

SCHEDULE 2 EMPLOYERS' GROUP

May 13, 2026

Standing Committee on Finance and Economic Affairs

Re: Bill 105, Protecting Ontario's Workers and Economic Resilience Act, 2026

The Schedule 2 Employers' Group (S2EG) has been in existence for over 30 years with a mandate to represent Schedule 2 employers in Ontario in discussion with the WSIB, Ministry of Labour and other relevant bodies.

We are a not-for-profit association comprised of Schedule 2 employer representatives from public and private sector organizations from across Ontario. Members are workplace health, safety, and disability management professionals who are interested in collaboration on issues related to workers' compensation and occupational health and safety.

The Schedule 2 Employers' Group represents the interests of diverse large and small employers classified under Schedule 2 of the *WSIA*. Our member employers include the provincial government and Crown agencies, municipalities, school boards, federally regulated employers, and employers covered by the federal *Government Employees Compensation Act (GECA)*. As Schedule 2 employers pay the actual costs of claims for as long as benefits are paid, rather than premiums based on experience ratings, our members and their stakeholders (including taxpayers and investors) have a long-term financial interest in how the WSIB adjudicates claims and applies its policies. As fully self-insured stakeholders, we recognize the importance of ensuring fair and consistent adjudication for workers while maintaining clarity and predictability for employers. More information can be found about our mission and membership at <https://s2egroup.ca>.

The Schedule 2 Employers Group is writing to provide you with our submissions with respect to the amendments to the *Workplace Safety and Insurance Act, 1998* ("*WSIA*") proposed in Schedule 9 of Bill 105, ***Protecting Ontario's Workers and Economic Resilience Act, 2026***.

We agree with the submissions and questions raised by the Ontario Business Coalition ("OBC") of which the S2EG is a member. However, the other members of the OBC are Schedule 1 (premium paying), employer stakeholder groups whose views differ significantly from those of Schedule 2 employers due to the different direct financial implications.

We appreciate the opportunity to provide input into this legislative package, and we are pleased to see some of the amendments proposed in the bill which will ensure fairness for employers.

Increasing Loss of Earnings (LOE) Benefits from 85% to 90%

In 1998 after several years of system review and consultation with stakeholders, the government reduced compensation benefit rates from 90% to 85% for competitiveness in the workers' compensation system and to encourage early and safe return to work (Bill 99, *Workers' Compensation Reform Act, 1996* (passed in October 1997)¹. Since then, there have been WSIB operational policy changes to allow for benefit rate adjustments to reflect an injured person's earnings pattern, such as including Employment Insurance benefits, to reflect employment and earnings patterns.

Moreso, the 85% benefit rate was in keeping with short and long-term disability rates in the marketplace.

Research shows that the longer someone is away from work, the less likely they are to return to work. The WSIB also tracks time away from work as a key claim metric in its return-to-work publication, "Better at Work."² The research continues to indicate that after 12 weeks off work, the risk of prolonged work absence increases dramatically, and by six months, only 50 percent of workers ever return to their full-time employment.

We are concerned that increasing LOE benefits from 85 percent to 90 percent will create a disincentive for workers to return to work. This will negatively impact on the return-to-work process and result in longer durations, less successful return to work and, ultimately higher costs for the system as a whole, and Schedule 2 employers particularly. These increased claim costs will have an immediate higher cost for employers placing them at an economic disadvantage during a time of uncertainty and competitive pressures.

Moreso, there have been several studies which have determined that at the current rate of compensation (85%), injured workers in Ontario receive 104% of the average earnings of non-injured workers.³ We recommend regular benefit adequacy studies to inform adjustments to workers' compensation benefits.

The increase in benefits from 85% to 90% will also have a direct cost impact on the Loss of Retirement income benefit provided for in s.45 resulting in higher costs to the compensation system and thereby employers who fund the system placing them at an economic disadvantage.

We recommend regular benefit adequacy studies to inform adjustments to workers' compensation benefits and to provide a transparent assessment of the sufficiency of benefits paid to workers.

¹ *Workers' Compensation Reform Act, 1996*. (n.d.). Legislative Assembly of Ontario. <https://www.ola.org/en/legislative-business/bills/parliament-36/session-1/bill-99>

² Workplace Safety and Insurance Board, *Better at Work*, online: WSIB <https://www.wsib.ca/sites/default/files/2022-11/betteratwork.pdf>

³ Measuring the adequacy of workers' compensation benefits in Ontario: An Update; IWH, March 2016.

Benefits Beyond age 65

The Ontario government's 2026 Budget emphasises that its fiscal strategy includes "supporting WSIB premium rate reductions as a key mechanism for lowering payroll costs". With all due respect, the post-65 extension of benefits runs counter to this stated policy objective by extending the duration of benefit obligations and thereby causing immediate financial increases for Schedule 2 employers (including the public sector) as well as placing upward pressure on future premiums for Schedule 1 employers.

We submit that this section should be repealed.

We have significant concerns of financial liability to impact Schedule 2 employers and the impact to Ontario's economy concerning this proposed change. Is there persuasive data that warrants the extension of benefits beyond age 65? We note and draw your attention to the fact that there has been case law that establishes limiting compensation benefits at age 65 as an appropriate end point and not a Charter Right infringement. See *WSIAT Decision No. 512/06R*⁴ and Superior Court of Justice Divisional Court decision *2014 ONSC 7289 ("Gouthro")*⁵, copies enclosed. We, therefore, urge the government to provide an appropriate age end-date to labour force participation without the burden of bureaucracy to prove otherwise will end red tape and certainty for compensation system stakeholders.

Employers want to engage with the Ministry and WSIB on this critical topic with sufficient consultation and respond to any amendments or new evidence presented. For example, should Ontario consider a similar provision to that in Quebec where wage loss benefits can continue to age 67?

Review of LOE Benefits Post 72-month Lock-In

We agree with the proposed legislative amendments to allow the WSIB to review and adjust benefits beyond the 72-month lock in when material changes in earnings and/or function occur – in both the cases of deterioration as well as improvement. We look forward to engaging with the Ministry and WSIB with respect to language and operational policies on this section as soon as practicable.

Collateral Benefits

We support the long overdue proposed amendments which will require the WSIB to consider any disability benefits a worker may be entitled to receive from other sources. This will ensure workers in the workers' compensation system will no longer receive more than 100% of their pre-injury earnings.

Conclusion

Any amendments to the *WSIA* should be grounded in clear evidence, predictable cost modelling, and meaningful consultation with those who bear the financial responsibility for the

⁴ Decision No. 512/06R, 2013 ONWSIAT 2621 (CanLII), <https://canlii.ca/t/g65v1>, retrieved on 2026-05-13.

⁵ *Gouthro v Workplace Safety and Insurance Appeals Tribunal et al.*, 2014 ONSC 7289 (CanLII), <https://canlii.ca/t/gfpgv>, retrieved on 2026-05-13.

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system. We encourage the Ministry to adopt a balanced approach that protects injured workers while also safeguarding the economic stability of organizations that provide essential public services and contribute to Ontario's competitiveness.

We appreciate the opportunity to submit our comments on the proposed legislative amendments impacting Ontario Schedule 2 employers.

We look forward to our continued constructive engagement for a fair and fiscally responsible compensation system as stipulated by the *WSIA* 'purpose clause'.

Yours truly,



Chair
Schedule 2 Employers Group

Enclosures

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