

Section  
Compliance

Subject  
Offences and Penalties - Worker

## Policy

It is an offence under section 149 of the *Workplace Safety and Insurance Act, 1997* (WSIA) to knowingly make a false or misleading statement or representation to the WSIB in connection with any person's claim for benefits.

It is also an offence under section 149 of the WSIA for a person to wilfully fail to inform the WSIB of a material change in circumstances in connection with his or her entitlement to benefits within ten days of the material change.

The WSIB takes all necessary action against a person who commits a claims-related offence, including, for fraudulent acts, referring the case to law enforcement. The WSIB also pursues the recovery of funds, equipment, and the value of services paid to individuals who claim benefits deceptively. Recovery measures used by the WSIB include charges under the WSIA and/or action in civil courts.

### NOTE

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

To determine if a person has failed to inform the WSIB of a material change in circumstances, the decision-maker refers to 22-01-02, Material Change in Circumstances - Worker.

### Purpose

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

### Guidelines

The following guidelines apply to anyone with an interest in a worker's claim. For purposes of these guidelines, the term "person" refers to a worker, spouse, or dependant.

### Administrative action

Where any new information is obtained by Stakeholder Compliance Services through the review and/or investigation of an allegation against a person, the decision-maker first consults with Stakeholder Compliance Services regarding any conflicts.

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

- review the person's entitlement to benefits
- confirm, amend, or revoke any previous decision regarding the person's benefits, and, if appropriate, create a benefit-related debt
- advise Stakeholder Compliance Services of the extent of any benefit-related debt
- allocate all future benefit entitlement, if any, towards reducing that debt.

#### Comment [OPB1]:

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

**Purpose:** Reflect Regulatory Services' name change.

#### Comment [OPB2]:

**Description:** Removed the sections entitled "Preliminary investigation", "Action following preliminary investigation", "Written notice", and "Claim file management".

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

#### Comment [OPB3]:

**Description:** Added section reference.

**Purpose:** Clarity - ties the policy statement into the "Time limits" section of the policy.

#### Comment [OPB4]:

**Description:** Added the word "representation".

**Purpose:** Accuracy - accurately reflect the language of statutory offence.

#### Comment [OPB5]:

**Description:** Added that the WSIB will refer fraudulent acts to law enforcement and removed that WSIB pursues recovery through criminal court.

**Purpose:** Accuracy - not accurate to say that recovery of property or money is pursued through the criminal court.

#### Comment [OPB6]:

**Description:** Moved note up in policy and added reference to material change in circumstances.

**Purpose:** Improve readability and consistency across the Offences and Penalties suite of policies.

#### Comment [OPB7]:

**Description:** Merged two sections - "Charges laid or civil action initiated" and "Charges not laid or civil action not initiated". Amended content by removing reference to charges and speaking to new information obtained.

**Purpose:** Accuracy and clarity - Decision-makers may take administrative actions, where appropriate, based on information from Stakeholder Compliance Services obtained through a review or investigation of an allegation.

### Recovery of benefits and services

The WSIB takes all necessary action in recovering the equipment it provides, the value of services, and the funds paid to persons who claim benefits or services deceptively. The WSIB has the sole discretion to determine what action it will take in response to an offence or a possibly fraudulent activity.

When a person obtains benefits deceptively, the WSIB pursues recovery of the benefit-related debt, and does not suspend action to recover such amounts because of an appeal, the prosecution of an offence, the passing of a certain period of time, or for any other reason.

### Accident costs

If a person is convicted of an offence, the WSIB relieves the employer of the accident costs associated with the improper portions of the claim unless the employer had a role in the offence.

For Schedule 1 employers, these costs are not included on the employer's accident cost statement or in the calculation of the employer's experience rating. Instead, the WSIB transfers these costs from the employer's accident cost record to the employer's rate group.

For Schedule 2 employers, the costs of benefits obtained deceptively are credited to the employer's account. Any unrecovered costs are charged to all Schedule 2 employers as part of their administrative rate.

### Maximum fines imposed upon conviction under the WSIA

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

### Time limits

For s.149 offences, there is no time limit for prosecuting an individual or a corporation under the WSIA.

### 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**, for all claims.

### Document history

This document replaces 22-01-07 dated January 2, 2014.

This document was previously published as:

#### Comment [OPB8]:

**Description:** Added cross-reference to 22-01-05, Offences and Penalties - General.

**Purpose:** Consistency - reference existed in 22-01-08, Offences and Penalties - Employer. Therefore, for consistency it has also been added to this policy and 22-01-06, Offences and Penalties - External Suppliers of Goods and Services.

#### Comment [OPB9]:

**Description:** Removed reference to 1999.

**Purpose:** Relevance - no longer relevant to include in the policy due to the passage of time.



**Operational  
Policy**

Document  
Number

**22-01-07**

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22-01-07 dated March 3, 2008  
22-01-07 dated October 12, 2004  
11-02-04 dated May 24, 2002.

## **References**

### **Legislative authority**

*Workplace Safety and Insurance Act, 1997*, as amended  
Sections 149 (1),(2), 157.1(2)

### **Minute**

Administrative