the Review Division decision. If the review is denied, the only other recourse would be to:

- Initiate a *Request for Reconsideration* application under Section 28, if desired. See **Section 7.10** of this Manual for the prerequisites for a reconsideration; or
- Proceed directly to file an *Originating Application* with the Supreme Court of Newfoundland and Labrador requesting a judicial review. See **Section 7.20** of this Manual for application to Supreme Court.

*Reference:*  
**WHSCA, S.26.1, S.26(1)(2), S.28(4.1)(4.2)**  
**WHSCRD Regulations S.11**

### **6.30 Amended Decisions**

The Review Division may amend a decision if a typographical or grammatical error is discovered after the decision has been released. In such circumstances, the Review Division will correct the error and reissue the decision to the review participants with the original decision number followed by an “A” to indicate that it was amended.

### **6.40 Published Decisions**

Decisions of the Review Division are considered public documents once rendered and are uploaded to the Decision Search System (DSS) for public viewing. Before uploading decisions to the DSS, all personal identifiers are removed from the decision such as the worker’s and employer’s names, the Review Division case number and the workers’ compensation claim or firm numbers.

Decisions can be searched by date range, issue, or decision number and may be accessed from the Review Division’s website at <http://www.gov.nl.ca/whscrd>. The Review Division also provides decisions by Review Commissioner on its website beginning from 2013.

## 7.00 POST-DECISION

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### 7.10 Reconsideration Requests

Under the authority of Section 28.1 of the *WHSCA*, the Review Division may reconsider a final decision it has made and either confirm, amend, or revoke the decision.

A participant identified as a party to the *Request for Review* application may submit a *Request for Reconsideration*. The reconsideration process allows the Chief Review Commissioner to overturn the decision of another Review Commissioner if it that decision contains, or likely contains, an error. The Chief Review Commissioner is under no obligation to grant a reconsideration solely on the basis that a party does not accept the Review Commissioner's final decision.

In applying for a reconsideration, a participant is expected to identify why the Review Commissioner's decision is in error. Examples of errors which may lead to the final decision of the Review Commissioner being set aside include:

- The Review Commissioner failed to apply the appropriate sections of the *WHSCA*, *Regulations* and/or policies.
- The Review Commissioner exceeded the authority provided under the *WHSCA* in relation to a matter under review.
- There was a material procedural defect in the process which affected the integrity of the decision.

The following outlines the steps in the Reconsideration process:

- There are no forms to fill out to submit a *Request for Reconsideration*. A *Request for Reconsideration* may be made in writing to the Chief Review Commissioner within 30 days of receipt of the Review Division decision.
- The request should state the reasons for making the request and identify any errors in law or jurisdiction that is alleged the Review Commissioner made in rendering his or her decision. Acceptance of the *Request for Reconsideration* may be delayed or refused if it does not do so. The errors do not need to be expressed in technical or legal terms, but should direct the Chief Review Commissioner's attention to the aspect(s) of the decision which the applicant believes were in error. ***New evidence which has become available since the date of the Commission's Internal Review Decision is not considered grounds for reconsidering a case. New evidence should first be submitted to the Commission for an initial ruling.***
- Upon receipt of the *Request for Reconsideration*, the Review Division will notify all the parties who were involved in the case within 10 days that the request has been made. The parties will be invited to make submissions within 14 days as to why they believe the *Request for Reconsideration* should or should not be granted. The *Request for Reconsideration* applicant will be provided with a copy of the submissions received from the parties and will have one week to provide a response to the submissions.
- If it is the Chief Review Commissioner who made the original decision, he or she will assign the *Request for Reconsideration* to an alternate Review Commissioner for consideration after the submission deadline.

- The assigned Review Commissioner will review the *Request for Reconsideration*, the submissions received and the original decision. He or she will make a determination, providing appropriate reasons, of whether or not the Request establishes that the original decision is in error, and whether the *Request for Reconsideration* should be granted.
- The reconsideration process is usually conducted by a review of the written submissions filed by the parties. If the Review Commissioner assigned to conduct the reconsideration determines that it is necessary, he or she has the discretion to hold an oral hearing.
- When an oral reconsideration hearing is warranted, the Review Division will contact all parties involved to schedule a hearing. Otherwise, the matter will be dealt with through correspondence to all parties.
- If a determination is made that there was no error in the original decision, the Review Commissioner will deny the *Request for Reconsideration* and the original Review Division decision remains the final decision. This determination will be communicated by correspondence to the party requesting the reconsideration and copied to all participants involved in the request.
- The Review Commissioner will provide a decision, with reasons, within 60 days from the date of the *Request for Reconsideration*. If no oral hearing was conducted, the Review Commissioner will provide a decision within 45 days from the date of the *Request for Reconsideration*.
- The Review Division will send a copy of the reconsideration decision to all parties who participated in the reconsideration process. The Review Division identifies reconsideration decisions by adding an “R” to the original Review Division decision number to show it is a reconsideration of the previous decision.
- Reconsideration decisions are final. The Review Division no longer has any jurisdiction over the matter once it completes its reconsideration. If a party is not satisfied with the outcome of the reconsideration decision, they may file an *Originating Application* with the Supreme Court of Newfoundland and Labrador. This process is governed by the *Rules of the Supreme Court of Newfoundland and Labrador*, and not the *Workplace Health, Safety, and Compensation Act*, regulations, or policies. The Review Division does not process inquiries on this process.

**Reference:**  
**WHSCA, S.28.1**

## **7.20 Application to the Supreme Court of Newfoundland and Labrador**

If a party to the review is of the opinion the decision of a Review Commissioner is contrary to the *WHSCA*, or is outside the jurisdiction of the Review Division, they may seek a judicial review of the decision by filing an *Originating Application* with the Trial Division of the Supreme Court of Newfoundland and Labrador.

Please note that a party has the right to proceed directly to a judicial review without going through the reconsideration process. The reconsideration process is optional, and a party may decide to request that the Court review the decision of the original Review Commissioner without filing a reconsideration request under section 28.1 of the *Act*.

## 8.00 Forms

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- 8.10    *Request for Review Application – pg. 29***
- 8.20    *Authorized Representative Consent Form – pg. 30***
- 8.30    *Employer's Notice of Intention to Participate – pg. 31***
- 8.40    *Extension of Time Application – pg. 32***
- 8.50    *Subpoena – pg. 33***
- 8.60    *Affidavit of Service – pg. 34***

Workplace Health, Safety and  
Compensation Review Division  
6 Mt. Carson Avenue  
Mount Pearl, NL A1N 3K4



Tel: (709)729-5542  
Fax: (709)729-6956  
Toll Free: 1-888-336-1111  
Email: whscrd@gov.nl.ca  
Website: www.gov.nl.ca/whscrd

## REQUEST FOR REVIEW APPLICATION

<b>APPEALED BY (Please check one)</b>		
Worker _____	Employer _____	Dependant

<b>(Office use only)</b>	
W.H.S.C.R.D. Case No: _____	

### 1. W.H.S.C.C DECISION INFORMATION (Please attach copy)

DECISION(S) MADE BY:	Date of WHSCC Internal Review decision(s) to be reviewed:		
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### 2. WORKER INFORMATION

NAME	CLAIM NUMBER(S) - (This section must be completed)		
ADDRESS			
CITY/TOWN	PROV.	POSTAL CODE	TEL.
			FAX.

### 3. ACCIDENT EMPLOYER INFORMATION

CONTACT NAME	COMPANY NAME			FIRM NO.
ADDRESS				
CITY/TOWN	PROV.	POSTAL CODE	TEL.	FAX.

### 4. REPRESENTATIVE INFORMATION (If applicable – Please note an **Authorized Representative Consent** form must be completed)

NAME	AGENCY		
ADDRESS			
CITY/TOWN	PROV.	POSTAL CODE	TEL.
			FAX.

### 5. WHY DO YOU DISAGREE WITH THIS DECISION? (Provide details in full – you may attach additional explanations to this form)


### 6. WHAT TYPE OF BENEFIT ARE YOU REQUESTING? (Please be specific)


*Note: Under the Workplace Health, Safety and Compensation Act, the employer has a right to participate in a worker's Request for Review. Should the employer choose to participate in the review, documents pertaining to a worker's claim relevant to the Request for Review may be disclosed to the employer.*

### 7. I CONFIRM THE INFORMATION ON THIS FORM IS CORRECT AND COMPLETE:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Personal information on this form is collected for the processing of a WHSCRD Request for Review application and subsequent hearing under the *Workplace Health, Safety and Compensation Act* and the *Access to Information and the Protection of Privacy Act*. For further information, please contact WHSCRD at the address or telephone number listed above.

### AUTHORIZED REPRESENTATIVE CONSENT FORM

WHSCC CLAIM NO./FIRM NO.

(Office Use Only) WHSCRD CASE NO.

#### 1. YOUR CONTACT INFORMATION:

NAME	COMPANY NAME (If Applicable)			
ADDRESS				
CITY/TOWN	PROV.	POSTAL CODE	TEL.	FAX.

#### 2. AUTHORIZATION AND CONSENT: (To be signed by the worker/employer/dependent)

Please select the appropriate box:

I \_\_\_\_\_ (Worker/Dependent) consent to the following individual to act as my Authorized Representative for the purposes of the WHSCRD review process:

I \_\_\_\_\_ (on behalf of the Employer) of \_\_\_\_\_ (Employer Name) consent to the following individual to act as the Employer's Authorized Representative for the purposes of the WHSCRD review process:

#### REPRESENTATIVE CONTACT INFORMATION:

NAME	AGENCY (If applicable)			
ADDRESS				
CITY/TOWN	PROV.	POSTAL CODE	TEL.	FAX.

I understand the Authorized Representative, as indicated above, will receive information concerning the WHSCRD review and act as my Authorized Representative until I indicate otherwise.

(To be signed by worker/employer/dependent)

Signature

Date

#### 3. CHANGE OF AUTHORIZED REPRESENTATIVE :

Please note that _____ is no longer my Authorized Representative.	
I wish to designate _____ as my Authorized Representative. (Please fill in Section 2 above)	
(To be signed by worker/employer/dependant)	Date
Signature	

Personal information on this form is collected for the processing of a WHSCRD Request for Review application and subsequent under the *Workplace Health, Safety and Compensation Act* and the *Access to Information and the Protection of Privacy Act*. For further information, please contact WHSCRD at the address or telephone number listed above.

## EMPLOYER'S NOTICE OF INTENTION TO PARTICIPATE (TO BE COMPLETED BY THE EMPLOYER)

If you wish to participate in the review proceedings, you must notify the Workplace Health, Safety and Compensation Review Division's (WHSCRD) office of your intention to do so within 14 days of receipt of this form. If you have any questions or concerns, please contact the WHSCRD office at the address or telephone numbers listed above.

### 1. Information concerning the Request for Review

WHSCRD Case No.	WHSCL Claim/Firm No.	Worker's Name ( <i>if applicable</i> )
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### 2. Employer's Contact Information (please print)

Mr. Mrs. Ms.	Employer's Company/Firm Name:		
Mailing address		City	Province
Area code and daytime phone (   )	Other phone (   )	Fax Number (   )	Postal Code

### 3. Will you be participating in the review proceedings?

If you participate, the WHSCRD will send you a copy of the documents relative to the issue(s) under review. You will also be notified of the review process. Please indicate your preference:

Yes, the employer will participate in the review proceedings on this matter.

(Name & Address) \_\_\_\_\_  
will act as the Authorized Representative for the employer on this matter. (**Please submit an Authorized Representative Form**)

No, the employer does not wish to participate. The employer understands that it is giving up their right to take part in the review process and no further notice will be given to the employer.

No, the employer does not wish to participate, please send a copy of the final decision.

### 4. Undertaking of Confidentiality and Signature

**I agree:**

- a. the documents or records disclosed on this matter will be used solely for the purpose of the WHSCRD review,
- b. the documents or records will be kept confidential and secure,
- c. the Authorized Representative will use documents or records disclosed on this matter solely for the purpose of the WHSCRD review and keep them confidential and secure, and
- d. to comply with any other conditions or restrictions the WHSCRD may impose regarding the use and disclosure of documents or records.

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_  
(*Must be signed by an official of the employer – not the Authorized Representative*)

## **EXTENSION OF TIME APPLICATION**

WHSCC CLAIM NO./FIRM NO.	WHSCC DECISION DATE	WHSCRD CASE NO.
--------------------------	---------------------	-----------------

## 1. CONTACT INFORMATION:

NAME	COMPANY NAME (if Applicable)			
ADDRESS				
CITY/TOWN	PROV.	POSTAL CODE	TEL.	FAX.

**2. THIS EXTENSION OF TIME IS REQUIRED FOR THE FOLLOWING REASONS: (Please provide full details)**

### **3. EXTENSION OF TIME REQUEST:**

As I have exceeded the 30 days provided to file a Request for Review pursuant to S. 28(1) of the *Workplace Health, Safety & Compensation Act* (the *Act*), I hereby apply to the Chief Review Commissioner for an Extension of Time in accordance with S.28(1) of the *Act* to file a Request for Review.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Personal information on this form is collected for the processing of a WHSCRD Request for Review application and subsequent hearing under the *Workplace Health, Safety and Compensation Act* and the *Access to Information and the Protection of Privacy Act*. For further information, please contact WHSCRD at the address or telephone number listed above.

**IN THE MATTER OF** the Workplace Health,  
Safety & Compensation Act, 1990 as amended

**- AND -**

**IN THE MATTER OF** a Review to the  
Workplace Health, Safety & Compensation  
Review Division pursuant to Section 27 of the  
Workplace Health, Safety & Compensation  
(Amendment) Act, 1990,

by: [name]

whose W.H.S.C.R.D. Case Number is: [ ]  
and whose W.H.S.C.C. Claim Number is: [ ]

**SUBPOENA**

**TO:** [name]  
[address]

You are required to attend the hearing of the above proceeding before the Workplace Health, Safety & Compensation Review Division, Dorset Building, 6 Mount Carson Avenue, Mt. Pearl, in the Province of Newfoundland, on [date] at [time] and so on from day to day until the end of the hearing, to give evidence.

You are also required to bring with you and to produce at the above hearing any reports, notes or correspondence regarding WHSCC Claim No. [ ].

By virtue of the *Public Investigations Evidence Act*, a person refusing or wilfully neglecting to attend, give evidence, and produce documents, if lawfully required to do so by a public investigating body, is liable to be dealt with by the Supreme Court as a contempt of that Court.

**DATED AT** Mount Pearl, Newfoundland, this \_\_\_ day of \_\_\_\_\_ 20\_\_.

---

[name]  
**Chief Review Commissioner**  
Workplace Health, Safety and  
Compensation Review Division

**IN THE MATTER OF** the Workplace Health, Safety & Compensation Review Division Case No. [      ], Workplace Health, Safety and Compensation Commission Claim No. [      ], regarding [worker, employer, dependent]

### **Affidavit of Service**

I, \_\_\_\_\_, of \_\_\_\_\_, Newfoundland and Labrador, make oath and say as follows:

1. On \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m., I served \_\_\_\_\_ with the Subpoena by leaving a copy (of which a copy is attached hereto) with him/her at \_\_\_\_\_.
2. I was able to identify the person by means of \_\_\_\_\_.

**SWORN TO** at Mount Pearl, NL in the Province of Newfoundland and Labrador this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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Signature

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Commissioner for Oaths

**Workplace Health Safety and Compensation  
Review Division  
2<sup>nd</sup> Floor, Dorset Building  
6 Mount Carson Avenue  
Mount Pearl, NL  
A1N 3K4**

