

Injured Workers Handbook



WorkplaceNL

Health | Safety | Compensation

Meredith Principles



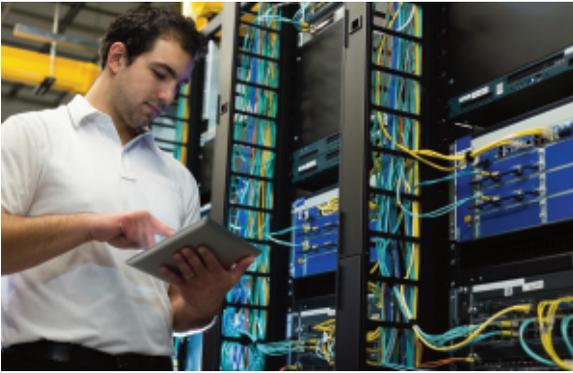
The foundation of all Canadian workers' compensation systems is the Meredith Principles.

1. No fault compensation, which means workers are paid benefits regardless of how the injury occurred.
2. Collective liability, so that the total cost of the compensation system is shared by all employers.
3. Security of payment, with a fund established to guarantee that compensation will be available for injured workers when they need it.
4. Exclusive jurisdiction, which means only workers' compensation organizations provide workers' compensation insurance.
5. Independent Board, that is autonomous and financially independent of government or any special interest group.

Under the authority of the Workplace Health, Safety and Compensation Act, WorkplaceNL administers a mandatory, employer-funded, no fault work-injury insurance system. More specifically, WorkplaceNL promotes safe and healthy workplaces, facilitates return-to-work programs and fair benefits to injured workers and their dependents based on reasonable assessment rates. Each year, WorkplaceNL serves approximately 19,000 employers and 13,000 injured workers throughout Newfoundland and Labrador. Offices are located in St. John's, Grand Falls-Windsor and Corner Brook.

WorkplaceNL

Health | Safety | Compensation



WorkplaceNL is responsible for keeping your personal information confidential and secure, and we take this responsibility very seriously.

We collect, use and disclose only information necessary to administer and interpret the *Workplace Health, Safety and Compensation Act* (the *Act*) and only when authorized by law, including the *Act*, *Access to Information and Protection of Privacy Act* (ATIPPA) and the *Personal Health Information Act* (PHIA).

For information on your privacy rights, how we handle confidential information, how to access and correct your records, or how to address a privacy concern, please review the Personal Information Privacy Statement, available on our website at workplacenl.ca or by contacting WorkplaceNL.

1.800.563.9000 or 709.778.1000

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Introduction

The Injured Workers' Handbook is a quick reference guide outlining benefits available to you, safe return-to-work options and commonly asked questions. The information in this handbook also provides general information about WorkplaceNL. It does not cover every issue or exception.

For further information with respect to workers' compensation, return-to-work obligations and injury prevention, please visit our website at workplacenl.ca. Here you will also find relevant legislation, regulations and our client service policies and procedures.



Our client service commitment

WorkplaceNL is committed to providing the highest standard of fair, caring and quality service that meets, and often exceeds, our client's expectations. Client service is how our service is delivered – that we are courteous, timely, honest, accessible and respectful.



Facilitating Recovery-at-Work

You and your employer are obligated under the *Act* to co-operate in your early and safe return to suitable and available employment with your pre-injury employer. Every effort is made to facilitate recovery-at-work while you are undergoing medical treatment for your work-related injury.



The goal of our return-to-work services and programs is to safely return you to employment or employability that is comparable to your pre-injury job as soon as possible. Returning to the people, routines and stimulation of work has been shown to contribute to your overall well-being, and can even aid in your recovery. With effective return-to-work planning, the human as well as financial costs associated with workplace injuries are significantly reduced.

Worker co-operation

The Act sets out minimum requirements for workers regarding co-operation in the early and safe return-to-work process.

You are required to:



You are eligible to receive appropriate benefits while co-operating in your active medical rehabilitation, and in the progressive early and safe return-to-work process.

Penalties for worker non-co-operation

If we determine that you are not co-operating in your return-to-work activities, you will be notified of your obligation to co-operate and the finding of non-co-operation and the consequences.

If you fail to demonstrate co-operation within one week after written notification from WorkplaceNL, and do not have a legitimate reason for not co-operating, your benefits may be reduced, suspended or terminated.

If you have received written notification of non-co-operation in the early and safe return-to-work process on any claim, we will not provide a subsequent one-week notification before benefits are reduced, suspended or terminated.

Re-employment obligation

Your employer may have a re-employment obligation if your workplace injury occurred on or after January 1, 2002, and if other conditions are met. If you are terminated within six months of re-employment following your injury, and you believe the reason is related to your work injury, please contact WorkplaceNL to determine if your employer has a re-employment obligation.

Re-employment penalties and payments

If WorkplaceNL determines that your employer has not fulfilled the re-employment obligation, financial penalties will be levied. Payments may also be made to you, up to a maximum of one year.

Workplace Injuries

What to do if you are injured

1.

Call for Help

Get first aid.



2.

Tell Your Supervisor

For a copy of applicable forms, please contact person designated by employer.



3.

Seek Medical Help

Your health care provider will give you WorkplaceNL's Health Care Provider's Report of Injury Form that you should bring to your employer by the next work day.



4.

Tell WorkplaceNL

Submit Worker's Report of Injury (Form 6). See page 4 for details.



5.

Stay Connected

Work with your employer and health care provider on your early and safe return-to-work plan.



It is important to actively participate in your recovery. You may be assigned a case manager from WorkplaceNL who will help direct appropriate medical treatment and assist you in your safe return to work. Ask questions of your case manager to ensure you understand the process and programs involved.



Feel free to bring a family member, friend or workers' advisor to any meeting you have at WorkplaceNL, and consult your union representative where available.

How to report an injury to us

Complete a Worker's Report of Injury Form 6, available from your employer, union office or any WorkplaceNL office. You can print this form from workplacnl.ca. If you can't complete the form yourself, have a spouse, relative or friend help you, or contact us for assistance.

Please ensure all information, including your full name, complete mailing address, date of birth, MCP number and Social Insurance Number, are correct and accurate before you sign page two of this form. Any missing or incomplete information may cause delays in the processing of your claim.

Even though your employer and health care provider may have sent in their reporting forms, you must still send in your Form 6. Your claim will not be processed unless a completed Form 6 is received.

If your form is not sent to us within three months of your injury, WorkplaceNL may not accept the claim.

Qualifying for compensation

We review three forms – your Form 6, the Employer's Report of Injury Form 7, and the Health Care Provider's Report of Injury (the Physician's Report Form MD, Chiropractor's Report Form 8/10c and/or Physiotherapy Report Form PR) – when deciding if you qualify for compensation.



If your claim is accepted, you will receive written notification outlining your weekly compensation benefit rate along with other general information.

If you are losing time from work or participating in an early and safe return-to-work plan, your claim is referred to case management. Your claim acceptance letter will identify your case management team (e.g. case manager, client services assistant and health care benefits assistant). You will be issued a claim number – this is your unique personal identifier. Please refer to this number when calling or visiting WorkplaceNL about your claim.

If your claim is denied, you will receive written notification with the reasons why. This letter will also outline the process to request a review of this decision should you wish to do so.

How we pay you

Payments from WorkplaceNL are generally issued by direct deposit. Please ensure you submit a completed Direct Deposit Form, which can be found at workplacnl.ca.

Authorized representative

If you would like for us to discuss your claim with your spouse, family member or other representative (such as a friend or union representative), we require your written authorization. You may authorize a representative by completing section G of the Form 6 or by completing a Form 13 – Authorized Representative Consent.

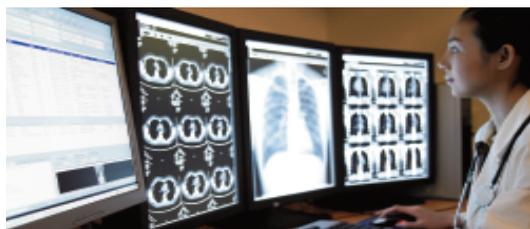
An authorized representative can only be an individual. It cannot be a company or organization.

The Form 13 is available on workplacenl.ca or from any of our offices. You may add or remove your authorized representative at any time by writing us or completing a Form 13.

Benefits/Services for Injured Workers

Health care

We pay reasonable health care expenses related to a workplace injury. These include health care services such as physician and hospital visits, prescription drugs, physiotherapy,



chiropractic and occupational therapy. Also included are health care supplies and adaptive aids that may be required for your work injury.

We also pay reasonable costs for travel, where appropriate, including accommodations and meals.

You can choose the health care provider you wish to see after an injury. In some cases, WorkplaceNL may request an examination by a specific physician. If for any reason you want to change your health care provider, you should speak with your case manager.

If you are referred to a physiotherapist, you must contact a physiotherapy clinic within 72 hours. A physician referral is not required to attend a physiotherapy clinic within two weeks from the date of a new injury.

Health care supplies and adaptive aids

WorkplaceNL has tendered for commonly-prescribed health care supplies and adaptive aids. Health care supplies and/or adaptive aids require prior approval by WorkplaceNL. When prescribing health care items, your treating health care provider should submit a completed Health Care Devices and Supplies Prescription Form to WorkplaceNL, including the rationale for the prescribed item(s), the measurements and/or size required.

If an ordered item(s) is not suitable, notify the health care benefits assistant assigned to your claim immediately. He/she can advise you if the item is returnable. Items being returned must be:

- in the original packaging and shipping material;
- unused and in re-sale condition (not soiled in any way); and
- given back within three days of receipt.

Wage-loss benefits

When we accept your claim for wage-loss benefits, your compensation usually starts the day after your injury. Your employer is required to pay your full wages for the day of the injury.

You may receive wage-loss benefits if you are unable to work due to your compensable injury, receiving medical treatment and/or participating in a return-to-work or labour market re-entry program. If you refuse treatment recommended by your health care provider, delay treatment or fail to participate in a return-to-work or labour market re-entry program without legitimate reason, your benefits may be interrupted or discontinued.

Calculating entitlement and deductions

Wage-loss benefits are calculated as 85 per cent of your pre-injury net earnings. Your net earnings are your gross earnings less probable Employment Insurance (EI), Canada Pension Plan (CPP) and federal and provincial tax credits. Your wage-loss benefits cannot be based upon earnings greater than what we cover, which is the maximum compensable ceiling.

Initial rate

We usually calculate your wage-loss benefits based on your average earnings. When calculating your average earnings for your initial rate, the four pay periods immediately before the injury are considered. This calculation may change depending on your employment status (e.g. seasonal worker).

13-week rate review

At 13 weeks, WorkplaceNL will recalculate your average earnings based on what you earned for the 12 months before the injury, which may include EI benefits.

Tax table changes

Federal and provincial income tax tables change each year and as a result, you may experience a slight increase or decrease in your benefit level during scheduled income tax adjustments.

Deductions and offsets

WorkplaceNL does not pay union dues or any other deductions you normally pay. We consider CPP disability benefits related to the injury and employer-sponsored pension benefits (which a worker applies for and receives following a work injury) as earnings and deduct these from compensation benefits.

Your compensation benefits may be reduced if garnishment of wages exists for support enforcement or social assistance.

Where there is entitlement, we may pay wage-loss benefits until a worker reaches age 65. A worker who is 63 or older at the time of injury may receive benefits for a maximum of two years.

Recurrence

If you recover and/or return-to-work, and your injury causes further disability (recurrence), you may re-apply for benefits. You should report this to your employer as soon as possible, giving the full details of the recurrence.

To apply for recurrence review, send in a Form 6. Your employer submits a Form 7 and your health care provider files a Physician's Report Form MD, a Chiropractor's Report Form 8/10c or a Physiotherapy Report Form PR. The Form 6 and the Form 7 are available from your employer or from workplacenl.ca.

Additional child care costs

If you pay for additional child care because of your work injury you may be reimbursed if this amount is more than what you normally paid while working. If you pay for additional child care costs because you are attending medical treatment for your work injury, or attending a labour market re-entry program sponsored by WorkplaceNL, you may apply for reimbursement of these additional costs. If you are not attending medical treatment, or a labour market re-entry program, child care costs will not be reimbursed.

Early and Safe Return-to-Work (ESRTW)

The main focus of ESRTW is to enable you to remain at the workplace while you recover following an injury or to return to the workplace in a safe and timely manner if you have already lost time from work.

Recovery-at-work may involve making changes to your duties and/or hours of work. It may also involve changes to your workplace such as acquiring equipment or other devices to help you.

When identifying ESRTW opportunities with your employer, the first priority should be to maintain your connection to your pre-injury job at some level.

Where this is not possible, it is important to work with your employer to identify suitable and available employment that is within your physical capabilities.

Both you and your employer are obligated under the *Act* to co-operate in ESRTW. Should you and your employer require any assistance during this process, you should contact your case manager. WorkplaceNL also has an ESRTW facilitator to assist with developing and maintaining a successful ESRTW program.

Your employer must pay you for work performed during your ESRTW program and we pay the difference, up to your compensation rate.

Labour market re-entry (LMR)

In cases where the pre-injury employer is unable to accommodate you or has been found to be non co-operative in the ESRTW process, or where the nature of your injury limits the employer's ability to accommodate your return to suitable employment, WorkplaceNL will consider a labour market re-entry assessment and plan which may involve the following programs:

On-the-job training program

We may sponsor your on-the-job training to allow you to obtain new skills to become employable with your employer or another employer.



Employment readiness

We may also provide employment readiness services, including wage-loss benefits if you are displaced from your job because of your injury, but are capable of re-entering the workforce with your current skills. Services that are available may include resume preparation, job interview preparation

and learning to access information on securing job opportunities.

Academic upgrading/formal training

We may sponsor your completion of academic training (e.g. high school or post-secondary training) so you can upgrade your skills to re-enter the workforce.

Self-employment

We may provide financial assistance to you for self-employment purposes if this is considered to be a reasonable and viable return-to-work option. A market impact analysis will be conducted before any self-employment venture is approved.

Extended earnings loss (EEL) benefits

Following maximum medical recovery from your work injury, if you are unable to earn as

much as you earned before your injury, you may be entitled to EEL benefits. In order to determine entitlement, WorkplaceNL considers your gross pre-injury earnings, (subject to the maximum compensable ceiling as of the date of wage loss), and calculates the net earnings by deducting probable EI, CPP and income tax deductions. The Consumer Price Index (CPI) is then applied to these gross pre-injury earnings. From there, WorkplaceNL deducts any net income that you are receiving or considered capable of earning, which results in a net weekly wage loss. The EEL rate payable is 80% of this net weekly wage loss.

Permanent functional impairment (PFI)

If your injury causes a permanent loss of bodily function, you may qualify for a lump-sum



benefit in addition to wage-loss benefits and health care benefits. The PFI is calculated by multiplying the percentage injury impairment by the maximum compensable ceiling.

WorkplaceNL will determine the percentage of the impairment by matching the physical findings with our PFI rating schedule

or the American Medical Association guidelines for permanent impairment.

You may be eligible for a PFI assessment after treatment and maximum recovery. You will only be re-assessed if function deteriorates. Different parts of the body are of more functional importance than others and the PFI reflects that. The PFI benefit does not give a separate award for pain and suffering.

Dependency benefits

If a worker dies as a result of a work-related injury or illness, there are benefits for their dependants. These benefits may include a lump-sum award and monthly benefits, based on the deceased worker's compensable income. The amount, type and length of time when benefits are paid vary. For more information about dependency benefits, please contact us.

Retirement benefits

When you turn 65 years of age and are receiving or had received EEL benefits at any time you are entitled to a one-time lump-sum retirement benefit. This benefit is based on five per cent of your total Extended Earnings Loss (EEL) benefits, plus interest. If you were a member of an employer sponsored pension plan (ESPP), the lump-sum payment is 10 per cent of your total EEL benefits, plus interest. Where appropriate, the retirement benefit may be paid to dependents of deceased workers.

CPP disability benefits

The CPP disability benefit is a taxable benefit administered by Service Canada. You may be eligible to receive CPP disability benefits and it may be an advantage to apply. WorkplaceNL only considers 75 per cent of CPP disability as

an offset when calculating weekly compensation benefits. The combined amount of the CPP disability benefit and the compensation benefit may be greater than income from the compensation benefit alone.



Furthermore, if you are eligible for CPP disability benefits, your dependants could also benefit financially because we do not deduct CPP dependency benefits from wage-loss benefits.

If you apply for and receive CPP disability benefits related to your work injury while receiving full compensation benefits for the same period, a portion of your retroactive CPP disability benefits must be paid back to WorkplaceNL. For further information contact your case manager.

To obtain an application for the CPP disability pension, please contact Service Canada directly by visiting servicecanada.gc.ca or by calling 1.800.277.9914.

Requesting a review of WorkplaceNL's decision

Employees at WorkplaceNL make decisions every day to determine injured workers' entitlement to benefits. If you are dissatisfied with a decision, you may request an internal review within 30 days of receiving our decision letter. In an internal review, an internal review specialist will examine the issue to ensure all relevant information has been considered.

Your request for review must be made in writing or by using a Request for Internal Review form located on workplacenl.ca. You must clearly state the decision which you disagree with and the reason why you disagree. If the reason for your request is unclear, it may cause a delay in the review. Your employer can also request a review of a decision on your file. If this occurs, you will be advised and you will be able to participate.

The internal review decision is always in writing and will be provided within 45 days from the date your request is received.

To request an internal review, please send your request for review to:

Administrative Officer, Internal Review WorkplaceNL

146-148 Forest Road
P.O. Box 9000
St. John's, NL A1A 3B8

For more information on the internal review process, please visit workplacenl.ca.

Requesting an external review

The internal review decision is the final decision of WorkplaceNL. If you are not satisfied with this decision, you can request the Workplace Health, Safety and Compensation Review Division (WHSCRD) to review it. Your request for an external review must be filed within 30 days from the date you receive our final decision.



WHSCRD is an external body independent from WorkplaceNL. For more information, please contact their office at 709.729.5542 (or 1.888.336.1111) or visit their website

gov.nl.ca/whscrd.



Accessing your file

You or your authorized representative can access your file. Access may include reviewing your file documents in-person or requesting copies of documents from your file. All requests for file copies must be made in writing. Please include your name, address and claim number, as well as the specific information you are requesting and submit to:

Internal Review Clerk, WorkplaceNL

146-148 Forest Road
P.O. Box 9000
St. John's, NL A1A 3B8

Your employer may also request information from your file if a request for internal review is registered. In this case, the employer will only receive information relevant to the decision under review. You will be notified if this occurs.

Commonly Asked Questions and Answers

How can I manage my claim?

- Bring the employer's copy of the Physician's Report (Form 8MD), Chiropractor's Report (Form 8/10c) or Physiotherapy Report (Form PR) to your employer by the next working day or as soon as possible.
- Have your claim number ready before you call us.
- Continue to follow the advice of your health care provider(s).
- Notify your case manager immediately if there are any changes in your status, treatment plan or ESRTW program.
- If you would like to meet with your case manager to discuss your claim, call ahead to schedule an appointment.
- Contact your employer regularly to let him/her know your functional abilities and discuss recovery-at-work.
- Notify your claim owner of any disputes or difficulties with ESRTW.
- Keep a log of all communication with your employer.
- If you are referred to a physiotherapist, contact a physiotherapy clinic within 72 hours.
- To avoid any potential overpayment, notify your case manager immediately if you become eligible for Canada Pension Plan disability benefits, registered employer-sponsored pension plan benefits, or any other monies from your employer.

Will I receive compensation benefits if the injury was my fault?

Yes. Workers' compensation is a no-fault insurance system. This means that workers are eligible for benefits for work-related injuries regardless of who is at fault unless the injury is attributable solely to the serious and wilful misconduct of the worker. See Section 43(1)(a) of the *Act*.

Everyone must always follow proper occupational health and safety procedures in the workplace.

Can I sue if I was injured at work?

As this is a no-fault system, you generally cannot sue your employer or another worker covered under the *Act*, although there are exceptions. For example, you may have the right to bring legal action against a third party if the injury is due to the negligence of someone other than a worker or employer. This may also apply if the injury is a result of a motor vehicle accident even though the person responsible may be an employer or worker under the *Act*.

Third party cases are identified by WorkplaceNL. Within three months of the injury, you must decide whether you wish to claim compensation from WorkplaceNL or sue. We extend the right to elect compensation to six months in the case of a death. Benefits will not be paid by WorkplaceNL until the decision is made whether to claim compensation or sue.

If you decide to claim compensation, your claim will be adjudicated in the usual manner and you will receive whatever benefits are payable under the *Act*. WorkplaceNL may sue the third party on your behalf.

If we sue and recover more money than you are entitled to receive in compensation, we will pay you the excess, less legal and administrative costs.

If you choose to sue and are unsuccessful, or you recover less money than you would have received from us, you are not eligible for any compensation benefits.

For further details on third party actions, please see the Third Party Actions – Your Right to Sue brochure available on workplacenc.ca or by calling 1.800.563.9000.

What if I am cleared to go back to my job, but my employer does not take me back to work?

Your employer is required to offer you re-employment if:

- your employer regularly employs 20 or more workers;
- you have worked with your employer for one year or more prior to your injury;
- you are medically able to perform the essential duties of your pre-injury; employment; or
- you are medically able to perform suitable work that is available.

If it is determined that your employer is not complying with their re-employment obligation, WorkplaceNL may levy a penalty to the employer. Contact us immediately should this situation apply to you.

What if I have a disagreement with my employer about early and safe return-to-work?

You must contact your case manager should you have any difficulty or a disagreement regarding your ESRTW. Your case manager can arrange for an ESRTW facilitator to assist with any ESRTW issues.

Do seasonal workers have re-employment rights?

Yes. Certain re-employment guidelines apply to seasonal workers. Contact us at 1.800.563.9000 to speak to an appropriate WorkplaceNL representative regarding re-employment rights for seasonal workers.

What happens if I am considered medically fit to return to the same type of job I had when I was injured, but cannot find employment?

If you cannot return to work because of economic or other reasons not related to your injury, you are not entitled to workers' compensation benefits. Capacity to work and earn is the critical factor in determining entitlement to benefits, not the availability of work.

Will WorkplaceNL find employment for me?

No. We provide reasonable benefits to injured workers and support workers in their safe return to work and labour market re-entry. We may be able to offer assistance in identifying

the type of occupations for which you are best suited; however, we do not find you a job.

Can I leave the province while my claim is active?

If you are receiving benefits and wish to leave the province, you must notify your case manager, inform your health care provider(s) and ask for medical approval. Benefits may continue if medical treatment, early and safe return-to-work or labour market re-entry programs are not interrupted, delayed or discontinued. Depending on the circumstances, you may be expected to avail of your vacation pay through your employer.

Does WorkplaceNL have investigators?

Yes. Investigators ensure everyone who is part of the system uses it fairly. This includes employers, injured workers and health care providers. If you have any concerns about abuse of the worker's compensation system, contact our anonymous fraud referral line at 1.866.455.6565 or call our Legal Services at 709.778.1357.

What should you do if you have a question or concern?

Contact one of our information officers at 709.778.1000 or 1.800.563.9000. Explain to the officer that you have a question or a concern and you will be directed to the appropriate WorkplaceNL representative.

Workers' Advisors

Workers' advisors are funded by WorkplaceNL and help both unionized and non-unionized workers, free-of-charge, on any matters related to workers' compensation. The workers' advisors provide general information about the workers' compensation system and help workers interpret legislation and prepare for appeals. They also liaise between the injured worker and WorkplaceNL, as well as the injured worker and the WHSCRD.

To contact a workers' advisor:

Theresa Minnett,

WORKERS' ADVISOR

30 Portugal Cove Place
NAPE Building, 2nd Floor
P.O. Box 8597, Station "A"
St. John's, NL A1B 3P2

t 709.754.3927

t 1.800.563.1998

f 709.754.3928

e tminnett@nlfl.nf.ca w

<http://www.nlfl.nf.ca/>

John Reardon,

WORKERS' ADVISOR

13 Lincoln Road
P.O. Box 248
Grand Falls-Windsor, NL
A2A 2J7

t 709.489.9193

t 1.877.489.9193

f 709.489.9194

e jreardon@nlfl.nf.ca

w <http://www.nlfl.nf.ca/>

Quick Reference

Claim number: _____ Day of injury: _____
YY MM DD

Case manager: _____ Phone #: _____

For assistance on your claim, contact the local office nearest you.

Office	Phone	Toll Free	Fax
St. John's	t 778.1000	t 1.800.563.9000	f 738.1714
Corner Brook	t 637.2700	t 1.800.563.2772	f 639.1018
Grand Falls-Windsor	t 489.1600	t 1.800.563.3448	f 489.1616

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Contact Us

St. John's

146-148 Forest Road
P.O. Box 9000
St. John's, NL A1A 3B8
t 709.778.1000
f 709.738.1714
t 1.800.563.9000

Grand Falls-Windsor

26 High Street
P.O. Box 850
Grand Falls-Windsor, NL A2A 2P7
t 709.489.1600
f 709.489.1616
t 1.800.563.3448

Corner Brook

2 Herald Avenue
Suite 201B, Millbrook Mall
P.O. Box 474
Corner Brook, NL A2H 6E6
t 709.637.2700
f 709.639.1018
t 1.800.563.2772

To receive specific information on the *Workplace Health, Safety & Compensation Act*, or our regulations, policies and procedures, please contact the WorkplaceNL office nearest you or visit:

workplacenl.ca

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