

# Managing Commission and Workers' Compensation



Workers' compensation provides financial support to employees who suffer work-related injuries or illnesses. For HR and OHS directors and managers, it's critical to understand how compensation interacts with commission-based pay. Since eligibility rules and benefit calculations vary by jurisdiction, organizations must take a careful, compliant approach. This checklist is designed to guide you through assessing how workers' compensation impacts employees' commission earnings and ensuring fair and lawful application.

## **Commission and Workers' Compensation Checklist**

### **1. Verify Jurisdictional Rules**

- Confirm the provincial/territorial jurisdiction governing workers' compensation for your employees.
- Review local workers' compensation board (WCB/WSIB/WorkSafe) policies on commission inclusion in wage-loss calculations.
- Note any sector-specific variations (e.g., construction, sales, or healthcare).

### **2. Determine Employee Eligibility**

- Check whether the employee's role is covered by workers' compensation insurance.
- Verify if commissioned employees are explicitly included in earnings definitions.
- Confirm the waiting period before wage-loss benefits begin.

### **3. Calculate Average Earnings**

- Identify the base period used to calculate average earnings (e.g., last 12 months, last 3 months, or most recent pay cycle).

- Confirm whether commissions, bonuses, and overtime are included in the wage-loss calculation.
- Ensure accurate payroll records are maintained for at least the required period (often 12 months).

#### **4. Assess Impact on Commission Payments**

- Determine whether commissions stop, continue, or are prorated during WCB leave.
- Review if the employer must top up WCB payments to reflect commission-based earnings.
- Check for employer policy provisions that supplement WCB benefits for commissioned employees.

#### **5. Communicate with Employees**

- Provide employees with a clear explanation of how their workers' comp benefits will be calculated.
- Document and share how commissions will be treated during the recovery period.
- Offer written guidance (e.g., in employment contracts or policy manuals) to avoid disputes.

#### **6. Compliance and Documentation**

- Ensure compliance with both employment standards legislation and workers' compensation regulations.
- Keep detailed records of communications and calculations regarding commission adjustments.
- Review annually to confirm policies remain up to date with regulatory changes.

#### **7. Plan for Return-to-Work Programs**

- Evaluate whether a gradual return-to-work program affects commission eligibility.
- Document whether modified duties will continue to generate commission opportunities.
- Coordinate with supervisors to ensure fair distribution of sales or commissionable tasks during transitional work.

## **Key Insights for HR/OHS Directors**

**Consistency Matters:** Across the three jurisdictions with distinct workers' comp boards – Ontario, Alberta, and British Columbia – commissions are only included in wage-loss calculations if they are a regular, ongoing component of pay.

**Payroll Documentation is Critical:** Ensure thorough records of commission payments are available for at least the last 12 months.

**Employer Top-Ups are Voluntary:** None of the three jurisdictions require employers to top up WCB/WSIB benefits to match lost commission earnings. However, some employers choose to do so through internal policy for retention and fairness.

**Jurisdictional Definitions Differ:** While all three boards recognize commissions, the rules for irregular or seasonal commissions vary, so local interpretation can affect benefits.

**Return-to-Work Planning:** When transitioning an employee back, review how modified duties may limit commission opportunities and address potential income gaps.