

## Client Services Policy Manual

POLICY NUMBER: EN-22  
SUBJECT: Merits and Justice  
CHAPTER: Entitlement

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### Policy Statement

Subsection 19(4) of the Workplace Health, Safety and Compensation Act (the Act) states:

“The decisions of the commission shall be upon the real merits and justice of the case and it is not bound to follow strict legal precedent.”

### General

WorkplaceNL is responsible for administering and implementing the Act. If there are specific directions within the Act that are relevant to the facts and circumstances of the case, decision-makers are legally bound to follow them with no exceptions. These mandatory directions are usually indicated in the Act by the use of the word “shall”.

### Role of the Policy

WorkplaceNL develops policies when the Act permits a number of possible interpretations or when the Act is silent or ambiguous.

After gathering all the facts pertaining to each case, the decision-maker interprets the information, determines if there are any relevant provisions of the Act or policies, and weighs all of the evidence before making a decision.

To identify a relevant policy, a decision-maker must first consider whether the case falls within the effective date of the policy.

The decision-maker then determines if the facts of the case fall within the framework established by the policy.

Within each policy, WorkplaceNL creates a framework that directs the way decision-makers should act when certain facts and circumstances come before them. If such situations arise, the relevant policy must be followed unless there are exceptional circumstances as described below.

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### **Merits and Justice**

By applying relevant legislative and policy provisions to similar situations, decision-makers ensure that:

- Similar cases are adjudicated in a similar manner;
- Each participant in the system is treated fairly; and
- The decision-making process is consistent and reliable.

Every decision made by WorkplaceNL is based on the merits and justice of the case, which means decision-makers take into account:

- All facts and circumstances relating to the case;
- The relevant provision(s) of the Act; and
- The relevant WorkplaceNL policy.

### **Exception to Relevant Policy**

There may be cases where the application of a relevant policy would lead to an absurd or unfair result that WorkplaceNL did not intend. Therefore, a decision-maker may depart from a policy if it can be shown that the case has exceptional circumstances that justify doing so. A departure from policy without exceptional circumstances may result in decisions that are arbitrary, unfair and inconsistent.

When considering the merits and justice of a case, decision-makers identify the exceptional circumstances and explain in the decision why the relevant policy does not apply.

### **No Relevant Policy**

If a decision-maker finds that the facts of the case are not covered by existing policy, the case is decided on its particular facts in accordance with the general and/or relevant provisions of the Act.

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**Reference:** Workplace Health, Safety and Compensation Act, Section 19(4)

### Amendment History

Original Effective Date	2018 12 13
Reviewed	2020 02 04

<b>Next Review Date</b>	2025 02 01
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