

Policy

The WSIB does not tolerate non-compliance or fraudulent acts against the system by

- WSIB staff
- employers
- employer representatives
- workers, their spouses, or dependants
- worker representatives, or
- external suppliers and providers of goods and services.

The WSIB

- prevents non-compliance and fraudulent acts by
 - being committed to early detection
 - making external stakeholders aware of their obligations under the *Workplace Safety and Insurance Act, 1997* (WSIA)
 - establishing effective internal controls
 - increasing WSIB employees' knowledge and awareness, and
 - encouraging public participation in the detection process
- investigates and processes allegations of suspected non-compliance and fraudulent acts fairly, diligently, and consistently (an investigation may involve surveillance)
- stops the illegal outflow of assets, and recovers WSIB assets when non-compliance or fraud occurs, while protecting the rights of suspected individuals and companies in accordance with the *Freedom of Information and Protection of Privacy Act* and the *Canadian Charter of Rights and Freedoms*.

NOTE

For adjustments to premiums 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 the offences under sections 149 to 157 of the WSIA and certain acts that may constitute fraud under the *Criminal Code of Canada* (Criminal Code), the action the WSIB takes in cases where an offence or fraud has or may have occurred, 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, or

Comment [OPB1]:

Description: Changed "Regulatory Services" to "Stakeholder Compliance Services" throughout.

Purpose: Reflect Regulatory Services' name change.

Comment [OPB2]:

Description: Removed the sections entitled "Action on suspected offences under s.149", "Preliminary inquiry", "Exceptions", and "Action on suspected offences under s.150-156".

Purpose: Sections mainly related to the WSIB's internal processes. Some parts were also unclear and inaccurate.

Comment [OPB3]:

Description: Added "employer representatives, worker representatives, and "external providers of goods and services".

Purpose: To clarify the WSIB does not tolerate non-compliance or fraud by these persons as well.

Comment [OPB4]:

Description: The words "all cases" were removed and replaced with "allegations".

Purpose: Accuracy - the WSIB may not investigate and process every case of suspected non-compliance.

Comment [OPB5]:

Description: Added references to the specific provisions of the WSIA and fraud under the Criminal Code, to which the policy pertains.

Purpose: To make clear that the policy is specifically about these provisions of the WSIA and fraud under the Criminal Code.

Comment [OPB6]:

Description: Minor amendments were made to the two bulleted sentences to ensure they accurately reflect the wording of the related statutory offence in the WSIA.

Purpose: Ensure alignment with the wording of the related statutory offences.

- to wilfully fail to inform the WSIB of a material change in circumstances when required to do so.

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
- 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
- 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. Examples include, but are not limited to

- making or using a false document (i.e., a false birth certificate, Social Insurance Number, or WSIB clearance certificate)
- falsifying an employment record
- knowingly billing the WSIB for services not rendered
- offering or receiving a secret commission
- modifying a clearance certificate
- intentionally reporting lower than real earnings or premiums

NOTE

For specific information on offences, see 22-01-06, Offences and Penalties - External Suppliers of Goods and Services, 22-01-07, Offences and Penalties - Workers, and 22-01-08, Offences and Penalties - Employers.

Comment [OPB7]:

Description: Minor amendments were made to several bulleted sentences to ensure they accurately reflect the wording of the related statutory offence in the WSIA.

Purpose: Ensure alignment with the wording of the related statutory offences.

Comment [OPB8]:

Description: Added the offence of claim suppression.

Purpose: To reflect the offence of claim suppression added to the WSIA by Bill 109.

Comment [OPB9]:

Description: Added these two additional acts, which were already set out in "Offences and Penalties - Employer" (22-01-08).

Purpose: Including the two additional examples means the general policy includes the complete set of examples.

Offences and penalties - mandatory coverage in construction

For the purposes of enforcement, where non-compliance pursuant to s. 151.1 and 151.2 continues beyond December 31, 2013, the WSIB may include the period of January 1, 2013 to December 31, 2013 when determining the period and extent of the identified non-compliance.

Review & investigation by Stakeholder Compliance Services

Stakeholder Compliance Services reviews all referred cases and conducts investigations and surveillance at its discretion. Stakeholder Compliance Services liaises as required with the operating area during a review, and reports its findings and recommendations once the review is complete.

Stakeholder Compliance Services-initiated investigations

Stakeholder Compliance Services can review claims and initiate investigations unprompted by other areas of the WSIB.

Laying charges & penalties upon conviction

Charges under the WSIA

If the WSIB has reasonable grounds to believe an individual or a corporation has committed an offence under the WSIA, the WSIB may lay charges and prosecute.

The penalties upon conviction of an offence under the WSIA are

- for individuals, a fine of up to \$25,000, or imprisonment for up to 6 months, or both
- for corporations, a fine of up to \$500,000.

Criminal charges

When a fraudulent act is investigated and a charge is contemplated, Stakeholder Compliance Services refers the case to law enforcement, who then decide whether to lay charges under the Criminal Code.

Administrative action

The WSIB may also take administrative action when non-compliance occurs. Actions that may be taken include, but are not limited to

- levying administrative non-compliance interest and charges
- levying the applicable administrative penalty
- suspending and revoking a supplier's billing number, and
- creating a benefit-related debt.

Comment [OPB10]:

Description: Added "penalties upon conviction".

Purpose: Readability - signals that the section also speaks to the penalties upon conviction of an offence under the WSIA.

Comment [OPB11]:

Description: Amend from "if a person has committed an offence..." to "if the WSIB has reasonable grounds to believe an individual or corporation has committed an offence...".

Purpose: Accuracy - WSIB may lay charges and prosecute based on reasonable grounds. The question of whether an individual or corporation has committed an offence is a question for a court to determine.

Comment [OPB12]:

Description: Updated amount from \$100,000 to \$500,000.

Purpose: To reflect Bill 109's increase to the maximum fine for a corporation convicted of an offence under the WSIA.

Comment [OPB13]:

Description: Amend from "...may take administrative action on any offence" to "...may take administrative action when non-compliance occurs" and add that such actions are not limited to listed examples.

Purpose: Clarifies that the basis for administrative action is not the commission of an offence per se, but non-compliance under the WSIA, and that the list of administrative actions is non-exhaustive.

Comment [OPB14]:

Description: Added "levying administrative non-compliance interest and charges" and "suspending and revoking a supplier's billing number", and removed "negotiating a settlement approved by Regulatory Services".

Purpose: Provide more examples of administrative actions the WSIB may take, and remove example that is no longer relevant.

Civil action

In addition to administrative action, when non-compliance occurs, Legal Services may initiate a civil action to recover money or property.

Comment 15: Description: Set off section under its own heading, Purpose: Improve readability and clarity.

Comment [OPB15]:

Description: Set off section under its own heading.

Purpose: Improve readability and clarity.

Conflict between administrative action and prosecution

Where an administrative action (e.g., a decision or communication) conflicts with, is considered inconsistent with, or may affect the outcome of a prosecution of an offence (under either the WSIA or the Criminal Code), the administrative action is suspended until the disposition of the case.

Comment [OPB16]:

Description: Added "under either the WSIA or the Criminal Code" and removed "prosecution by police".

Purpose: Improve clarity and ensure accuracy. The police do not prosecute offences.

Confidentiality

WSIB employees (and external service providers who are contracted by the WSIB to combat non-compliance and fraudulent acts) must treat information about possible wrongdoing as confidential.

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.

Comment [OPB17]:

Description: Removed language regarding the time limits changes made in 2001 and references to specific dates for the offences under s.149 -157.

Purpose: Language no longer relevant for inclusion in policy given the passage of time.

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 January 1, 2018, subject to the guidelines for **Time limits**.

Document history

This document replaces 22-01-05 dated January 2, 2014.

This document was previously published as:
22-01-05 dated February 15, 2013



**Operational
Policy**

Document
Number

22-01-05

Section
Compliance

Subject
Offences and Penalties - General

22-01-05 dated March 3, 2008
22-01-05 dated October 29, 2007
22-01-05 dated August 1, 2007
22-01-05 dated October 12, 2004
11-02-02 dated May 24, 2002.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended

Sections 149, 150, 151, 151.1, 151.2, 152, 153, 154, 155, 155.1, 156, 157, 158

Minute

Administrative

Comment [OPB18]:

Description: Added legislative reference to offence of claim suppression.

Purpose: Update legislative authority.