

## Client Services Policy Manual

Policy Number:	<b>PR-07</b>
Subject:	<b>PRIME Practice Incentive for Federally Regulated Employers</b>
Chapter:	<b>PRIME</b>

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### Preamble

Employers should refer to the Canada Labour Code Part II to determine whether they fall under the jurisdiction of this federal legislation. The Canada Labour Code Part II is the governing legislation for health and safety requirements for federally regulated employers. Federally regulated employers include such businesses and undertakings as navigation and shipping, canal, telegraph, ferry services, aircraft, air, road or rail transportation, radio broadcasting, and banking. This policy provides the practice incentive criteria for federally regulated employers with respect to the application of the PRIME Program.

### Policy Statement

Federally 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 an employer has met the legislative requirements under the Canada Labour Code Part II.

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 towards best practices in the areas of occupational health and safety programs, and return to work programs.

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

### General

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

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

### PRIME Practice Criteria

<b>PRIME Criteria</b>	<b>Which Federally Regulated Employers?</b>
1. Occupational Health and Safety Policy and Return to Work Policy	Employers who pay greater than or equal \$10,000 in average assessments and have 20 or more workers at any worksite
2. Appropriately Trained Health and Safety Representative or a Workplace Health and Safety Committee, or Policy 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 employees
5. Return to Work Program	All large PRIME assessment employers

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

All federally 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. Federally regulated employers must ensure that all employees are informed of the policy(ies) and the application to their specific workplace(s).

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An occupational health and safety policy must be developed in consultation with the Policy Health and Safety Committee (for workplaces with 300 or more employees) or in the absence of a Policy Health and Safety Committee, with the Workplace Health and Safety Committee or Health and Safety Representative, and must include a statement of the employer's commitment to co-operate with the Workplace Health and Safety Committee or Health and Safety Representative in the workplace. It must outline the respective responsibilities of the employer, supervisors, Policy Health and Safety Committee or Workplace Health and Safety Committee, or Health and Safety Representative, other employees, as well as, other persons (including contractors and visitors) granted access to the workplace in carrying out their collective responsibility for health and safety in the workplace. It must be communicated to all employees.

A return to work policy must demonstrate the employer's commitment to return to work for injured employees, 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 employee during the return to work process; the protection of confidential information; 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 employee, 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 employees as defined in Criteria 5 of this policy.

### **Criteria 2. Appropriately Trained Health and Safety Representative, Workplace Health and Safety Committee, Policy Health and Safety Committee.**

The number of employees at each workplace is used to determine the requirement for a Health and Safety Representative, Workplace Health and Safety Committee and Policy Health and Safety Committee for federally regulated employers. Health and Safety Representatives, Workplace Health and Safety Committees and Policy Health and Safety Committee members will have received the prescribed training in health and safety by December 31 of the PRIME year.

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### **Workplaces with fewer than 20 employees:**

Workplaces with fewer than 20 employees must appoint a Health and Safety representative.

A Health and Safety Representative is a worker not connected with management who is chosen by co-workers or the trade union to monitor the health, safety and welfare of employees. The Canada Labour Code Part II requires the employer to ensure that Health and Safety Representatives receive the prescribed training in health and safety and are informed of their responsibilities under Part II of the Code.

### **Workplaces with 20 or more employees:**

Workplaces with 20 or more employees (excluding workplaces that are on board ships in respect of employees whose base is the ship) must establish a Workplace Health and Safety Committee.

A Workplace Health and Safety Committee is appointed for the purpose of addressing health and safety matters at the workplace.

The Canada Labour Code Part II requires the employer to ensure that members of the Workplace Health and Safety Committee receive the prescribed training in health and safety and are informed of their responsibilities.

Workplace Health and Safety Committees are required to meet at least nine times a year at regular intervals and during regular working hours. The Workplace Health and Safety Committee is required to participate in the development of health and safety policies and programs, and keep accurate records of all matters that come before it, as well as minutes of all meetings.

### **Workplaces with 300 or more employees:**

All federally regulated employers with 300 or more employees must establish a Policy Health and Safety Committee. A Policy Health and Safety Committee is established for the purpose of addressing health and safety matters that apply to the work, undertaking or business of an employer. The policy committee addresses issues that, because of their nature, cannot be dealt with by the local health and safety committees.

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The Canada Labour Code Part II requires the employer to ensure that members of the Policy Health and Safety Committee receive the prescribed training in health and safety and are informed of their responsibilities.

Policy Health and Safety Committees are required to meet at least quarterly during regular working hours. The Policy Health and Safety Committee is required to participate in the development of health and safety policies and programs, and keep accurate records of all matters that come before it, as well as, minutes of all meetings.

### **Criteria 3. Injury Reporting System**

Federally 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 that ensures that all workplace parties are aware of how to report a work-related injury. This injury reporting system is separate from the accident reporting that is required under the Canada Labour Code Regulations, Part XV, section 15. The requirements for an injury reporting system for federally regulated employers are:

- i. A written process that is communicated to all employees 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 employee 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 employees as defined in Criteria 5 of this policy.

### **Criteria 4. Occupational Health and Safety Program**

For federally regulated employers, an occupational health and safety program is required for workplaces with 20 or more employees. This program will be established in

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consultation with the Policy Health and Safety Committee or, in the absence of a Policy Health and Safety Committee, the Workplace Health and Safety Committee.

### Requirements for an Occupational Health and Safety Program

To meet the PRIME requirements for an occupational health and safety program, in addition to meeting criteria 1, 2 and 3 above, federally 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. **Policy Health and Safety Committee or Workplace Health and Safety Committees:** Employers who meet the requirements for Criteria 2 will be considered as having the element of a Policy Health and Safety Committee/Workplace 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 Statement(s), incident reporting procedures, workplace inspection procedures, health and safety rules, the basic rights of employees, procedures for recognizing, evaluating and controlling hazards, the emergency preparedness/response plan, and safe work practices and procedures.
- iv. **Communication:** A process for communication of occupational health and safety information exists throughout the workplace. This may be accomplished through the use of occupational health and safety bulletin boards, documented health and safety meetings such as tool box talks, posters, memos, letters and other bulletins. The employer must show evidence that OHS issues are being communicated to the entire workplace.
- v. **Workplace Inspections:** Employers must develop a procedure to ensure that workplace inspections are conducted at the workplace. An employer must conduct a minimum of two (2) workplace inspections of the entire workplace per year. These inspections must be documented using workplace inspection checklists and reports to ensure corrective actions are taken for items noted during the inspection. They should be signed by an OHS committee member or a Health and Safety Representative. All workplace inspections should identify

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existing and potential hazards, as well as, their underlying cause(s), including recommendations for corrective actions and communication to workplace parties.

- vi. **Accident or Incident Investigations:** Employers must develop a procedure to ensure that all hazardous occurrences are promptly reported and investigated as required. Standardized accident or 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 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 includes procedures 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/incident trends. The procedures 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 and response plan, that ensures there are an adequate number of workers trained in first aid (as outlined in the Canada Occupational Health and Safety Regulations under Part II of the Canada Labour Code), contains a list of emergency response phone numbers posted in the workplace, and documented evacuation procedures.
- ix. **Safe Work Practices and Procedures:** Employers must develop work safe practices and procedures for tasks where hazards have been recognized for all workers that are employed in their workplace. 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 employees 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 employees and must ensure safe work practices and procedures are clearly communicated.

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A continuous training plan should be available, as well as written safe work practices and procedures that guide employees in performing their jobs safely. This continuous training 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 federally regulated employers through a joint mechanism for meaningful consultation with their employees, who are 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 employees; however, more employee 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 employees regarding return to work in the event of a work-related injury or illness, the federally regulated employer's orientation program for employees 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, federally regulated employers must have the return to work program elements listed below:

- i. **Commitment:** A commitment to injured employees' 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 employees 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 elements 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 legislative 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 the appropriate forms (i.e., Early and Safe Return to Work Plan Forms or alternate forms acceptable to WorkplaceNL) to ensure injured employees 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 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 employees 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 employees.
- 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 is 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. Where the employer confirms that all the applicable requirements are met, 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 Policy PR-01 PRIME Overview.

WorkplaceNL may also determine whether 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). 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

Canada Labour Code Part II, Sections 124, 125, 125.1, 134.1, 135 and 136 and Regulations pursuant thereto

Policies:

EN-22 Merits and Justice, PR-01 PRIME Overview, PR-02 PRIME Calculations, PR-03 PRIME Adjustments, PR-10 PRIME Audit for Non-Construction, 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

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### **Amendment History**

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