

Client Services Policy Manual

Policy Number: **PR-06**
Subject: **PRIME Practice Incentive for Provincially Regulated Employers**
Chapter: **PRIME**

Policy Statement

Provincially regulated employers who are eligible for the practice incentive component under PRIME in accordance with Policy PR-01 PRIME Overview may qualify for a 5 per cent practice refund based on their compliance with certain occupational health and safety and return to work practices in each year of participation in the PRIME Program.

This policy defines the requirements set by WorkplaceNL for an employer to qualify for the practice refund for PRIME. Meeting these requirements does not mean that a provincially regulated employer has met the legislative requirements under the Occupational Health and Safety Act and Regulations.

The occupational health and safety, and return to work program requirements under this policy, will be periodically reviewed in consultation with stakeholders. The requirements will reflect continuous improvement toward best practices in the areas of occupational health and safety, and return to work programs.

General

To qualify for a PRIME practice refund, medium and large provincially regulated employers (as defined in Policy PR-01 PRIME Overview) must meet all the requirements of this policy for each of the practice incentive criteria that apply to them based on the number of workers they employ [workers as defined in section 2(m) of the Occupational Health and Safety Act] and whether they are considered a large PRIME assessment employer as defined in Policy PR-01 PRIME Overview.

Revisions to the PRIME program will be come into effect in phases. Refer to Policy PR-11 PRIME Transitional Policy.

Effective January 1, 2023 provincially regulated employers categorized by WorkplaceNL as Path 1 – OHS Education (as defined in Policy PR-01 PRIME Overview) must meet the education requirements as outlined in Policy PR-14 PRIME Practice Incentive Path 1: OHS Education to qualify for a PRIME refund.

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PRIME Practice Criteria

PRIME Criteria	Which Provincially Regulated Employers?
1. Occupational Health and Safety Policy and Return to Work Policy	Employers who pay greater than or equal to \$10,000 in average assessments and have 20 or more workers at any worksite
2. Appropriately Trained Worker Health and Safety Representative, Workplace Health and Safety Designate or an Occupational Health and Safety Committee	ALL Employers
3. Injury Reporting System	Employers who pay greater than or equal to \$10,000 in average assessments and have 20 or more workers at any worksite
4. Occupational Health and Safety Program	Employers with 20 or more workers
5. Return to Work Program	All large PRIME assessment employers

Criteria 1. Occupational Health and Safety Policy and Return to Work Policy

All provincially regulated employers who pay greater than or equal to \$10,000 in average assessments and have 20 or more workers at any worksite are required to have an occupational health and safety policy and a return to work policy. These may be separate or combined into a single policy. In all cases, the policy(ies) must be signed and dated by the highest ranking official or designate, posted in a prominent place in hard copy or available electronically. The policy(ies) must be reviewed at least annually and updated as required. Employers must ensure that all workers are informed of the policy(ies) and the application to their specific workplace(s).

An occupational health and safety policy must be developed in consultation with the Occupational Health and Safety Committee, Worker Health and Safety Representative or Workplace Health and Safety Designate, and must include a statement of the employer’s commitment to co-operate with the Occupational Health and Safety Committee, Worker Health and Safety Representative, or Workplace Health and Safety Designate in the workplace. It must outline the respective responsibilities of the employer, supervisors, Occupational Health and Safety Committee or Worker Health and Safety Representative,

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or Workplace Health and Safety Designate, other employees as well as contractors (persons contracted by the employer or for the employer's benefit), in carrying out their collective responsibility for health and safety in the workplace. It must be communicated to all workers.

A return to work policy must demonstrate the employer's commitment to return to work for injured workers, in accordance with WorkplaceNL's Policy RE-18 Hierarchy of Return to Work and Accommodation and section 100 of the Workplace Health, Safety and Compensation Act, 2022 (the Act). If the employer has a re-employment obligation under section 101 of the Act (refer to Policy RE-05 Re-employment Obligation), the return to work policy must reflect that re-employment obligation. It must include references to: communicating with the worker during the return to work process; the protection of confidential information; a commitment to co-operation; as well as, outline the roles and responsibilities of all parties involved in return to work, i.e., the employer, injured worker, health care provider(s), co-workers, WorkplaceNL, and where appropriate, the union, return to work representatives, etc.

For large PRIME assessment employers, the occupational health and safety policy and the return to work policy must be developed in joint meaningful consultation with workers as defined in Criteria 5 of this policy.

Criteria 2. Appropriately Trained Worker Health and Safety Representative, Workplace Health and Safety Designate or an Occupational Health and Safety Committee

The number of workers [as defined in section 2(m) of the Occupational Health and Safety Act] at each workplace is used to determine whether a Worker Health and Safety Representative, Workplace Health and Safety Designate or an Occupational Health and Safety Committee is required and what training is required for provincially regulated employers. Worker Health and Safety Representatives, Workplace Health and Safety Designates or Occupational Health and Safety Committee members shall hold a valid training certificate issued by WorkplaceNL by December 31st of the PRIME year.

Workplaces with less than 20 workers:

Workplaces with less than 20 workers must have a Worker Health and Safety Representative or a Workplace Health and Safety Designate.

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A Worker Health and Safety Representative is a worker not connected with management who is chosen by co-workers to monitor the health, safety and welfare of workers. The Worker Health and Safety Representative must receive the Occupational Health and Safety Certification training as set out by WorkplaceNL.

Where it is not practical to establish a Worker Health and Safety Representative in workplaces with more than one and less than six workers, a Workplace Health and Safety Designate may be appointed by the employer and must receive the Occupational Health and Safety Certification training as set out by WorkplaceNL. The Workplace Health and Safety Designate can be the employer, the owner or the supervisor. Where the employer is the Workplace Health and Safety Designate, duties and responsibilities of the employer under the Occupational Health and Safety Act still apply.

Workplaces with 20 or more workers:

In workplaces with 20 or more workers an Occupational Health and Safety Committee is required.

An Occupational Health and Safety Committee is an advisory group made up of employer and worker representatives whose primary role is to monitor the health, safety and welfare of workers at the workplace.

Occupational Health and Safety Committees are required to meet at least once every three months during regular working hours, record, maintain and post minutes of all meetings and submit copies of minutes to WorkplaceNL within 90 days, as well as, monitor the implementation and effectiveness of the Occupational Health and Safety program.

In workplaces with 20-49 workers, the Occupational Health and Safety Committee co-chairs must receive the Occupational Health and Safety Certification training set out by WorkplaceNL.

In workplaces with 50 or more workers, all Occupational Health and Safety Committee members must receive the Occupational Health and Safety Certification training as set out by WorkplaceNL.

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Criteria 3. Injury Reporting System

Provincially regulated employers who pay greater than or equal to \$10,000 in average assessments and have 20 or more workers at any worksite are required to have an injury reporting system which ensures that all workplace parties are aware of how to report a work-related injury to WorkplaceNL, and to the appropriate persons designated by the employer. This injury reporting system is separate from the accident reporting that is required under section 54 of the Occupational Health and Safety Act.

The requirements for an injury reporting system for provincially regulated employers are:

- i. A written process is communicated to all workers which outlines the steps to be taken in the event of a work injury, including but not limited to: a designated person(s) to whom an injury(ies) will be reported, employer transport of the worker to appropriate medical care (as per section 98 of the Act), submitting forms to WorkplaceNL (e.g., Form 6 and 7), and returning appropriate forms to the employer (e.g., injured worker returns to the employer the employer's copy of the Physician's Report of Injury, Form MD or Chiropractor's Report of Injury, Form 8/10C).
- ii. WorkplaceNL forms must be available either in paper copy or through online access. These forms include:
 - a. Form 6 - Worker's Report of Injury;
 - b. Form 7 - Employer's Report of Injury; and
 - c. Early and Safe Return to Work Plan Form or an alternate form acceptable to WorkplaceNL.

For large PRIME assessment employers, the injury reporting system must be developed in joint meaningful consultation with workers as defined in Criteria 5 of this policy.

Criteria 4. Occupational Health and Safety Program

For provincially regulated employers, an occupational health and safety program is required for workplaces with 20 or more workers. This program will be established in consultation with the Occupational Health and Safety Committee.

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To meet the PRIME requirements for an occupational health and safety program, in addition to meeting criteria 1, 2 and 3 above, provincially regulated employers must have the following occupational health and safety program elements:

- i. **Leadership and Administration:** Employers who meet the requirements for Criteria 1 will be considered as having the element of leadership and administration.
- ii. **Occupational Health and Safety Committee:** Employers who meet the requirements for Criteria 2 will be considered as having the element of an Occupational Health and Safety Committee.
- iii. **Education and Training:** Employers must have an orientation program for all workers that consists of an orientation checklist which reviews the Occupational Health and Safety (OHS) and Return to Work (RTW) Policy Statements, accident and incident reporting procedures, workplace inspection procedures, health and safety rules, the basic rights of workers, procedures for recognizing, evaluating and controlling hazards, the emergency preparedness and response plan and, safe work practices and procedures.
- iv. **Communication:** A process for communication of occupational health and safety information throughout the workplace is required. This may be accomplished through the use of health and safety bulletin boards, documented health and safety meetings such as toolbox talks, posters, memos, newsletters and other bulletins. The employer must show evidence that OHS issues are being communicated to the entire workplace.
- v. **Workplace Inspections:** Employers must develop procedures to ensure that workplace inspections are conducted at the workplace. An employer must conduct a minimum of two (2) inspections of the entire workplace per year. These workplace inspections must be documented using workplace inspection checklists and reports to ensure that corrective actions are taken for items noted during the inspection. They should be signed by an OHS Committee member, Worker Health and Safety Representative or Designate. All workplace inspections and related documents should identify existing and potential hazards, as well as, their underlying cause(s), including recommendations for corrective actions, and communication to workplace parties.

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- vi. Accident and Incident Investigations: Employers must develop a procedure to ensure that all hazardous occurrences are promptly reported and investigated as required. Standardized accident and incident investigation forms must be completed for all accidents and incidents that have occurred in the PRIME year. These forms must identify causation and the recommendations for corrective actions to prevent recurrences. Completed forms should also be available for claims that have had been submitted to WorkplaceNL.
- vii. Hazard Recognition, Evaluation and Control: An employer is required to develop a system to recognize, evaluate and control hazards in the workplace. This system must include procedure(s) for recognizing hazards and may include, but is not limited to, any or all of the following: workplace inspections, accident or incident investigations, Workplace Hazardous Materials Information System (WHMIS), job safety analyses, and accident or incident trends. The procedure must outline how workplace hazards will be recognized and evaluated based on risk, and how measures will be identified and implemented to control them. The employer must provide completed hazard reporting and hazard assessment forms to support compliance with this requirement.
- viii. Emergency Preparedness: A documented emergency preparedness/response plan is required that ensures there are an adequate number of workers trained in first aid (as outlined in the Occupational Health and Safety First Aid Regulations), contains a list of emergency response telephone numbers posted in the workplace, and contains documented evacuation procedures.
- ix. Safe Work Practices and Procedures: The employer must develop, for all workers employed in their workplace, written safe work practices and procedures for tasks where hazards have been recognized. The safe work practices and procedures should address hazards that have been identified, evaluated and controlled in hazard assessments.

Employers are responsible for ensuring their workers know the safest way to do their work. This includes knowing the hazards of their jobs and their workplace and knowing how to control these hazards. Employers must have a written plan for training workers and must ensure safe work practices and procedures are clearly communicated.

A continuous training plan should be available, as well as, written safe work practices and procedures that guide workers in performing their job safely. This continuous training

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plan may include a training matrix outlining who needs training, how much is needed and the time required.

WorkplaceNL may ask to review all safe work practices and procedures or a sample thereof to ensure compliance with this requirement.

The occupational health and safety program must be reviewed and evaluated every three years or more frequently, as required.

Criteria 5. Return to Work Program

Large PRIME assessment employers as defined in Policy PR-01 PRIME Overview are required to have a return to work program.

All elements of the Return to Work Program must be developed by provincially regulated employers through a joint mechanism for meaningful consultation with their employees designated either by their co-workers, or through the union constitution where applicable. One half of the participants in the joint mechanism for consultation must be representatives of workers; however, more worker participation may be agreed to by the parties. Meaningful consultation is consultation that: (a) provides information to all parties to enable full participation, (b) provides opportunities for input and, (c) assesses the input of the parties in the program design, implementation, monitoring, evaluation, and revision.

To facilitate education of and communication with workers regarding return to work in the event of a work-related injury or illness, the provincially regulated employers' orientation program for workers must include a discussion of the return to work program elements that are in place as appropriate.

To meet the PRIME requirements for a return to work program in addition to meeting criteria 1, 2 and 3, as well as 4 where required, provincially regulated employers must have the return to work program elements listed below:

- i. **Commitment:** A commitment to injured workers' return to work is demonstrated through a return to work policy as described in Criteria 1. This statement must also include a reference to joint consultation with workers in the development, monitoring, evaluation and revision of the return to work program.

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- ii. Injury Reporting System: Employers who meet the requirements for Criteria 3 will be considered as having the element of an injury reporting system.
- iii. Return to Work Planning: A return to work protocol supports the requirements of the duty to co-operate in return to work under section 100 of the Act (refer to Policy RE-02 The Goal of Early and Safe Return to Work and the Roles of the Parties), and the duty to accommodate and re-employment obligations outlined in section 101 (refer to Policy RE-05 Re-employment Obligation). Having a return to work protocol in place does not mean that an employer has met his or her requirements under section 65 of the Act.

The return to work planning protocol must outline the steps to be followed from the time of the injury to the completion of return to work, and reflect Policy RE-18 Hierarchy of Return to Work and Accommodation. It must be supported by appropriate forms (i.e., Early and Safe Return to Work Plan Forms or alternate forms acceptable to WorkplaceNL) to ensure injured workers are involved in the development of the return to work plan. It must protect the confidentiality of the information being used (refer to Policy RE-03 Functional Abilities Information for Return to Work). It must also include communication with WorkplaceNL as required by Section 100 of the Act.

- iv. Return to Work Program Documentation: Policies and procedures that outline the roles, responsibilities and accountabilities of the parties involved in the return to work program, as defined in the return to work policy statement, are necessary. These include guidelines for addressing accommodation issues required by legislation for the specific employer, as well as, guidelines for advising WorkplaceNL of disputes between the workplace parties regarding a return to work plan.
- v. Joint Mechanism for Consultation: A mechanism for consultation between management and workers provides an avenue for meaningful consultation concerning the return to work program elements, and advice regarding complex return to work issues. This mechanism is not intended for the day-to-day development or management of return to work plans for individual injured workers.
- vi. Evaluation and Communication: A return to work program evaluation, communication and revision protocol is developed and implemented through the joint mechanism for consultation and conducted at least annually, or as required.

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Validation of Compliance with the PRIME Practice Incentive Criteria

WorkplaceNL will determine whether the practice incentive criteria, outlined in this policy, have been met based on the employer's responses to the practice incentive questions on the annual Employer Payroll Statement and validation using WorkplaceNL's information database. Where the employer confirms that all the applicable requirements are met and, that confirmation is supported by the information available in WorkplaceNL's database; the employer is entitled to receive a practice refund calculated in accordance with Policy PR-02 PRIME – Calculations. Employers who are entitled to a practice refund may also qualify for an experience refund as outlined in PRIME policy PR-01.

WorkplaceNL may also determine whether or not these practice incentive criteria have been met through the use of PRIME audits. Employers will be responsible for providing documentation and evidence of implementation of the practice incentive criteria through the auditing process (refer to Policy PR-10 - PRIME Audits for Non-Construction Employers). Therefore, employers are advised to ensure documentation is an integral part of their occupational health and safety and return to work practices.

Any adjustments to PRIME refunds or charges resulting from the auditing process will be made in accordance with Policy PR-03 PRIME Adjustments.

Merits and Justice

Where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would cause an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice as outlined by Policy EN-22 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, 2022, Sections 65, 98, 100, 101, 103 and 117

Occupational Health and Safety Act, Sections 2(m), 36.1, 36.2, 37, 38, 38.1, 39 – 44 and 54

Occupational Health and Safety Regulations, Sections 12, 13 and 25

Occupational Health and Safety First Aid Regulations

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Policies:

EN-22 Merits and Justice, PR-01 PRIME Overview, PR-02 PRIME Calculations, PR-03 PRIME Adjustments, PR-10 Audit for Non-Construction Employers, RE-02 The Goal of Early and Safe Return to Work and the Roles of the Parties, RE-03 Functional Abilities Information for Return to Work, RE-05 Re-employment Obligation, and RE-18 Hierarchy of Return to Work and Accommodation

Amendment History

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