

Interjurisdictional trucking

OBJECTIVE 1
 INTERPRETATIVE GUIDELINES 1
 ADJUDICATIVE GUIDELINES 1
 I INDEPENDENT OPERATOR..... 2

OBJECTIVE

1. This practice directive explains how the Assessment Department administers section 12 of the *Interjurisdictional Agreement on Workers’ Compensation* (the “*IJA*”) and aids in the interpretation of *Assessment Manual Item AP1-38-4*.

INTERPRETATIVE GUIDELINES

2. Section 8.1 of the *Workers Compensation Act* (the “*Act*”) permits the Board to “enter into an agreement or make an arrangement with Canada, a province or the appropriate authority of Canada or a province to provide for ... administrative co-operation and assistance between jurisdictions in all matters under this Act and corresponding legislation in other jurisdictions, or avoidance of duplication of assessments on workers’ earnings.”
3. The Board has entered into the *IJA*, section 12 of which contains the *Alternative Assessment Procedure for the Interjurisdictional Trucking Industry* (the “*AAP*”). All provinces and territories participate in the *AAP*. The United States is not a participant in the *AAP*.

ADJUDICATIVE GUIDELINES

4. The *AAP* is an elective “Alternative assessment procedure”¹ under which an “Electing employer”² engaged in interjurisdictional trucking will pay all assessments for a calendar year in respect of a driver working in more than one Canadian jurisdiction to one workers’ compensation authority, which is referred to as the “Assessing Board”. The alternative assessment procedure is available to an Electing employer in respect of a worker only if the workers’ compensation authority permits coverage of the worker anywhere in Canada. Therefore, and generally, the employer

¹ From the definition in s. 12(1) – “In this section ... ‘Alternative assessment procedure’ means an elective assessment procedure under which [an] electing employer engaged in interjurisdictional trucking shall pay all assessments for a calendar year in respect of a worker to one Board, and an independent operator shall pay all assessments for one calendar year to one Board”.

² From the definition in s. 12(1) – “In this section ... ‘Electing employer’ means an employer who is engaged in the interjurisdictional trucking industry and who elects to have the alternative assessment procedure apply to it”.

will pay assessments in the jurisdiction of the worker's residence or usual employment.

5. A "Registering Board" is a workers' compensation authority, "other than the Assessing Board with which the employer is ordinarily required to register". An Electing employer must continue to maintain its registration(s) with the Registering Board(s).
6. An employer demonstrates that it has elected to have the *AAP* apply to it by providing a written election to the Assessing and Registering Boards specifying by name the compensation authority to which the employer elects to pay assessments in accordance with the *AAP*, and the compensation authority or authorities to which it shall no longer pay assessments but with which it shall maintain its registration.
7. A newly registered employer, or an employer new to interjurisdictional trucking, may elect the *AAP* at any time. The acceptance date for such employers would be the latter of the date the completed *AAP* application form is received by the Board, or the date indicated as the commencement date on the completed application form.
8. A registered employer with existing interjurisdictional operations may only elect the *AAP* at the beginning of each calendar year.
9. An Electing employer must pay assessments in accordance with the *AAP*, which includes maintaining its account in good standing.
10. Where a written election has not been provided, the existing assessment practices set out in section 11 of the *IJA* shall continue to apply to the employer. As a general principle, each compensation authority agrees to assess those employers who are liable to pay assessments for the work performed by their workers in that compensation authority's jurisdiction. For an employer engaged in interjurisdictional trucking, this means the employer must pay premiums based on a percentage of kilometres driven in each province or territory.
11. Where a British Columbia employer assigns a British Columbia resident worker to work in a jurisdiction that does not participate in the *AAP*, the United States for instance, the employer must pay premiums based on the payroll for that worker, which is pro-rated according to the percentage of kilometres driven in that jurisdiction. Coverage for any worker who is working elsewhere than in British Columbia would be determined in accordance with section 8 of the *Act*.

I INDEPENDENT OPERATOR

12. The *AAP* defines independent operator as "a person with personal optional coverage in at least one jurisdiction who is engaged in the interjurisdictional trucking industry". Section 12.4 of the *AAP* stipulates that the workers' compensation authority in the jurisdiction where an independent operator has personal optional coverage shall be the Assessing Board. The alternative assessment procedure is available to an

independent operator in a jurisdiction only if that workers' compensation authority's legislation permits coverage of the independent operator anywhere in Canada.

13. Generally then, where an independent operator has obtained personal optional coverage and inclusion in the AAP from the Assessing Board, (that is to say where the jurisdiction extending coverage permits coverage for that individual anywhere in Canada) the independent operator pays assessments in the jurisdiction of residence or usual employment.