

## Remuneration Plan for WCAT Appointees

This document outlines the implementation of remuneration for appointees to Administrative Tribunals.

VERSION 2.2 – October 27, 2023

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**Section 1.0 – Versioning**

<b>Version</b>	<b>Review Date</b>	<b>Reviewers</b>
1.0	April 22, 2021	Honourable Harry Bains, Minister of Labour
2.0	October 27, 2023	Honourable Harry Bains, Minister of Labour

## Overview of WCAT

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The Workers' Compensation Appeal Tribunal (WCAT) is an independent administrative tribunal external to WorkSafeBC. WCAT is the final level of appeal in B.C.'s workers' compensation system. Its mandate under the *Workers Compensation Act* (Act) is to decide appeals and applications brought by workers, employers, and dependants of deceased workers from decisions of WorkSafeBC. WCAT receives compensation, assessment, and occupational health and safety appeals from decisions of WorkSafeBC's Review Division. WCAT also receives direct appeals from WorkSafeBC decisions regarding applications for reopening of compensation claims and complaints regarding prohibited actions. In addition, it receives applications for certificates for court actions.

WCAT is a high-volume appeal tribunal. Most WCAT appeals relate to compensation matters. WCAT makes quasi-judicial decisions after conducting the appeal in the manner it considers necessary, including hearings in writing or orally (in-person, teleconference, or videoconference) around the province.

## WCAT Appointees

WCAT consists of the following members (hereinafter referred to as "appointees") appointed after a merit-based process:<sup>1</sup>

- The chair appointed by the Lieutenant Governor in Council.
- Vice chairs appointed by the chair, after consultation with the Minister of Labour. Vice chairs may be full-time, regular part-time, or "as and when required" part-time appointees.
- Extraordinary members appointed by the chair, after consultation with the Minister of Labour, with representation from individuals with experience in employers' interests and from individuals with experience in workers' interests. Extraordinary members hold office only for the period required to discharge their duties as a member of a panel appointed by the chair under section 285(5)(b) or 285(6)(b) of the Act. As such, they are categorized as "as and when required" part-time appointees.<sup>2</sup>

Appointees are supported by employees and legal counsel who deliver operational, administrative, and legal support.

## Overview of WCAT Remuneration Plan

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As set out in section 284(1) of the Act, all money required for WCAT's operations is paid for by the government (Ministry of Labour). On request of the Minister of Labour, WorkSafeBC must reimburse the government out of the accident fund for all amounts so paid.<sup>3</sup>

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<sup>1</sup> See section 278(2) of the Act.

<sup>2</sup> At the date of signing of this document, the chair had not appointed any extraordinary members to serve on a WCAT panel.

<sup>3</sup> See section 239 of the Act for further information about the accident fund.

# Workers' Compensation Appeal Tribunal Appointee Remuneration Plan

Under section 283(2) of the Act, the Minister must set the remuneration for those members of the tribunal who are to receive remuneration in accordance with general directives of the Treasury Board.

*Treasury Board Directive 1/24 – Remuneration Guidelines for Administrative Tribunals and Regulatory Boards* (TBD 1/24) sets the maximum rates, principles, and policy objectives for the administration of appointee remuneration for all administrative tribunals and regulatory boards in British Columbia, including WCAT.

TBD 1/24 specifies different rates of remuneration for different classes of appointees within the classification level for the tribunal<sup>4</sup>. The Appointee Remuneration Committee classifies and reclassifies tribunals:

- As of April 1, 2023, WCAT was at classification Level 4.
- Effective September 25, 2023, WCAT is at classification Level 5.<sup>5</sup>

WCAT is required to have an approved remuneration plan with the requirements and characteristics set out in item #4 of TBD 1/24. The remuneration plan must be approved and reviewed by the Minister of Labour at least once every three years.<sup>6</sup>

The key functions of the WCAT Appointee Remuneration Plan (remuneration plan) are to:

1. Provide a mechanism and set of principles for determining the appropriate placement of each WCAT appointee within the remuneration range established by TBD 1/24.
2. Guide the application of initial remuneration and incremental increases based on satisfactory performance.

## Principles

The administration of remuneration for WCAT appointees must follow these principles:

1. Remuneration decisions are not tied to the outcome of tribunal decisions.
2. The remuneration plan must be applied in a manner respectful of the established budget and discretion must be applied to avoid operating in a deficit position.
3. Any remuneration increases must be managed within WCAT's existing budget and within the ranges set by TBD 1/24 and this remuneration plan.
4. Remuneration increases are subject to satisfactory performance.
5. An individual appointee's remuneration must not exceed the maximum rate set for the position within this remuneration plan.
6. The minimum rate as specified in TBD 1/24 must be paid.
7. There is no requirement that the maximum remuneration rate be paid.

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<sup>4</sup> Also see section 283(3) of the Act.

<sup>5</sup> As of September 25, 2023, the Appointee Remuneration Committee classified WCAT at Level 5. Previously, WCAT was classified at Level 4. [Classification list](#).

<sup>6</sup> See also section 283(2) of the Act. This plan replaces the previous plan effective April 22, 2021.

# Workers' Compensation Appeal Tribunal Appointee Remuneration Plan

## Roles

**Treasury Board** establishes the *Remuneration Guidelines for Administrative Tribunals and Regulatory Boards*, which are set out in a Directive (currently TBD 1/24).

**The Appointee Remuneration Committee** (ARC) reviews the proposed WCAT remuneration plan or amendments and provides recommendations to the Minister prior to the Minister's approval of the new or amended remuneration plan.

**The Public Sector Employers' Council Secretariat** (PSEC) acts as the secretariat to the Appointee Remuneration Committee.

### **The Minister of Labour:**

1. Establishes and maintains WCAT's remuneration plan in fulfillment of item #8.4.1 of TBD 1/24 and section 283(2) of the Act. This function may not be delegated, although the Minister may consult with WCAT and PSEC in the development of any proposed plan.
2. For added clarity, the approval by the Minister of WCAT's remuneration plan is distinct from remuneration adjustments for individual appointees. The Minister delegates the function of determining remuneration adjustments for individual appointees to the WCAT chair, except for the chair's remuneration. The Minister delegates the function of determining remuneration adjustments for the WCAT chair to the Deputy Minister of Labour.
3. Will request the Appointee Remuneration Committee to review and make recommendations prior to the Minister's approval of WCAT's remuneration plan.
4. Will request the Appointee Remuneration Committee to consider a reclassification of WCAT if its mandate is changed significantly.

### **The Deputy Minister of Labour:**

1. Exercises the delegated authority to make remuneration decisions and adjustments for the WCAT chair within the principles of this remuneration plan.

### **The WCAT chair:**

1. Determines the class to which an appointee is assigned for the purposes of remuneration, as well as the remuneration applicable to each position within the range set in TBD 1/24.<sup>7</sup>
2. Exercises the delegated authority to make remuneration decisions and adjustments for individual appointees within the principles of this remuneration plan.
3. Administers the remuneration, benefits, and expenses payable to appointees.
4. Ensures actual remuneration and reimbursement information, as requested by ARC, is provided to the Minister and PSEC and is publicly available on WCAT's website.

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<sup>7</sup> See section 283(4) of the Act.

## Classes of WCAT Appointees

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### WCAT Chair

The WCAT chair is designated to fall within the class of “chair” under TBD 1/24 and is a full-time appointee. The WCAT chair is responsible for the general operation of WCAT including:<sup>8</sup>

- Appointing vice chairs and extraordinary members.
- Establishing quality adjudication, performance, and productivity standards for appointees.
- Establishing a code of conduct, including conflict of interest provisions, that governs the conduct of appointees.
- Developing a 3-year strategic plan and an annual operations plan.
- Establishing any forms, practices, and procedures required for the efficient and cost-effective conduct of appeals.
- Making a determination whether a policy of WorkSafeBC should be applied in the circumstances where a vice chair or panel considers that a policy of WorkSafeBC should not be applied and has referred the issue to the chair.

The WCAT chair must have substantial, significant, and extensive administrative law experience, substantial, significant, and extensive knowledge of the workers' compensation system, be a member in good standing of the Law Society of BC, and have senior-level strategic and decisive leadership skills and experience leading and developing professional staff members.

### Other WCAT Appointees

Under section 283(4) of the Act, the WCAT chair has determined that WCAT appointees are assigned to the classes below for the purposes of remuneration. In reaching this determination, the WCAT chair has considered the varying level of skills, experience and knowledge, level of responsibility, and other operational requirements of each position.

<b>TBD Class of Appointee*</b>	<b>WCAT Position Name**</b>	<b>Number of Positions</b>	<b>Role Description and Job Requirements</b>
Vice Chair (Full-time appointee)	Vice Chair, Tribunal Counsel	1	<ul style="list-style-type: none"> <li>• Supervises the activities of the Tribunal Counsel Office and takes a leadership role within the organization, including coordinating responses to all post-decisional matters such as petitions for judicial review of WCAT decisions, providing advice and assistance to WCAT vice chairs, managing lists of independent health professionals,</li> </ul>

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<sup>8</sup> See sections 280 and 304 of the Act.

## Workers' Compensation Appeal Tribunal Appointee Remuneration Plan

TBD Class of Appointee*	WCAT Position Name**	Number of Positions	Role Description and Job Requirements
			<p>and acting as WCAT's ethics, privacy and public interest disclosure officer.</p> <ul style="list-style-type: none"> <li>• Acts as an adjudicator when appointed to a panel.</li> <li>• Must be a member in good standing of the Law Society of BC.</li> <li>• Must have significant and extensive administrative law experience and significant and extensive knowledge of the workers' compensation system.</li> <li>• Must have significant leadership experience.</li> <li>• Exercises the power of the chair in the chair's absence.</li> </ul>
Vice Chair (Full-time appointee)	Vice Chair, Registrar	1	<ul style="list-style-type: none"> <li>• Supervises the activities of the Registrar's office and takes a leadership role within the organization, including developing and implementing policies and practices to ensure the efficient and fair processing and administration of appeals and pre-hearing matters; promoting consistency and fairness in the processing of appeals; managing the disclosure, pre-hearing, submissions, and investigations processes; and managing the scheduling of oral hearings and assignment of panels.</li> <li>• Acts as an adjudicator when appointed to a panel.</li> <li>• Must have significant and extensive administrative law experience and significant and extensive knowledge of the workers' compensation system.</li> <li>• Must have significant leadership experience.</li> <li>• Exercises the power of the chair in the absence of the chair and tribunal counsel.</li> </ul>
Vice Chair (Full-time appointee)	Vice Chair, Quality Assurance and Training	1	<ul style="list-style-type: none"> <li>• Develops and implements internal and external training programs for WCAT vice chairs.</li> </ul>



## Workers' Compensation Appeal Tribunal Appointee Remuneration Plan

TBD Class of Appointee*	WCAT Position Name**	Number of Positions	Role Description and Job Requirements
			<ul style="list-style-type: none"> <li>• Liaises with WorkSafeBC and other stakeholders on issues of common interest.</li> <li>• Acts as an adjudicator when appointed to a panel.</li> <li>• Must have significant and extensive administrative law experience and significant and extensive knowledge of the workers' compensation system.</li> </ul>
Member (Full-time appointee)	Vice Chair, Team Leader	4	<ul style="list-style-type: none"> <li>• Provides mentoring and assistance to a team of vice chairs.</li> <li>• Provides peer reading for the team of vice chairs to support meeting of quality adjudication standards.</li> <li>• Acts in an evaluator role during regular performance evaluations of vice chairs.</li> <li>• Acts as an adjudicator up to half-time (see duties of a vice chair below).</li> <li>• Must have significant administrative law experience.</li> </ul>
Member (Full-time appointee)	Vice Chair, Deputy Registrar	Up to 3	<ul style="list-style-type: none"> <li>• Assists adjudicators and WCAT employees to solve pre- and post-hearing appeal issues.</li> <li>• Trains WCAT employees in the registry</li> <li>• Collaborates and works closely with internal and external stakeholders, the representative community, and members of the public.</li> <li>• Acts as an adjudicator when appointed to a panel (see duties of a vice chair below).</li> <li>• Must have significant administrative law experience.</li> </ul>
Member (Full-time appointee, regular part-time appointee, and part-time appointee)	Vice Chair	Up to 49	<ul style="list-style-type: none"> <li>• Acts as an adjudicator when appointed to a single-person panel and occasionally as a member of a multi-person panel.</li> <li>• Responsible for the overall conduct and control of the appeal, including the identification and clarification of issues, the provision of procedural directions, research and evidence</li> </ul>

## Workers' Compensation Appeal Tribunal Appointee Remuneration Plan

TBD Class of Appointee*	WCAT Position Name**	Number of Positions	Role Description and Job Requirements
			gathering, and the conduct of oral hearings. <ul style="list-style-type: none"> <li>• Provides a clear, sound, and timely decision for each assigned appeal.</li> <li>• Complies with the Code of Conduct and meets the performance standards established by the chair.</li> <li>• Meets the qualifications for appointment outlined in section 2 of the <i>Workers Compensation Act Appeal Regulation</i>.</li> </ul>

\* Type of appointee per TBD 1/24.

\*\* The classes of appointees under the Treasury Board Directive use descriptors that are not used in the Act. The Act designates three types of members under section 278(2).

### Remuneration Rates

The following minimum and maximum annual remuneration rates for full-time and regular part-time appointees for a **Level 4 tribunal** are set in TBD 1/24 and **take effect for WCAT from April 1, 2023 to September 24, 2023:**

Full-time and regular part-time appointees – Annual rates		
Class of WCAT Appointee	Minimum	Maximum
Chair (Full-time appointee)	\$196,140	\$221,825
Vice Chair, Tribunal Counsel/Registrar/Quality Assurance and Training (Full-time appointee)*	\$166,955	\$187,970
Vice Chair, Team Leader/Deputy Registrar (Full-time appointee)**	\$137,765	\$154,110
Vice Chair (Full-time appointee or regular part-time appointee)***	\$137,765	\$154,110

\* The maximum rate for the Vice Chair, Quality Assurance and Training position is the mid-point of the range. This is in recognition of the scope of their duties in relation to the responsibilities of the Vice Chair, Tribunal Counsel/Registrar positions.

\*\* Vice Chair and Team Leader/Deputy Registrar positions are eligible to receive an additional \$5,000 per year for additional duties pursuant to section 4 of the *Workers Compensation Appeal Tribunal Compensation Regulation*.

\*\*\* Regular part-time appointee vice chairs are scheduled to serve the tribunal on a regular part-time basis. There is a clear and predictable commitment of hours of service per pay period. Regular part-time appointee vice chairs are distinguished from part-time appointees who serve on an “as and when required” basis.

## Workers' Compensation Appeal Tribunal Appointee Remuneration Plan

The following minimum and maximum annual remuneration rates for full-time and regular part-time appointees for a **Level 5 tribunal** are set in TBD 1/24 and **take effect for WCAT from September 25, 2023 onwards:**

<b>Full-time and regular part-time appointees – Annual rates</b>		
Class of WCAT Appointee	Minimum	Maximum
Chair (Full-time appointee)	\$221,825	\$245,175
Vice Chair, Tribunal Counsel/Registrar/Quality Assurance and Training (Full-time appointee)*	\$187,970	\$208,985
Vice Chair, Team Leader/Deputy Registrar (Full-time appointee)**	\$154,110	\$171,625
Vice Chair (Full-time appointee or regular part-time appointee)***	\$154,110	\$171,625

\* The maximum rate for the Vice Chair, Quality Assurance and Training position is the mid-point of the range. This is in recognition of the scope of their duties in relation to the responsibilities of the Vice Chair, Tribunal Counsel/Registrar positions.

\*\* Vice Chair and Team Leader/Deputy Registrar positions are eligible to receive an additional \$5,000 per year for additional duties pursuant to section 4 of the *Workers Compensation Appeal Tribunal Compensation Regulation*.<sup>9</sup>

\*\*\* Regular part-time appointee vice chairs are scheduled to serve the tribunal on a regular part-time basis. There is a clear and predictable commitment of hours of service per pay period. Regular part-time appointee vice chairs are distinguished from part-time appointees who serve on an “as and when required” basis.

If the applicable rates for full-time appointees and regular part-time appointees are changed within the term of TBD 1/24, the rates will apply with no need for revision to this remuneration plan. WCAT will publish the updated rates on its website.

The following maximum daily rate for a part-time appointee serving on an “as and when required basis”) for a **Level 4 tribunal** is set in TBD 1/24 and **takes effect for WCAT from April 1, 2023 to September 24, 2023:**

<b>Part-time appointees – Maximum daily rate</b>	
Vice Chair (Part-time appointee serving on an “as and when required basis”)	\$675

The following maximum daily rate for a part-time appointee serving on an “as and when required basis”) for a **Level 5 tribunal** is set in TBD 1/24 and **takes effect for WCAT from September 25, 2023 onwards:**

<b>Part-time appointees – Maximum daily rate</b>	
Vice Chair (Part-time appointee serving on an “as and when required basis”)	\$760

<sup>9</sup> BC Regulation 359/2002

# Workers' Compensation Appeal Tribunal Appointee Remuneration Plan

If the applicable rates for part-time appointees serving on an “as and required basis” are changed within the term of TBD 1/24, the rates will apply with no need for revision to this remuneration plan.

WCAT will publish the updated rates on its website.

## **Guidelines for Remuneration Placement and Adjustments**

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### WCAT Chair

The remuneration rates for the chair are set by the Deputy Minister in consultation with the Minister of Labour.

The minimum rate is applied for initial appointment of the chair unless a higher rate is appropriate for an appointee due to specific circumstances. Any higher rate must be approved by the Deputy Minister of Labour in consultation with the Minister of Labour.

After an initial 18-month period, the Deputy Minister in consultation with the Minister of Labour may increase the remuneration rate to the mid-point of the range subject to satisfactory performance. Any higher rate must be approved by the Deputy Minister of Labour in consultation with the Minister of Labour.

Either upon first or subsequent reappointments, the maximum rate will be applied subject to satisfactory performance.

### Other WCAT Appointees

The minimum rate is applied for initial appointment of all other WCAT appointees unless a higher rate is appropriate for an appointee due to specific circumstances. Any higher rate is applied at the discretion of the chair.

After an initial 18-month period, the chair may increase the remuneration rate of the WCAT appointee to the mid-point of the range. Any higher rate including up to the maximum rate is applied at the discretion of the chair.

Upon first and subsequent reappointments, the chair may apply the maximum rate.

In determining whether increases are warranted, the chair will consider performance evaluations and whether satisfactory performance is achieved. While it is contemplated that increases are, generally, given at the 18-month period and upon reappointment, the chair has discretion to give increases at other points provided that satisfactory performance continues and circumstances are appropriate.

# Workers' Compensation Appeal Tribunal Appointee Remuneration Plan

## **Administrative Matters**

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Regular full-time and regular part-time appointee remuneration is paid on a bi-weekly basis. Regular full-time and regular part-time appointees receive those benefits as set out in part 10 of the British Columbia Government's *Terms and Conditions of Employment for Excluded Employees and Appointees*, Category C.

Remuneration is paid on a "per diem basis" (full and half-day per diem rate) for those who serve on a part-time "as and when required" basis. Such part-time appointees do not receive benefits and can work a maximum of 1,500 hours per calendar year.

All appointees are reimbursed for transportation, accommodation, meal and out of pocket expenses incurred in the course of their duties in accordance with the Group 2 rates, policies, and procedures outlined in the *Terms and Conditions of Employment for Excluded Employees and Appointees*.

The work of part-time "as and when required" appointees to WCAT is not insurable and their remuneration is not subject to employment insurance deductions.

The remuneration for WCAT appointees who serve on a regular full-time or regular part-time basis is pensionable service and subject to CPP deductions. The service of part-time "as and when required" WCAT appointees is not pensionable work, and their remuneration is not subject to CPP deductions.

Appointee remuneration is taxable income, and the tribunal must deduct income tax from the remuneration at source in accordance with the federal *Income Tax Act*.

Appointees to WCAT are "office holders" under the *Excise Tax Act* not employees or contractors and their remuneration is not subject to GST/HST (either charged or payable).

This remuneration plan is to be made publicly available on WCAT's website.

**Effective Date:** April 1, 2023



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Honourable Harry Bains, Minister of Labour

October 27, 2023

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Date signed