
Policy

If an employer can demonstrate financial hardship, the WSIB may allow the employer to pay debts using a phased payment plan. The WSIB sets the terms and conditions of the plan.

Guidelines

Definition

Employer – For the purpose of this policy, an employer is one who has carried on, or is carrying on, a Schedule 1 business activity either on a compulsory basis or by application. Employers include independent operators (and partners without workers) who have purchased optional insurance.

Requesting a financial hardship determination

An employer requesting a financial hardship determination must make the request in writing, and include supporting documents such as

- cash flow projections
- credit reports
- financial statements, and
- other relevant material.

Financial risk analysis

To determine if an employer is experiencing financial hardship, the WSIB does a financial risk analysis of the employer. Using the information provided by the employer, the WSIB determines the risk of loss to the WSIB, and the employer's ability to pay.

In deciding whether to extend relief, the WSIB also considers

- the employer's payment history and past compliance with the WSIB
- whether the employer is co-operative and willing to pay the debt, and
- the length of time over which the employer is to pay the debt.

After doing a financial risk analysis, the WSIB may

- require immediate payment with no debt relief
- offer to partially forgive the debt
- offer a phased payment plan, or
- suggest another course of action.

Phased payment plans

The WSIB structures phased payment plans to achieve optimal recovery of the debt as quickly as possible, given the employer's financial situation.

All plans are based on an agreement made by the employer (the owner, partner, or authorized executive officer of the employer), and a representative of the WSIB. The

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employer commits to a plan that the WSIB determines to be reasonable. The WSIB confirms the plan in writing.

Contents of a plan

A plan may include

- the employer's total debt, including all non-compliance charges, experience rating surcharges, and other charges such as interest
- the manner in which the employer is to make payments
- how much the employer is to pay, and frequency of payment
- security on the debt
- the consequences of defaulting on the plan
- notice that the WSIB has the right to perform ongoing reviews of the plan
- notice that ongoing premiums are paid as they become due or as agreed within the plan, and
- notice that any lump sum payments the employer presents in place of, or in addition to, the regular payments to the plan, may result in the plan's renegotiation.

Renegotiating a plan

The WSIB reserves the right to renegotiate the plan if an employer

- intends to dispose or is disposing of assets
- becomes insolvent or is subject to bankruptcy proceedings
- is subject to collection action by another creditor (e.g., a seizure of assets)
- may not be able to pay according to the plan because of a worsening financial situation
- experiences an improved financial situation
- requests a Clearance Certificate (see 14-02-04, Clearance Certificates)
- requests a Purchase Certificate (see 14-02-03, Purchase Certificates).

Defaulting on a plan

If an employer defaults on a plan, the WSIB may require full payment of the debt immediately. If the amount is not paid, the WSIB may escalate collection action by, for example,

- realizing any security held by the WSIB
- filing a writ of seizure and sale (see 14-04-03, Writs of Seizure and Sale)
- executing an already filed writ of seizure and sale
- holding the employer responsible for the full cost of any new claim(s) occurring from the first day the employer's account was overdue.

Suspending or waiving interest charges

In addition to addressing interest charges as part of a phased payment plan, the WSIB may suspend or waive interest charges at any time during collection proceedings.

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Application date

This policy applies to all decisions made on or after January 1, 1998.

Document history

This document replaces 14-04-04 dated June 15, 1999.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Sections 89(2), 135, 137

Minute

Administrative
#9, June 9, 2004, Page 361