

Client Services Policy Manual

Policy Number: **PR-09**
Subject: **PRIME Practice Incentive for Federally Regulated Construction Employers**
Chapter: **PRIME**

Federally regulated construction 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 health and safety and return to work practices in each year of participation in the PRIME Program.

Meeting these requirements does not mean that a federally regulated construction employer has met the legislative requirements under the Canada Labour Code Part II.

To qualify for a PRIME practice refund, federally regulated construction employers must be Certificate of Recognition (COR) certified and meet the requirements for the practice incentive criteria that apply to them based on:

- i) the number of employees they employ; and
- ii) whether they are considered a large PRIME assessment employer as defined in Policy PR-01 PRIME Overview.

To qualify for a PRIME practice refund, federally regulated construction employers must have achieved Certificate of Recognition status issued by the Newfoundland and Labrador Construction Safety Association (NLCSA).

PRIME Criteria	Which Federally Regulated Construction Employers?
1. COR Certified	All construction employers.
2. Return to Work Program.	All large PRIME assessment construction employers.

Criteria 1. Certificate of Recognition (COR)

All federally regulated construction employers are required to have achieved certificate of recognition status issued by the NLCSA.

WorkplaceNL will engage in a periodic review of the NLCSA's Certification of Recognition requirements to ensure that they are meeting the objectives of PRIME.

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Criteria 2. Return to Work Program

Large PRIME assessment federally regulated construction 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 construction employers through a joint mechanism for meaningful consultation with their workers 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 employer's orientation program for workers must include a discussion of the return to work program elements that are in place as appropriate.

Requirements for a Return to Work Program

Large PRIME assessment federally regulated construction employers must have achieved Certificate of Recognition (COR) status as issued by the NLCSA and the following return to work program elements:

- i. **Commitment:** A commitment to injured workers' return to work is demonstrated through a return to work policy. 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.
- ii. **Injury Reporting System:** Federally regulated construction employers, who meet the requirements for COR 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 Workplace Health, Safety and Compensation Act, 2022 (the Act) (refer to Policy RE-02 The Goal of Early and Safe Return to Work and the Roles of the Parties) and the

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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 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 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 are in place that outlines the roles, responsibilities and accountabilities of the parties involved in the return to work program as defined in the return to work policy statement. 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 which provides 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 that is developed and implemented through the joint mechanism for consultation and conducted at least annually, or as required.

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

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WorkplaceNL's database or from the NLCSA, the employer is entitled to receive a practice refund calculated in accordance with Policy PR-02 PRIME Calculations. Federally regulated construction employers, who are entitled to a practice refund, may also qualify for an experience refund.

WorkplaceNL may also determine whether or not these practice incentive criteria have been met through the use of PRIME audits or information provided by the NLCSA. Federally regulated construction 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, federally regulated construction 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-02 PRIME Calculations.

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 125, 125.1, 135 and 136

Newfoundland and Labrador Construction Safety Association

Certificate of Recognition (COR) Requirements

Policies:

EN-22 Merits and Justice, PR-01 PRIME Overview, Policy PR-02 PRIME Calculations, PR-10 PRIME Audits, 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, RE-18 Hierarchy of Return to Work and Accommodation

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Amendment History

Original Effective Date	2005 01 01
Revision #3	Board approved on 2022 06 30 for effect on 2023 01 01
Revision #4	Board approved on 2023 10 19 for effect on 2024 01 01
Reviewed	2024 06 27

Next Review Date 2025 06 30