

**Operational
Policy**

Section
Employer Accounts

Subject
Clearance Certificate in Construction

Policy

A principal who directly retains a contractor to perform construction work must obtain a clearance certificate (clearance) that confirms the contractor is in good standing with the WSIB. The principal and contractor must ensure that a clearance is obtained before the construction work begins and that a clearance remains in effect for the entire time the contractor is performing the work. Starting the construction work without a clearance is an offence for both the principal and contractor.

This policy does not apply to

- householders who occupy or will occupy a private residence when they (or members of their family) directly retain a contractor to perform exempt home renovation work only, or
- contractors, when they are directly retained by householders who occupy or will occupy an existing private residence (or by members of their family) and the contract is for exempt home renovation work only (for more information about exempt home renovation work see 12-01-06, Expanded Compulsory Coverage in Construction).

For information on obtaining clearances in industries other than construction, see 14-02-04, Clearance Certificate.

Purpose

This policy outlines when principals and contractors must obtain a clearance, and sets out the requirements that must be met before a clearance will be issued by the WSIB.

Guidelines

Definitions

Principal - A person or business entity awarding or letting a contract to a contractor.

Construction work - means work in any of the industries listed in Class G - Construction of Schedule 1 (O.Reg. 175/98) and/or business activities included in Class 'G' in the WSIB's Employer Classification Manual (ECM).

Contractor - A person or business entity providing contractual services to a principal. The business relationship between a principal and a contractor includes the relationship between a contractor (the principal in this relationship) and a sub-contractor (the contractor in this relationship). Therefore, the term "contractor" includes sub-contractor in this policy.

Why are clearances issued?

The WSIB issues a clearance to relieve the principal of liability for unpaid premiums and other amounts the contractor owes the WSIB, for the validity period of the clearance.

Without a clearance, the principal may be liable for the contractor's payment obligations to the WSIB, up to the value of the labour portion of the contract(s) between the contractor and the principal.

Requirements for issuing clearances

Contractors must meet WSIB registration, reporting and payment obligations to have their accounts in good standing, and to be eligible for a clearance. If the contractor has more than one account, each account must meet these requirements before a clearance is issued for any of the accounts.

Specifically, an account is in good standing if the following requirements are met

- the contractor has an open account with the WSIB
- the contractor has completed and provided all required registration information and documents
- the contractor's declared business activities are classified in the proper classification units (see 14-01-01, The Classification Scheme)
- the contractor has reported appropriate premiums based on actual or estimated insurable earnings for all past reporting periods
- all required Premium Remittance and Reconciliation forms are filed, and
- all premiums and other amounts owing to the WSIB are paid up-to-date at the time the clearance is requested. In addition to premiums on insurable earnings, other amounts owing include interest, service charges, experience rating surcharges and other non-compliance charges.

Before a clearance is issued for a newly registered contractor, the contractor must make an advance payment for the amount determined by the WSIB.

Exceptions for issuing clearances

Amount owing

When a contractor's account is not in good standing because there is an amount owing, a clearance may be issued if

- the principal pays the amount owing on behalf of the contractor, as determined by the WSIB, or
- an approved payment plan is in place and payments are made, as determined by the WSIB. See 14-04-04, Collections Based on Financial Hardship.

Disputed amount

When a contractor is appealing a disputed amount, a clearance may be issued if the contractor posts a letter of credit to the account representing the disputed amount, and meets all the requirements for the account to be in good standing. For more information, see 14-04-05, Alternative Payment Arrangements.

Contractor's account closed

Even though a contractor's account is closed, the contractor or principal may request a clearance throughout the time period of the contract. In these cases the WSIB may issue a letter relieving the principal of liability if

- the contractor owes no premiums and/or other amounts to the WSIB, or
- premiums and/or other amounts are owing; and the principal pays the amount due, up to the value of the premiums for the labour portion of the contract(s) between that principal and the contractor.

Validity period for clearances

A clearance is valid for up to 90 calendar days, depending on the date that it is issued, and is renewable. A new clearance must be obtained if the original expires or is revoked.

If a clearance or letter waiving liability is issued under "Exceptions for issuing clearances", the validity period is determined by the WSIB taking into account the circumstances of the case.

Retaining a clearance

Principals and contractors must keep record of clearances for at least three years from the date they were obtained.

Offences and penalties

Principals are guilty of an offence under the *Workplace Safety and Insurance Act, 1997* (WSIA) if they

- do not obtain a clearance before the contractor begins construction work
- fail to renew the clearance if it expires or is revoked
- permit a contractor to begin construction work during a period for which the principal is aware no clearance is in effect, or
- do not keep record of clearances.

For more information, see 22-01-05, Offences and Penalties - General.

Contractors are guilty of an offence under WSIA if they

- fail to advise the principal that a clearance has been revoked, or
- perform construction work for the principal without a clearance.

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For more information, see 22-01-05, Offences and Penalties - General.

For the purposes of enforcement, where non-compliance under section 151.2 continues beyond December 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.

Application date

This policy applies to all decisions made on or after April 1, 2016, for all accounts.

Document history

This document replaces 14-02-19, dated January 2, 2014.

This policy was previously published as:
14-02-19, dated January 2, 2013.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Section 141.1, 141.2, 151.2

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