

Client Services Procedure Manual

Procedure: 403.00
Subject: Hiring a Contractor

403.00 Introduction

This procedure discusses the employer's obligations with regard to contracts and contractors. This includes the employer's requirement to report their contractors and the employer's potential liability for assessments on the labour portion of contracts. This procedure also discusses the use of clearance to avoid potential liability when hiring contractors.

403.01 Definitions

Principal: An employer who awards a contract to a contractor. The principal may be incorporated or non-incorporated.

Contractor: A person or business hired by the principal to perform work.

Contract: An agreement to perform work within the scope of the Act.

Clearance: A certification issued by WorkplaceNL that indicates a contractor is an employer in good standing, by meeting the payment and reporting requirements of the Act. More information can be found in Policy ES-16, Clearance.

Independent Operator: A non-incorporated, self-employed individual who does not employ workers and is not required to obtain coverage and pay assessments to WorkplaceNL. More information on independent operator determinations can be found in Procedure 102.00, Independent Operator Determination.

Proprietors or Partners: A proprietor is an individual who operates a non-incorporated business. A partner is one of two or more individuals who operate a non-incorporated business. Specific details on this type of coverage can be found in Procedure 101.00, Coverage under the Workplace Health, Safety and Compensation Act.

Worker: A person who has entered into or works under a contract of service or apprenticeship with an employer. This includes learners, part-time or casual workers, professionals, executive officers, management and directors of an employer.

403.02 Reporting Requirements

Section 29 of the Workplace Health, Safety and Compensation Regulations (the Regulations) requires employers to report contractors to WorkplaceNL annually on the Employer Contractor Statement.

403.03 Liability for Assessments and Injury Costs

Principals may be liable for assessments and injury costs in the following situations:

Corporations

Principals may be liable for assessments relating to their contractors who are not in good standing with WorkplaceNL. The assessment is based on the labour portion of the contract. Any assessment the contractor should have paid related to the contract will be charged back to the principal.

Proprietorship & Partnership

A proprietor or partner is not automatically covered under the Act and is not required to register with WorkplaceNL unless they have workers. A proprietorship or partnership, in good standing with WorkplaceNL, has coverage only for those workers. If the proprietorship or partnership is not in good standing, assessments for the workers may be charged back to the principal. Proprietors and partners may purchase optional personal coverage. Otherwise, the principal is open to civil liability in the event of a work related injury, unless the proprietor or partner has purchased optional personal coverage. Optional personal coverage allows partners and proprietors to be covered under the Act. Refer to Procedure 103.00, Optional Personal Coverage and Householder Coverage for additional information regarding optional personal coverage.

Independent Operators

Principals may be liable for assessments relating to contracted individuals. WorkplaceNL has sole jurisdiction to determine whether an individual is a worker or an independent operator. Before principals contract with an individual, the principal should contact WorkplaceNL to have a determination made. If WorkplaceNL deems the individual to be a worker, the principal must report and pay assessments on payments made to the individual. If WorkplaceNL deems the individual to be an independent operator, then the principal is not liable for any assessments relating to the contract. The principal is open to civil liability should the individual have a work related injury, unless the independent operator purchases optional personal coverage. Optional personal coverage allows independent operators to be covered under the Act. Refer to Procedure 103.00, Optional Personal Coverage and Householder Coverage for additional information regarding optional personal coverage.

403.04 Clearance

Clearance should be requested on all contractors hired by principals. Clearance confirms that an employer is in good standing with WorkplaceNL; meaning the employer is registered, reporting and paying in accordance with the Act. Clearance releases the principal from any liability for assessments relating to the contract. Clearance also ensures that the workers have coverage under the Act, which releases the principal from civil liability relating to work injuries. Refer to Policy ES-16, Clearance for additional information on clearance.

Employers should register for **connect**, WorkplaceNL's web service, to obtain clearance and manage contractors. The employer may also obtain more information on clearance by calling 709.778.1198.

Reference: Workplace Health, Safety and Compensation Act, Sections 2(z), 19, 39, and 120
Workplace Health, Safety and Compensation Regulations, Section 29
Policy ES-16, Clearance
Procedures: 101.00, Coverage under the Workplace Health, Safety and Compensation Act
102.00, Independent Operator Determination
103.00, Optional Personal Coverage and Householder Coverage

Amendment History

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