

Client Services Policy Manual

Policy Number: **EN-14**
Subject: **Asbestos Related Claims**
Chapter: **Entitlement**

Policy Statement

Pursuant to section 90(3.1) asbestosis is conclusively considered to have been contracted through employment where there is exposure to asbestos in that employment.

Lung cancer and mesothelioma caused by asbestos are prescribed industrial diseases pursuant to Section 90.

Other non-malignant conditions caused by asbestos exposure, such as diffuse pleural fibrosis, rounded atelectasis, and benign pleural effusion, may be considered where they arise out of and in the course of employment.

General

With respect to exposure intensity and duration, those workers with significant exposures in Newfoundland and Labrador before 1980 will be considered to have had higher exposure intensities than those exposed in 1980 or later.

1. A claim for asbestosis will be conclusively considered to be compensable when:
 - a. the presumption clause in Section 90(3.1) is applicable; or
 - b. where the worker was employed in any mining, manufacturing, assembling, construction, repair, alteration, maintenance, tailing, or demolition processes involving exposure to asbestos.
2. A claim for pleural and/or peritoneal mesothelioma will be favourably considered when the following circumstances apply:
 - a. the presumption clause in Section 90 is applicable; or
 - b. where there is a clear and adequate history of occupational exposure to asbestos and there is a minimal interval of 15 years between first exposure to asbestos and the appearance of mesothelioma.
3. A claim for cancer of the lung will be favourably considered when:
 - a. the presumption clause in Section 90 is applicable; or,

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- b. the worker is exposed in a process that involves a repeated or constant risk of exposure to asbestos, and that this employment is of a duration of five years, and there is a latency of 10 years from the time of first exposure to the diagnosis of lung cancer.
4. A claim for gastrointestinal tract cancer (cancer of the esophagus, stomach, small bowel, colon and rectum) will be judged on its individual merit. In particular, factors such as exposure intensity and duration, latency between first exposure and diagnosis of gastrointestinal cancer, familial history of gastrointestinal cancer, and lifestyle factors will be weighed in accordance with section 60 of the Act.
5. A claim for cancer of the larynx will be favourably considered where there is a latency of 15 years or more between the time of first employment with asbestos exposure and the development of laryngeal cancer and where there is a repeated or constant actual exposure to asbestos, or a repeated or constant risk of exposure to asbestos, for a duration of at least 10 years.

Exceptional Circumstances

In cases where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice. Such a decision will be considered for that specific case only and will not be precedent setting.

Reference: *Workplace Health, Safety and Compensation Act (the Act), Section 2(o) (iv) and 90.*
Workplace Health, Safety and Compensation Regulations, Section 23.

Amendment History

<i>Original Effective Date</i>	1984 09 03
<i>Revision #3</i>	1993 03 19
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<i>Revision #5</i>	2005 05 18