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Offences and Penalties - General

Policy

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

- WSIB staff
- employers
- workers, their spouses, or dependants, or
- external suppliers 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 all cases 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 the WSIA, the action the WSIB takes in cases where an offence under the WSIA 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
- to fail to inform the WSIB of a material change in circumstance when required to do so.

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

- to contravene the rules regarding confidential information

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- 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 make a false or misleading statement 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 inspection of an employer's books or accounts or 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 a regulation,
- for a director and officer to knowingly authorize, permit, or acquiesce in the commission of an offence under the WSIA, whether or not the corporation is prosecuted or convicted.

Certain acts may constitute fraud under the *Criminal Code of Canada* (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.

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.

Action on suspected offences under s.149

If the WSIB suspects that an offence under s.149 or a fraudulent act has been committed, a preliminary inquiry is conducted.

Preliminary inquiry

If the preliminary inquiry uncovers evidence of wrongdoing, the operating area promptly refers the file to Regulatory Services.

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To determine if a person 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 and 22-01-02, Material Change in Circumstances - Worker.

If no evidence of wrongdoing is uncovered, the operating area follows established policies and procedures to address and correct the situation where required.

Exception

If the suspected offence or fraudulent act involves a WSIB employee, agent, consultant, or contractor, the incident is referred immediately to Regulatory Services. The operating area does not conduct a preliminary inquiry.

Action on suspected offences under s.150 to 156

When WSIB staff suspect that an offence under s.150 to 156 may have been committed, they apply the appropriate administrative penalties as applicable and immediately refer the matter to Regulatory Services. For more information on specific actions on these offences see

- 14-02-02, Registration
- 14-04-02, Security for Payment
- 14-02-19, Clearance Certificate in Construction
- 15-01-02, Employers' Initial Accident-Reporting Obligations
- 19-02-04, Functional Abilities Form for Work Reintegration
- 21-02-02, Disclosure of Claim File Information (Issue in Dispute), and
- 21-02-03, Disclosure of Claim File Information to Employers (No Issue in Dispute)

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 Regulatory Services

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

Regulatory Services-initiated investigations

Regulatory Services can review claims and initiate investigations unprompted by other areas of the WSIB. It is not necessary that a preliminary inquiry be conducted by other areas of the WSIB.

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Administrative action

The WSIB may take administrative action on any offence. Action could include

- levying an administrative penalty
- creating a benefit-related debt, and
- negotiating a settlement approved by Regulatory Services.

In addition to administrative action, Legal Services may start a civil action to recover money or property.

Laying charges**Charges under the WSIA**

When a person commits an offence under the WSIA, Regulatory Services 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 \$100,000.

Criminal charges

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

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, the prosecution of an offence by Regulatory Services or the police, the administrative action is suspended until the disposition of the case.

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

On July 29, 2001, the time limit for prosecuting offences under the WSIA was legally changed. These changes apply to offences committed after this date as well as certain offences committed previously.

The following chart shows

- the relevant time limits, and

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- the date from when the relevant time limit applies.

Offence	Time limit	Date from when the time limit applies
s.149	No time limit	For all s.149 offences that the WSIB became aware of from June 29, 1999, forward, there is no time limit to lay charges.
s.150-156	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. This two-year time limit applies to all offences committed on or after December 29, 2000.

Exception

An employer's failure to produce wage records under s.152 only became an offence as of June 29, 2001. For this type of offence, as of June 29, 2001, the WSIB has two years from the date that it becomes aware of the most recently committed offence to lay charges.

For fraud

A person or 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 as of January 1, 2014, subject to the guidelines for **Time limits**.

Document history

This document replaces 22-01-05, dated February 15, 2013.

This document was previously published as:

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, 156, 157, 158

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Minute

Administrative

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