

**Operational
Policy**Section
ComplianceSubject
Offences and Penalties - Employer

Policy

The WSIB takes all necessary action against employers who are non-compliant with the provisions of the *Workplace Safety and Insurance Act, 1997* (WSIA) or who, through deceptive means, cause it real or potential loss. Actions that may be taken include, but are not limited to, one or more of the following:

- levying the applicable administrative penalty
- levying administrative non-compliance charges and interest
- filing writs of seizure and sale (see 14-04-03, Writs of Seizure and Sale)
- laying charges and prosecution under the WSIA
- recommending charges under the *Criminal Code of Canada* (Criminal Code), or
- initiating a civil action.

This policy should be read in conjunction with 22-01-05, Offences and Penalties - General.

For the policy on premium adjustments see 14-02-06, Employer Premium Adjustments. To ensure that this policy is applicable with respect to registration non-compliance it must be read in conjunction with 14-02-15, Voluntary Registration which takes precedence if applicable.

Purpose

The purpose of this policy is to set out employer offences, the action the WSIB takes when an employer commits or is suspected of committing an offence, and the penalties that may be imposed.

Guidelines

Offences

The following are offences under section 149 of the WSIA:

- to knowingly make a false or misleading statement or representation to the WSIB about a claim
- to knowingly make a false or misleading statement or representation in a declaration regarding registration, or
- to willfully fail to inform the WSIB of a material change in circumstances in connection with the employer's obligation under the WSIA within ten days of the material change.

The following are offences under sections 150 to 157 of the WSIA:

- to contravene the rules regarding confidential information
- to fail to register as an employer within 10 days
- to fail to provide the WSIB with the necessary information for classification
- to fail to properly close an account with the WSIB

**Operational
Policy**

Section
Compliance

Subject
Offences and Penalties - Employer

- to knowingly provide false or misleading information regarding registration or classification
- to fail to keep accurate statements of wages paid
- to fail to provide accurate statements of earned wages
- to fail to notify the WSIB of an accident
- to fail to provide information about the accident
- to obstruct or hinder an examination, investigation, or inquiry
- to obstruct or hinder an inspection of an employer's premises
- to fail to give the WSIB security for payment when required to do so
- to fail to meet the clearance certificate requirements in construction
- to deduct from workers, or require or permit workers to contribute toward indemnifying the employer against WSIB liabilities
- to contravene the prohibition against claim suppression
- to contravene a regulation, or
- if a corporation commits an offence under the WSIA, for a director or an officer to knowingly authorize, permit, or acquiesce in the commission of the offence, whether or not the corporation is prosecuted or convicted.

Certain acts may constitute fraud under the Criminal Code. Acts that may be fraudulent include, but are not limited to:

- modifying a clearance certificate, or
- intentionally reporting lower than real earnings or premiums.

To determine if an employer has failed to inform the WSIB of a material change in circumstances, the decision-maker refers to 22-01-01, Material Change in Circumstances - Employer.

Administrative action

Where any new information is obtained by Stakeholder Compliance Services through the review and/or investigation of an allegation against an employer, the decision-maker first consults with Stakeholder Compliance Services regarding any conflicts, and reviews the employer's account, including all division or branch accounts and those of any associated companies (see 22-01-05, Offences and Penalties - General).

After consultation with Stakeholder Compliance Services, the decision-maker may:

- confirm, amend, or revoke any previous decisions regarding the employer's classification, payroll, premiums, non-compliance penalties, or eligibility for clearance certificates
- withhold any credit adjustments to the employer's account
- withhold refunds of any kind
- withhold clearance certificates until the WSIB receives the total amount owing

**Operational
Policy**Section
ComplianceSubject
Offences and Penalties - Employer

- discontinue any payment arrangements in effect (see 14-04-04, Collections Based on Financial Hardship and 14-04-05, Alternative Payment Arrangements), or
- where appropriate, levy the applicable administrative penalty or non-compliance charges and interest.

Relief from delayed premiums

The WSIB does not allow relief from unpaid premiums, interest, or associated non-compliance penalties that result from the commission of an offence, nor is action to recover such revenue suspended because of an appeal, the prosecution of an offence, or for any other reason.

Recovery measures**Reporting and payment of premiums**

If the WSIB decides to penalize an employer for inaccurate reporting of earnings and premiums (s.152) or non-payment of premiums (s.89), the employer will be charged for premiums deliberately evaded or withheld, plus interest and any other non-compliance penalties.

The WSIB may make retroactive adjustments to an employer's account, in any year in which premiums were payable, if the adjustment results from Stakeholder Compliance Services finding that the employer has committed wrongdoing, whether or not charges are laid, see 14-02-06, Employer Premium Adjustments.

Recovery measures must not conflict with prosecution under the WSIA or the Criminal Code, see 22-01-05, Offences and Penalties - General.

Maximum fines imposed upon conviction under the WSIA

See 22-01-05, Offences and Penalties - General.

Time limits

The following chart shows:

- the relevant time limits, and
- the date from when the relevant time limit applies.

Offence	Time limit	Date from when the time limit applies
s.149	No time limit	There is no time limit to lay charges.
s.150-157	Two years	The WSIB must lay charges within two years of the date that it becomes aware of the most recent occurrence of the offence.

**Operational
Policy**

Section
Compliance

Subject
Offences and Penalties - Employer

For fraud

An individual or a corporation who commits a **fraudulent act** may also be charged and prosecuted under the Criminal Code, where no time limit for bringing an action applies.

Application date

This policy applies to all incidents of suspected wrongdoing discovered by the WSIB on or after March 1, 2021, subject to the guidelines for **Time limits**.

Document history

This document replaces 22-01-08 dated January 2, 2018.

This document was previously published as:

22-01-08 dated January 2, 2014

22-01-08 dated April 7, 2008

22-01-08 dated October 29, 2007

22-01-08 dated October 12, 2004

11-02-05 dated May 24, 2002

11-02-05 dated August 18, 2000

01-03-04 dated March 4, 1997.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended

Sections 149(3),(4.1),(4.2),(4.3), 150, 151, 151.1, 151.2, 152, 153, 154, 155, 155.1, 156, 157, 157.1, 158

Minute

Administrative

#11, April 6, 2021, Page 594