

## Election Form Non-Motor Vehicle Accident

Please complete and sign **EITHER** Section A (if you are electing compensation) **OR** Section B (if you are electing not to claim compensation).

**Re:** \_\_\_\_\_  
Your Name Your WorkplaceNL Claim Number

### SECTION A

I hereby elect to claim compensation for injuries sustained on

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at (Place)

\_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

**OR**

### SECTION B (do not complete if you completed Section A)

I hereby elect **not** to claim compensation for injuries sustained on

DD		MM		YYYY			

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

See back of form for section 54 - 55 of the Workplace Health, Safety and Compensation Act, 2022

## **Where action allowed**

## **SECTIONS 54 - 55**

**54.** (1) Where a worker sustains an injury in the course of the worker's employment in circumstances which entitle the worker or dependents to an action

- (a) against a person other than an employer or worker;
- (b) against an employer or against a worker of that employer where the injury occurred otherwise than in the conduct of the operations usual in or incidental to the industry carried on by the employer; or
- (c) where section 53 applies,

the worker or dependents, where they are entitled to compensation, may claim compensation or may bring an action.

(2) The worker shall make an election under subsection (1) within 3 months of the injury and an application for compensation is a valid election for the purpose of this section.

(3) The dependents shall make an election under subsection (1) within 6 months of the injury and an application for compensation is a valid election for the purpose of this section.

(4) Where the worker or dependents elect to bring an action, the worker or dependents shall immediately serve notice in writing of the election on the commission.

(5) Where the commission is satisfied that due to a physical or mental incapacity a worker is unable to exercise the worker's right of election, and undue hardship will result, the commission may pay the compensation provided by this Act until the worker is able to make an election.

(6) Where the worker referred to in subsection (5) elects not to claim compensation, further compensation shall not be paid and the compensation that has been paid shall be a first lien against an amount that may be recovered.

(7) Where a person who is required to make an election under this section is under the age of 18 years, the person's parent or guardian may make the election.

(8) Where a worker or dependents bring an action or settle out of court and less is recovered and collected than the amount of the compensation to which the worker or dependents would be entitled under this Act, the worker or dependents are not entitled to claim compensation under this Act.

(9) Where the worker or dependents apply to the commission claiming compensation under this Act, neither the making of the application nor the payment of compensation under it shall restrict or impair a right of action against the party liable, but in relation to those claims the commission is subrogated to the rights of the worker or dependents and may maintain an action in the name of the worker or dependents or in the name of the commission against the person against whom the action lies for the whole or an outstanding part of the claim of the worker or dependents.

(10) The commission has exclusive discretion to determine whether it shall take an action, release its claim for an action or compromise the right of action, and its decision is final.

(11) Where, in an action under subsection (1), a worker or dependents receive money as the result of a judgment given by a court of law and the commission is owed money under this section by the worker or dependents, the judge shall order that the money owed be paid to the commission.

(12) Where the commission is subrogated to the rights of a worker or dependents and recovers and collects more than the amount of the compensation to which the worker or dependents would be entitled under this Act, the amount representing the amount of the excess, less costs and administration charges, shall be paid to the worker or dependents.

(13) Costs may, notwithstanding that a salaried employee of the commission acts as its solicitor or counsel, be awarded to and collected by the commission in an action taken by the commission under this section.

(14) The commission may, in an action brought under subsection (9), also recover amounts paid to or on behalf of a worker or dependents by way of compensation, including amounts paid as medical expenses, rehabilitation expenses and other expenses paid by the commission to or on behalf of the worker or dependents. 2022 cW-11.1 s54

## **Commission decides if action prohibited**

**55.** Where an action in respect of an injury is brought against an employer or a worker by a worker or dependent, the commission has jurisdiction upon the application of a party to the action to adjudicate and determine whether the action is prohibited by this Act. 2022 cW-11.1 s55

