

POLICY NUMBER: POL-19

Chapter:
EMPLOYER SERVICES

Subject:
EMPLOYER REGISTRATION

Effective Date:
November 15, 1994

Last Update:
June 28, 2012

REFERENCE:

Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7.1, Sections 2, 3, 4, 64, 72 (10), 73(4).
Workers Compensations Act R.S.P.E.I. 1988, Cap. W-7.1, General Regulations, Sections 2, 3.
Workers Compensation Board Policy, POL-13, Employer Assessment Billing.
Workers Compensation Board Policy, POL-14, Assessable Payroll.
Workers Compensation Board Policy, POL-22, Personal Coverage.
Workers Compensation Board Policy, POL-125, Optional Coverage.

DEFINITION:

In this policy:

“Independent operator” means an individual, who is neither an employer nor a worker, who is self-employed and does not have employees. An independent contractor is an independent operator.

POLICY:

Employers Within the Scope Of The *Workers Compensation Act*

1. An employer engaged in an industry falling within the scope of the *Workers Compensation Act* must register with the Workers Compensation Board and pay assessments established by the Workers Compensation Board.
-

POLICY NUMBER: POL-19

2. A new employer, prior to the start of business operations, must complete and submit to the Workers Compensation Board an Employer Registration Form and any other information that may be required by the Workers Compensation Board.
3. By February 28th of each year, all registered employers are required to submit a new Employer Registration Form to the Workers Compensation Board confirming information related to business operations including, but not limited to, the following:
 - actual assessable payroll, as outlined in Workers Compensation Board policy, POL-14, “Assessable Payroll” for the previous calendar year;
 - an estimate of assessable payroll, as outlined in Workers Compensation Board policy, POL-14, “Assessable Payroll” for the current calendar year (not applicable to an employer who pays assessments using the Monthly Assessment Payment Option).
4. The information provided by the employer on the Employer Registration Form will be used by the Workers Compensation Board for the purposes of employer classification and assessment, and any other purpose consistent with the *Workers Compensation Act*.

Late Registration Penalty

5. The Workers Compensation Board will levy a late registration penalty against an employer who fails to meet the February 28th registration deadline. The late registration penalty is 5% of the employer’s annual assessment and will not be less than \$50 or more than \$500 for each assessment year.
6. Each year the Workers Compensation Board will provide public notice in advance of the registration deadline reminding employers a late registration penalty will be levied if the Workers Compensation Board does not receive the employer registration within the established timelines.

Retroactive Assessment Of Non-Registered Employers

7. If an employer has been operating in an industry within the scope of the *Workers Compensation Act* and did not register with the Workers Compensation Board, the Workers Compensation Board will charge the employer assessments due for years of unregistered operation, up to a maximum of three years not including the current year of assessment. Where there is deliberate misrepresentation on the part of the employer with respect to registering with the Workers Compensation Board, the Workers

Compensation Board may retroactively charge the employer for more than three years.

8. The amount charged to the employer for assessments due for years of unregistered operation will be determined by the Workers Compensation Board and may include an underestimating penalty.
9. If a worker files a claim and the Workers Compensation Board determines the employer has not been registered, the employer may also be charged the full cost of the worker's claim in addition to the assessment due for unregistered years.

Estimating Assessable Payroll

10. The Workers Compensation Board will estimate the employer's assessable payroll if, for any reason, the employer fails to submit an estimate of assessable payroll or fails to provide a reasonable estimate of assessable payroll, as determined by the Workers Compensation Board.

Where the Workers Compensation Board estimates the employer's assessable payroll, the estimate of assessable payroll amount will be included on the employer's statement of account.

11. The estimate of assessable payroll is final and conclusive, unless it is revised by the Workers Compensation Board based on verified payroll information provided by the employer or an audit of employer payroll records by the Workers Compensation Board.
12. The Workers Compensation Board will estimate the employer's assessable payroll using the employer's assessable payroll for the previous year plus 25%.

If the employer does not have an assessable payroll for the previous year (for example, new employer) the Workers Compensation Board will make the determination using factors that include, but are not limited to, the following:

- number of workers employed;
- nature of the business;
- comparison to existing business with similar characteristics.

13. Where the Workers Compensation Board estimates an employer's assessable payroll, the Workers Compensation Board will charge the employer with a late registration penalty.

Penalty For Underestimating Assessable Payroll

14. The Workers Compensation Board will apply an underestimating penalty to the employer's account if, when the employer reports the actual assessable payroll for the previous year, the Workers Compensation Board determines the corresponding estimate of assessable payroll reported for that year is more than 25% below the actual assessable payroll.
15. The underestimating penalty will be equal to 10% of the difference between:
- the actual assessable payroll; and
 - 125% of the estimate of assessable payroll.

Penalties less than \$50 will not be applied.

16. To avoid an underestimating penalty, an employer may revise the reported estimate of assessable payroll as outlined in Workers Compensation Board policy, POL-13, "Employer Assessment Billing".

Revisions to the estimate of assessable payroll after November 1st of that year will not be considered for the purpose of calculating an underestimating penalty.

17. The Workers Compensation Board, on or before October 1st of each year, will provide public notice to employers that the deadline for revising the estimate of assessable payroll is November 1st of the same year.

Close -Out Of Employer Accounts

18. An employer who meets the criteria of being previously registered with the Workers Compensation Board and is no longer required to be registered with the Workers Compensation Board will be closed out.

Situations where an employer may no longer be required to be registered with the Workers Compensation Board include, but are not limited to:

- the employer no longer has workers;
- the employer is no longer in business;
- the employer has sold the business;
- the employer operates in an industry which falls outside the scope of the

POLICY NUMBER: POL-19

Workers Compensation Act;

- personal coverage has been cancelled.
19. All outstanding assessment balances will be reconciled prior to an employer being closed out by the Workers Compensation Board. Effective the date the employer was closed out, service charges will not apply to an outstanding assessment balance.
 20. An employer who operates multiple businesses which have been set up as multiple assessment operations by the Workers Compensation and subsequently discontinues one or more of the operations, will have any assessment credit balance applied to other outstanding assessment balances before any assessment refund is issued as a result of being closed out.
 21. Assessment refunds, if applicable, will be issued as outlined in Workers Compensation Board policy, POL-13, "Employer Assessment Billing."
 22. The Workers Compensation Board will advise the employer when close-out has been completed.

Employers Within The Scope Of The *Workers Compensation Act* Upon Incorporation

23. An unincorporated employer who is registered with the Workers Compensation Board and who incorporates the business must register the corporation with the Workers Compensation Board as a new employer.
24. The unincorporated employer will be closed out by the Workers Compensation Board. Upon close-out of the unincorporated business, the assessable payroll for the incorporated business will be calculated effective the date of incorporation.

Employers Outside The Scope Of The *Workers Compensation Act*

25. An employer engaged in an industry outside the scope of the *Workers Compensation Act* may be eligible for optional coverage.
26. An employer who wants to be considered for optional coverage must apply to the Workers Compensation Board as outlined in the Workers Compensation Board policy, POL-125, "Optional Coverage."

Proprietors, Partners, And Directors And Officers Of A Corporation

27. Proprietors, partners, and directors and officers of a corporation are not automatically covered by the *Workers Compensation Act*.
28. Proprietors, partners, and directors and officers of a corporation who want to be considered for personal coverage must apply to the Workers Compensation Board as outlined in Workers Compensation Board policy, POL-22, "Personal Coverage."

Independent Operators

29. An independent operator is not automatically covered by the *Workers Compensation Act*.
30. An independent operator who wants to be considered for coverage must apply to the Workers Compensation Board for optional and personal coverage as outlined in the Workers Compensation Board policies, POL-125, "Optional Coverage" and POL-22, "Personal Coverage."
31. Where it is not clear whether an individual is a worker or an independent operator, the Workers Compensation Board will consider all of the factors to make that determination. The factors, which are indicative of an independent operator status, include those circumstances where the individual:
 - is paid business income;
 - does not work under the supervision and control of the person or entity for whom the work is performed (for example, does that person or entity dictate specific hours of work or how a particular task is to be performed);
 - does not perform work that is an integral part of the business of the person or entity for whom the work is performed;
 - has significant financial investment in and responsibility over the vehicles, tools, and major pieces of equipment used to perform the work;
 - takes financial risk or has the possibility of increasing his/her profit (for example, by performing the work in a shorter period of time);
 - is not in an exclusive working relationship with the person or entity for whom the work is performed and performs the same or similar work for a number of different individuals or entities;
 - is responsible to pay all business expenses and remit income tax, GST, etc.

POLICY NUMBER: POL-19

The Workers Compensation Board will consider the relationship as a whole and not rely solely on one of the above factors to make the determination.

HISTORY:

June 28, 2012 - Amended to incorporate the content of policy POL-24, "Retroactive Assessment Of Non-Registered Employers" and POL-16, "Close-Out Of Employer Accounts", which were both rescinded. Also, amended the definition of independent operator and added information about the type of information the Workers Compensation Board will consider when determining if an individual is an independent operator.

July 28, 2011 - Amended this policy to include the content from the following policies: POL-47, "Arbitrary Assessment"; POL-46, "Penalties For Late Registration"; and POL-43, "Penalties For Underestimating Annual Payroll".

April 29, 2010 - The policy was updated as a result of the 60 month policy review process.

September 22, 2005 - The policy was updated as a result of the 60 month policy review process. Name changed from "Employer Registration Requirements" to "Employer Registration."

May 18, 2000 - Replaced "Board" with "Workers Compensation Board" and amended format.

February 4, 1999 - Reviewed and reaffirmed with the Board of Directors.

Board of Directors Approval Date: November 15, 1994