

**POLICY NUMBER: POL-71**

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**Chapter:  
CLAIMS**

**Subject:  
ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT**

**Effective Date:  
December 13, 2001**

**Last Updated On:  
September 12, 2016**

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**PURPOSE STATEMENT:**

The purpose of this policy is to explain how the Workers Compensation Board determines if an injury or condition is work-related.

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**REFERENCE:**

*Workers Compensation Act R.S.P.E.I.1988, Cap. W-7.1, Sections 6 (1), (4).*

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**DEFINITION:**

In this policy:

“Accident” means a chance event occasioned by a physical or natural cause that causes personal injury to a worker. This includes a wilful and intentional act that is not the act of the worker, any event arising out of and in the course of employment, or thing that is done and the doing of which arises out of and in the course of employment, and an occupational disease. Stress is included only when it is an acute reaction to a traumatic event arising out of and in the course of employment.

“Arising out of employment” means an injury that must be linked to, originate from, or be the result of, in whole or in part, an activity or action undertaken because of a worker’s employment.

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“In the course of employment” means the injury must be linked to a worker’s employment in terms of time, place and activity.

“Personal injury” means a diagnosed physiological or psychological injury or condition caused by an accident arising out of and in the course of employment.

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**POLICY:**

1. Compensation is payable to a worker when personal injury by accident arising out of and in the course of employment is caused to the worker.
2. The personal injury must be caused by an accident that happens at a time and place consistent with the obligations and expectations of employment, such as hours and place of work.

Time and place are not strictly limited to the normal hours of work or the employer’s premises. However, there must be a relationship between expectations of employment and the time and place the accident occurs.

3. The following variables must be examined to determine whether an injury arose out of and in the course of employment:
    - whether the injury occurred on the premises of the employer;
    - whether the injury occurred in the process of doing something for the employer;
    - whether the injury occurred during a time period for which the worker was being paid; or
    - whether the injury was caused by some activity of the employer or of a fellow worker.
  4. The personal injury must be shown to have arisen within the time and space boundaries of the employment, and in the course of an activity whose purpose is related to the employment.
  5. The premises of the employer, including an employer owned or leased parking lot, are part of the workplace.
  6. Workers who have left the premises of the employer for personal errands or refreshment breaks are not covered.
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7. Workers are not considered to be in the course of employment while traveling to or from the worker's primary workplace.
8. Where travel is part of a worker's job function, and where a worker is being paid for traveling time, a personal injury resulting from travel is one that occurs in the course of employment and may be compensable.
9. Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment, and where the accident occurred in the course of employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.

**Date of Accident**

10. The date of the accident is the date on which the incident occurred, unless otherwise stated in Workers Compensation Board policy, POL-90, "Time Frame Limitations for Claims Filing and Invoicing."

**Wilful and Serious Misconduct**

11. Where the injury is due to wilful and serious misconduct of the worker, compensation for the injury, including medical aid, is not payable for the first three weeks following the injury. The waiting period will commence after the first three weeks have concluded.

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**HISTORY:**

September 12, 2016 - Non-substantive changes to reference Workers Compensation Board policy, POL-90, "Time Frame Limitations for Claims Filing and Invoicing."

November 26, 2009 - The content in Workers Compensation Board policy, POL04-06, "Personal Injury" was combined with this policy to improve clarity around the issue of personal injury and arising out of and in the course of employment. The policy on "Personal Injury" was rescinded.

June 26, 2007 - The policy was updated as a result of the 60 month policy review process.

Board of Directors Approval Date: December 13, 2001

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