



LEGISLATIVE RETURN

SUBMITTED BY: Jeanie McLean,  
Minister responsible for Yukon Workers' Compensation Health and Safety Board

1. On \_\_\_\_\_,

- asked the following question during the Oral Question Period at page(s) \_\_\_\_\_ of Hansard
- submitted the following written question – WQ No. \_\_\_\_\_
- gave notice of the following motion for the production of papers – MPP No. \_\_\_\_\_

RE: \_\_\_\_\_

OR

2. This legislative return relates to a matter outstanding from discussion related to:

Appearance of the Yukon Workers' Compensation Health and Safety Board Chair and President/CEO before Committee of the Whole

on November 10, 2020 at page(s) 1857 of Hansard.

The response is as follows:

Please see attached.

December 21, 2020  
Date

Jeanie McLean  
Signature



## Question 1

*Hansard Excerpt (page 1857)*

**Ms. Hanson:** *I thank the witness for that response. I am sort of jumping around a little bit because of the time. One of the issues that was discussed in the "what we heard" document was the issue of earnings loss benefits for low-income earners. I will just read the statement and then I will ask a question about it. So, this would be "That earnings loss benefits for all workers whose pre-injury earnings are at or below the minimum amount be increased to 100 percent of their pre-injury earnings, regardless of whether they are partially or totally disabled." This would be intended to "... enhance fairness and encourage an early and safe return to work." There were some cautions identified in the feedback that the review received. My question would be: Do the witnesses have an estimate of the number of workers who might be captured by this?*

**Mr. Dieckmann:** *We do have an estimate. I don't have it with me, so that is something that I will get back to the House with.*

### *Response:*

- As part of preparing for the public consultation portion of the Acts review, we prepared the following estimates related to minimum compensation:
  - Numbers are based on earnings loss data from 2014 to 2018.
  - Under the 2008 Workers' Compensation Act, 65 injured workers a year are affected by minimum compensation rules and policy.
  - An additional 14 claimants a year would have been impacted if the proposed changes were in effect.
  - On average, 79 claimants per year will be affected by minimum compensation if the proposed changes are part of the modernized legislation.



## Question 2

*Hansard Excerpt (page1857)*

*Ms. Hanson: I thank the witness for that. I realize that the time is just going by, so I just want to touch on one last area. There was a consideration introduced in the "what we heard" document to clarify the criteria that must be met by domestic service workers to be considered a worker under the Workers' Compensation Act. There was general support for the proposal. There were some concerns raised with respect to the potential for worker discrimination. I am just wondering if the witnesses could identify for us: How is this dealt with in other jurisdictions? Are we talking about an employer/employee relationship with a domestic worker, or are we talking about domestic workers who work for Molly Maid or something like that?*

*Mr. Dieckmann: All jurisdictions handle the issue of domestic workers differently. It is an issue that every jurisdiction struggles with, and everybody has sort of come up with different ways of handling it. What I can do is get the jurisdictional scan, provide it to the minister, and get her to introduce it to the House so that people have an understanding of how it is dealt with in different jurisdictions*

### *Response:*

- The issue of clarifying when domestic workers are eligible for coverage under the *Yukon Workers' Compensation Act* was one of many covered in our public engagement process in late 2019 and early 2020.
- A jurisdictional scan was conducted as part of YWCHSB's preparation for the current Acts review.
- There are significant differences across the country in how the issues of coverage and compensation for domestic workers are handled.
- At a broad level, two jurisdictions use 24 hours a week as the dividing line between a contract of service and a contract for service.
  - Manitoba sets this out in legislation; Ontario sets this out in policy
- The other provinces and territories rely on common-law tests with little clarity as to the difference between a worker and independent contractor when it comes to domestic service.
- Alberta, British Columbia, Saskatchewan, Northwest Territories/Nunavut, make no mention of domestic workers in either their Acts or policies
  - Alberta and British Columbia apply a common law test to determine if domestic workers are workers under the Act on a case-by-case basis
- New Brunswick and Prince Edward Island both exclude person's functioning as part of a household in their Acts



- Nova Scotia and Newfoundland and Labrador both define worker in their Act as including “a person who has entered into or works under a contract of services or apprenticeship, written or oral, express or implied”
  - Neither jurisdiction makes reference to domestic workers in policy
- Manitoba and Ontario treat domestic workers more substantially:
  - In Manitoba, anyone who employs a person for child care, elder care or in-home support services for more than 24 hours a week is an employer and must buy coverage for the worker.
    - A worker includes someone who works 24 hours a week or more for the same employer in domestic service, child care or care for the elderly and ill.
  - In Ontario, the Act definition of industry includes “households, if domestics are employed”
    - WSIB policy provides coverage for domestic workers who employed by the same employer for 24 hours a week or more. If hours vary, less than 24 some weeks and more than 24 hour other weeks, the worker is continuously covered.
    - Domestic workers are defined as those hired and paid directly by private household and their primary work duties relate to the operation of the employers household.
    - Domestic workers who work less than 24 hours a week for a single employer or more than 24 hours a week for multiple employers, but less than 24 hours weekly for any one employer are not covered under the Act. They may purchase optional coverage.