

**Operational
Policy**

Section
Employer Collections

Subject
Security for Payment

Policy

The WSIB may, under certain conditions, require security from an employer:

- at the time an employer or a claim is registered
- after the employer is registered even if there is no amount overdue on the employer's account, or
- if there is an amount overdue on the employer's account.

In addition, the WSIB may unconditionally require security from an employer if the WSIB has ever initiated legal action against the employer for non-compliance.

Purpose

The purpose of this policy is to set out the circumstances in which employers may be required to provide the WSIB with a security for payment.

Guidelines

Definitions

Employer - An employer is a person who has carried on, or is still carrying on, a Schedule 1 or Schedule 2 business activity either on a compulsory basis or by application (see 12-01-01, Who is an Employer?). Employers include persons who do not employ workers, i.e., independent operators (and partners without workers) who have obtained optional insurance.

Security - Security is an asset or fixed amount that the WSIB holds until it is satisfied that the employer's financial obligations have been met. Unlike prepayment, security is not applied against the employer's current or future payment obligations.

When security is required

At time of registration

The WSIB may require security at the time an employer registers, or at the time a claim is registered, when the employer is:

- an out-of-province resident whose workers are either Ontario residents or have a substantial connection with Ontario (see 12-04-12, Non-resident Workers)
- an Ontario or out of province resident carrying on business for a limited time and intends to terminate operations at the end of the specified period, or
- a resident-employer of Ontario carrying on business in an industry, or geographic region where there has been a history of late, or non-payment of premiums.

No amount overdue

The WSIB may require security when there is no amount overdue on the employer's account(s):

**Operational
Policy**

Section
Employer Collections

Subject
Security for Payment

- for the same reasons as at the time of registration (see above), or
- if the WSIB has reason to believe that the employer may become insolvent.

Amount overdue

The WSIB may require security when there is an amount overdue on one or more of the employer's accounts if the WSIB has reason to believe that the employer:

- may become insolvent, or
- is not willing to fulfill its financial obligations.

For example, the WSIB may require security from a Schedule 1 employer if the WSIB is setting conditions for a phased payment plan. (See 14-04-04, Collections Based on Financial Hardship.)

Legal action initiated

After initiating legal action against an employer to recover an amount owing, the WSIB may at any time require security from the employer.

Types of security

As security, the WSIB may request, but is not limited to, a:

- letter of credit
- security under the Personal Property Security Act
- mortgage, or
- a deposit on the account.

Value of security**Employer with no amount due on its account(s)**

The WSIB may require:

- from a Schedule 1 employer, security with a value no greater than the estimated total premiums:
 - for one year, or
 - for the duration of a temporary registration, up to a maximum of one year.
- from a Schedule 2 employer, security with a value no greater than:
 - the deposit specified for the employer, or the estimated lifetime benefits on a claim or claims.

Employer with an amount due or overdue

The WSIB may require security with a value as described above plus the amount due or overdue.

Failure to comply with security request

If an employer fails to provide security within 15 days of the WSIB's request, the WSIB may:

**Operational
Policy**

Section
Employer Collections

Subject
Security for Payment

- take legal action, e.g., filing a s.139 Certificate and Writ of Seizure and Sale for the amount of the security, see 14-04-03,
- levy a penalty based on the estimated lifetime cost of any new claim(s) occurring from either the day the employer's account was overdue, or the day the security was to be provided
- refer the case to Regulatory Services for prosecution, or
- take all of the above actions.

Renewing security

The WSIB may renew security whenever the WSIB considers it necessary to do so.

Realizing a security

The WSIB realizes any and all securities when employers default in payment of amounts due, and fail to negotiate and/or comply with phased payment plans that have been accepted by the WSIB.

Discharging the security

The WSIB releases the security to the employer if the employer:

- provides an alternate security acceptable to the WSIB
- pays all amounts owing in full, or
- satisfies the WSIB that security is no longer needed.

In cases where the WSIB takes security because it has reason to believe that an employer with no amount overdue may become insolvent, the WSIB does not hold the security longer than one year as long as the employer continues to pay premiums or costs and any other charges by their due dates.

Schedule 2 deposits and insurance

In addition to, or in place of, the measures detailed in this policy, the WSIB may secure payment from a Schedule 2 employer by requiring the employer to pay a deposit, or to obtain insurance.

Appeals

If an employer appeals a decision of the WSIB, e.g., to change classification, revise earnings or question premiums owed, non-compliance penalties, reimbursement of benefit costs, or interest charges, the employer must pay all future premiums or costs that are, or may become due while the decision is under appeal.

As long as the employer continues to pay future premiums or costs in full by the required due dates, the WSIB may allow the employer to provide a letter of credit (LC) equal to the disputed amount under appeal. See 14-04-05, Alternative Payment Arrangements.

Section
Employer Collections

Subject
Security for Payment

Application date

This policy applies to all decisions made on or after January 1, 2014 for all accounts.

Document History

This document replaces 14-04-02 dated April 7, 2008.

This document was previously published as 14-04-02 dated October 12, 2004.

References

Legislative Authority

Workplace Safety and Insurance Act, 1997, as amended
Sections 90, 92, 93, 137, 154

Minute

Administrative
#6, December 10, 2013, Page 515