

Client Services Procedure Manual

Procedure: 602.00
Subject: Collection and Legal Process

602.01 Introduction

WorkplaceNL encourages employers to pay their assessments on time or make payment arrangements before assessments are due. When an employer does not pay their assessment or make a suitable payment arrangement, WorkplaceNL will try to contact the employer in an attempt to make a payment arrangement that is agreeable to both the employer and WorkplaceNL.

This procedure discusses the collection process as well as the process for legal action when accounts become uncollectible.

602.02 Collection Process

WorkplaceNL attempts to collect all overdue accounts. When an account becomes overdue, WorkplaceNL will make contact by phone and/or mail to obtain a suitable payment arrangement.

Usually, when an account becomes overdue, WorkplaceNL will send a letter to the employer as a reminder that the account is overdue. The employer is given two weeks to respond to this letter. During this process WorkplaceNL may also make contact by phone to discuss payment options.

If payment is not arranged WorkplaceNL will send a letter via priority post to the employer notifying them of the intent to proceed with legal action on the account. If the letter is returned due to an incorrect address WorkplaceNL will attempt to obtain a correct address. If no other address can be found, WorkplaceNL will proceed with legal action using the last known address of the employer. It is the employer's responsibility to maintain up-to-date contact information with WorkplaceNL.

There may be circumstances when WorkplaceNL moves directly to the legal action process. These are primarily cases when avoidance by the employer is evident, or when WorkplaceNL has reason to believe that the employer is about to file for bankruptcy, be placed in receivership or dispose or sell assets.

602.03 Legal Action

Section 118 of the Workplace Health, Safety and Compensation Act (the Act) gives WorkplaceNL the authority to collect assessments from employers who are required to register. WorkplaceNL has a statutory lien on all employer assets for unpaid assessments.

If a payment arrangement cannot be reached through the collection process outlined above, WorkplaceNL will proceed with legal action to collect the outstanding balance. Legal action may include garnishing bank accounts, third party attachments and seizure and sale of company assets; all of which could impact the employer's credit rating. The cost of such legal action is the responsibility of the employer. For accounts having an outstanding balance greater than \$1,000, WorkplaceNL will file a

judgement in the Supreme Court and a statutory lien at the Registry of Deeds. For accounts that are under \$1,000, only the statutory lien is filed.

If the employer does not respond within 15 days of the filing of certificates with full payment or a satisfactory payment plan, WorkplaceNL will then determine what attachments can be placed on the employer in order to collect the balance. WorkplaceNL can place attachments allowed under the Judgment and Enforcement Act in an effort to obtain full payment.

602.04 Directors (Incorporated Businesses only)

Policy ES-15, Directors' Liability, outlines the liability of a director of a corporation that is in default in the payment of assessments.

Directors of a corporation, at the time the corporation defaults, are jointly and individually liable, together with the corporation, to pay any amount owing. WorkplaceNL relies upon the Registry of Companies to determine who is a director of a corporation. If any director disputes they are, or were ever a director, then they must follow the processes available under the Corporations Act to correct those records.

A letter is sent to the director(s) via registered mail to try to work out a suitable payment arrangement without having to pursue legal action on them personally. The letter is sent to each director's home address, as provided to WorkplaceNL, or as shown on the search performed through the Registry of Companies. The director has 15 days to respond.

If the letter is returned due to an incorrect address, then WorkplaceNL will proceed with legal action using the last known address of the director. It is the director's responsibility to maintain up to date information with both the Registry of Companies and WorkplaceNL.

If a suitable payment arrangement is not worked out, a judgement and a statutory lien will be filed against the director(s). If there is no response from the director(s) within 15 days of filing certificates, WorkplaceNL will place attachments allowed under the Judgment Enforcement Act in an effort to obtain full payment.

If the balance is not collected, the lien(s) against the director(s) will remain in place and will affect any legal transaction the director engages in until the balance is paid in full.

602.05 Payment Proposals

When employers experience difficulties in paying assessments on time, WorkplaceNL may work with the employer to facilitate the collection of the balance. Aside from the payment arrangements outlined in Policy ES-04, Deferred Payment of Assessment and Procedure 601.00, Payment of Account, WorkplaceNL may consider individual employer payment proposals on a case-by-case basis. The employer should contact a Collection Officer at the Assessment Services Department of WorkplaceNL to discuss their payment options.

Payment proposals are considered with the purpose of satisfying the outstanding amount in the least time possible. However, in cases where the account is inactive, or where WorkplaceNL's position is

well secured, an extended payment period may be accepted. For additional information please refer to Procedure 605.00, Collections Based on Financial Hardship.

When a payment proposal is finalized, it must meet the following conditions:

- pre-authorized debit information or post-dated cheques are provided;
- current remittance requirements, where applicable, are maintained;
- monthly interest charges accrue while the proposal is in effect; and
- the accepted proposal is strictly adhered to.

If an accepted payment proposal includes payments going beyond the current year, judgements and statutory liens may be filed to ensure there is a public record of the default. Further legal action on the account may be placed on hold as long as the terms of the payment proposal are being met.

When a proposal is accepted, the payment arrangements and conditions are confirmed in writing. If the employer defaults on the agreed upon arrangement, collection and legal action will resume.

602.06 Directors' Arrangements

In the case of a corporation that is in default of employer assessments and a director of the company is undertaking payment of the outstanding balance, payment arrangements or proposals similar to those above may be put in place. Directors' should contact WorkplaceNL to discuss conditions of their payment arrangement.

602.07 Exceptional Circumstances

In cases where individual circumstances of a case are such that the provisions of this procedure cannot be applied, or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice. Such a decision will be considered for that specific case only and will not be precedent setting.

Reference: Workplace Health, Safety and Compensation Act, Sections 99, 100, 101, 118.1, 118.2, 119, and 122
Judgement and Enforcement Act
Corporations Act
Workplace Health, Safety and Compensation Regulations, Section 31
Policies: ES-04, Deferred Payment of Assessments
ES-15, Directors Liability
Procedures: 601.00, Payment of Account
605.00, Collections Based on Financial Hardship

Amendment History

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