

POLICY NUMBER: POL-19

Chapter:
EMPLOYER SERVICES

Subject:
EMPLOYER REGISTRATION

Effective Date:
November 15, 1994

Last Update:
January 16, 2020

PURPOSE STATEMENT:

The purpose of this policy is to set out the registration requirements for employers to establish and maintain workers compensation coverage.

REFERENCE:

Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7.1, Sections 2, 3, 4, 64, 72 (10), 73(4), 76
Workers Compensations Act R.S.P.E.I. 1988, Cap. W-7.1, General Regulations, Sections 2, 3
Workers Compensation Board Policy, POL-14, Assessable Payroll and Assessment Billing
Workers Compensation Board Policy, POL-22, Personal Coverage
Workers Compensation Board Policy, POL-23, Setting Assessment Rates
Workers Compensation Board Policy, POL-80, Fraud Prevention and Investigation
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:

Registration Requirements

1. All employers of one or more workers are required to have workers compensation coverage, unless they are excluded from the *Workers Compensation Act* as set out in regulations.
2. New employers must register with the Workers Compensation Board and pay assessments established by the Workers Compensation Board. Employers are required to register as a new employer when:
 - Starting a business, prior to the start of business operations;
 - Buying a business;
 - Changing the legal name of the business;
 - An independent operator becomes an employer by hiring one or more workers;
 - An unincorporated employer becomes incorporated; or
 - The business is no longer excluded in an industry excluded from requiring coverage under the *Workers Compensation Act*.
3. When registering, new employers must provide information to the Workers Compensation Board about their business operations and payroll so that the employer's assessment rate and assessment amount payable can be determined, as set out in Workers Compensation Board policies, POL-23, Setting Assessment Rates and POL-14, Assessable Payroll and Assessment Billing.
4. Employers are required to notify the Workers Compensation Board in writing of any changes to the information provided upon registration.

Voluntary Coverage

5. An employer engaged in an industry outside the scope of the *Workers Compensation Act* may be eligible for optional coverage.
6. 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.

POLICY NUMBER: POL-19

Proprietors, Partners, Directors and Officers of a Corporation

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

Independent Operators

9. An independent operator is not automatically covered as an employer or as a worker under the *Workers Compensation Act*.
10. If an independent operator is hired as a contractor, and the independent operator does not have their own workers compensation coverage, the independent operator is included in the workers compensation registration of the employer and reported in their assessable payroll, as per Workers Compensation Board Policy, POL-14, Assessable Payroll and Assessment Billing.
11. An independent operator who wants to be considered for workers compensation coverage must apply to the Workers Compensation Board:
 - For optional coverage as an employer, as outlined in the Workers Compensation Board policy, POL-125, Optional Coverage; and
 - For personal coverage, to be eligible for compensation benefits and services as a worker, as outlined in the Workers Compensation Board policy, POL-22, Personal Coverage.
12. 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

POLICY NUMBER: POL-19

- 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 their 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.

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.

Registration Renewal

13. By February 28th of each year, all registered employers are required to renew their workers compensation registration by submitting an Employer Registration Renewal Form to the Workers Compensation Board, confirming information related to business operations including, but not limited to, the following:
 - actual assessable payroll for the previous calendar year;
 - an estimate of assessable payroll, for the current calendar year (not applicable to an employer who pays assessments using the Monthly Assessment Payment Option).

More information about reporting assessable payroll is outlined in Workers Compensation Board policy, POL-14, Assessable Payroll and Assessment Billing.

14. Public notice will be provided each year, in advance of the registration deadline, reminding employers to register and advising that a penalty will be levied for late registration.

Consequences of Non-compliance

Late Registration

15. A late registration penalty will be levied 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

POLICY NUMBER: POL-19

year.

Failure to Register

16. If an employer, who is required to register for workers compensation coverage, fails to register, the employer assessments due for years of unregistered operation, up to a maximum of three years but not including the current year of assessment, will be retroactively charged to the employer.
17. The Workers Compensation Board will determine the amount charged to the employer for assessments due and may levy a penalty for failing to register.
18. Where there is deliberate misrepresentation on the part of the employer failing to register, more than three years assessments may be retroactively charged to the employer, as set out in Workers Compensation Board policy, POL-80, Fraud Prevention and Investigation.
19. If a worker of an unregistered employer files a claim, the unregistered employer may also be charged the full cost of the worker's claim.

Failure to Submit Payroll Estimate

20. An employer's assessable payroll will be estimated by the Workers Compensation Board if the employer either fails to submit an estimate or fails to reasonably estimate assessable payroll when registering or renewing registration. More information is set out in Workers Compensation Board policy, POL-14, Assessable Payroll and Assessment Billing.

Closure of Employer Accounts

21. Employer accounts will be closed when an employer is no longer required to be registered with the Workers Compensation Board.

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 becomes an independent operator;
- the employer is no longer in business;
- the employer has sold the business; or

POLICY NUMBER: POL-19

- the employer's business no longer operates in an industry requiring coverage under the *Workers Compensation Act*.

Employers are required to notify the Workers Compensation Board in writing of any changes noted above.

22. All outstanding assessment balances on closed employer accounts will be reconciled as set out in Workers Compensation Board policy, POL-14, Assessable Payroll and Assessment Billing.

HISTORY:

January 16, 2020 - Non-substantive changes to clarify employer registration requirements related to independent operators.

July 12, 2019 - Non-substantive changes to reorganize content for improved readability.

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
