



Creating Opportunities for Safer Workplaces

A Review of WorkplaceNL's PRIME Program

WorkplaceNL

Health | Safety | Compensation



Workplace injuries
hurt most at home.

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Executive Summary

Between May and September 2018, WorkplaceNL conducted a review of the Prevention, Return-to-Work, Insurance Management for Employers and Employees (PRIME) program. A broad range of stakeholders were actively engaged in this review and recommended several substantive program changes. Most employers who provided feedback also indicated that the program has helped them establish and maintain Occupational Health and Safety (OHS) and Early and Safe Return to Work (ESRTW) programs.

WorkplaceNL received a clear recommendation to develop a replacement program over the next two to three years, taking into consideration lessons learned from PRIME and what is happening in other jurisdictions. Interim changes to PRIME will be considered as a new program is developed.

Uptake of PRIME has been mixed. Large employers dominate program participation. Small employers have not fully embraced the program, due at least in part to administrative and communications issues. As workers employed by small firms are just as important to society as those employed by large firms, it is crucial that the PRIME replacement program be more accessible to small employers.

The workplace injury rate has declined since PRIME was first introduced in 2005—but this is not solely the result of PRIME. The range of factors that have influenced the injury rate need to be better understood to make any new program more effective.

While the injury rate has declined substantially, that decline has reached a plateau, remaining

at 1.5 injuries per 100 workers in each of the past three years (2015–2017). A new and innovative approach is required to return to the downward trend.

In the construction industry, linking the Certificate of Recognition (COR™) program to PRIME eligibility has not resulted in the anticipated increase in either PRIME or COR™ participation. The majority of the fish harvesting sector, specifically the inshore fleet, is not included in PRIME yet injury rates remain relatively high.

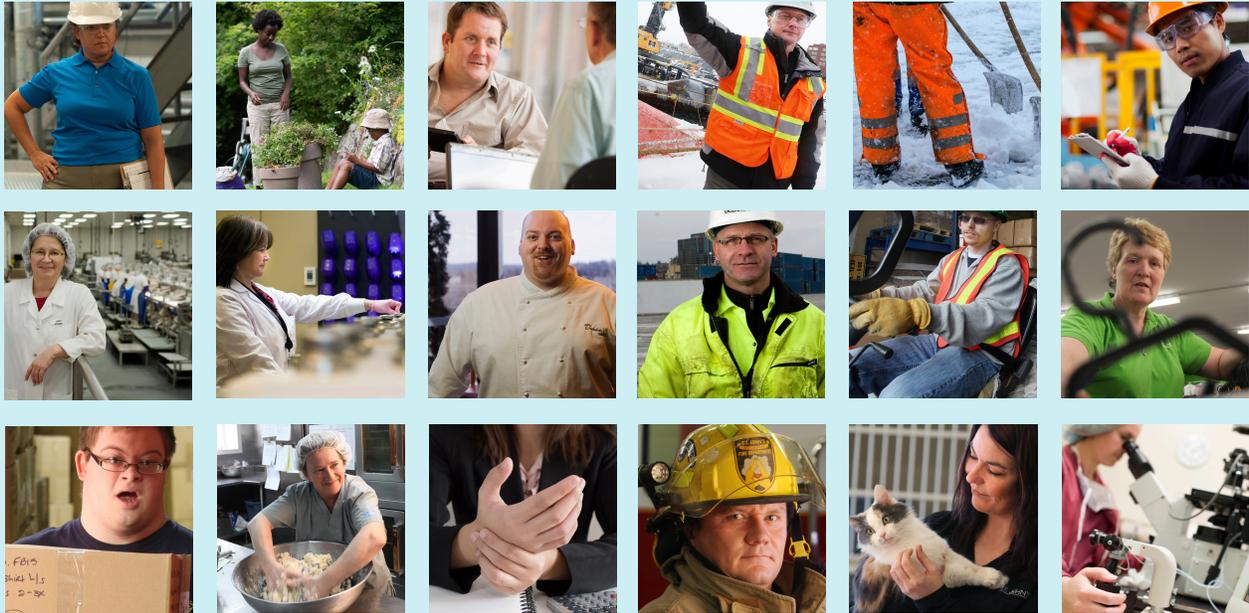
The audit processes used by WorkplaceNL need to be reviewed and revised to be more responsive. OHS education must be enhanced and new tools developed to help employers implement OHS systems. We heard that some employers are frustrated with the ESRTW process; opportunities to improve communication and education related to the program should be explored.

We must maintain the principle of collective liability in any revised program. Under PRIME, employers with higher than normal claim costs are protected from exorbitant increases in insurance premiums, and this will continue.

Our review revealed gaps in the understanding of PRIME among some employers. To overcome this, further research is required into the success of incentive programs in other jurisdictions. The new program must be simple to understand.

The program that replaces PRIME must also be more responsive to the inherent risks in the workplace. It must recognize the different risks present in different industry sectors.

WorkplaceNL should create a stakeholder working group to guide the development of a program to replace PRIME to the benefit of all employers and workers.



Background/Overview of PRIME

The changing Occupational Health and Safety (OHS) environment in Newfoundland and Labrador was the catalyst for this review of the PRIME program. With workplace injury rates at an all-time low—but also at a plateau—WorkplaceNL recognized that it must review its suite of health and safety and prevention programs. In 2017, the Safety Sector Council Program was reviewed and a new prevention strategy for the province was announced. In 2018, we undertook a review of PRIME.

The 2013 Workers' Compensation Statutory Review recommended a review of PRIME. The review is a deliverable under WorkplaceNL's three-year strategic plan, released in 2017.

OHS Systems

WorkplaceNL's health and safety programs are intended to assist employers and workers implement effective OHS systems. Workplaces can call upon a host of resources, including WorkplaceNL, training providers, Service NL's OHS Division, safety associations and other partners. Ultimately, only employers and workers can implement safety systems in the workplace, and the notable reduction in injury rates seen in the past 10 years is a testament to the hard work they have done. With approximately 92 per cent of workplaces injury-free in 2017, it is obvious that most workplaces have embraced a safety culture.



Challenges remain, however, in certain industry sectors.

Initially, PRIME was a cornerstone program for health, safety and injury prevention. But the program remained virtually unchanged for 10 years, resulting in the question: is PRIME still as relevant or as effective as it was a decade ago? Many changes have occurred in the province over those years.

Some of the recent major projects in the province have materially altered the safety culture of construction employers and the companies that provide goods and services. Workers exposed to the robust OHS systems established within those projects take with them a new philosophy and understanding of what constitutes a strong safety culture, even when faced with high operational safety risks.

Looking Back

PRIME was introduced in 2005, phased in over three years, and fully implemented in 2008. Program development began in 2001, in the wake of "Changing the Mindset", a task force review of the provincial workers' compensation system. That review was motivated by the poor financial position of the injury fund and the high workplace injury rate in the province. Without changes, the workers' compensation system was facing a difficult financial future.

At the same time, the provincial government completed a substantial rewrite of OHS legislation which increased the responsibility for OHS for employers and workers. The regulations were revised again between 2009 and 2012.



The early years of PRIME helped employers focus on health and safety and return-to-work initiatives. A well-developed communications and promotions strategy was in place. Employers made immediate changes to OHS programs and responded positively to the revised experience rating program.

The full effect of PRIME is difficult to quantify. Since the initial implementation of the program, other OHS changes have occurred that may mask its impact. It is clear, however, that PRIME, as it is currently structured, may not be as effective as when it was first introduced. Times have changed, but PRIME did not necessarily evolve to meet the changing needs of workers and employers.

PRIME was introduced in 2005 and aggressive promotion of the program ceased by 2009. General PRIME communications have continued as

part of WorkplaceNL's Employer Welcome Package, Annual Employer Statement (AES) Package and Annual Assessment Rate Notification. Several PRIME information sessions were conducted during WorkplaceNL's Prevention Learning Symposiums and delivered through webinars and workshops. Employer-specific results are communicated on the Assessment Invoice, monthly PRIME Status Reports, Annual Rate Notification, Annual PRIME Results Letter and PRIME Experience Schedule on **connect** (WorkplaceNL's online service portal).

PRIME and Assessment Rates

PRIME is a component of WorkplaceNL's Assessment Rate model. An employer's annual assessment premium is comprised of its assessment rate per \$100 of assessable payroll, plus or minus applicable PRIME incentives.

Each employer is assigned to an industrial classification; classifications are organized into industry groups. Assessment rates are set at the industry group level based on five years of claims experience (see Annex A for more details).

The assessment rate is a critical component of the insurance premium calculation. It reflects the costs and inherent risks associated with each industrial classification. The 2018 assessment rates ranged from \$0.45/\$100 of payroll for Finance, Insurance, Accounting, Legal and Technical companies to \$10.27/ \$100 of payroll for Meat and Poultry Product companies.

The average assessment rate has decreased from \$3.19 in 2005 to \$1.90 per \$100 of payroll in 2018. These declines correspond to the reduction in injuries that have occurred since PRIME began in 2005.

The assessment rate has declined dramatically in certain sectors during this period. The construction industry assessment rate, for example, fell an average of almost 67 per cent. The mining sector has seen a 64 per cent reduction.

The smallest assessment rate declines were seen in communications and utilities, down by 2.8 per cent, and agriculture, down by 9.4 per cent. All other sectors saw double- digit declines. Lower assessment rates translate into lower assessment premiums for employers.

The PRIME Incentives

PRIME has two incentive components: 1) Practice and 2) Experience. Employers who achieve the Practice requirements may receive a five per cent refund on their assessment invoice. The Experience incentive, however, can be in the form of a refund or a charge, depending on the employer’s three-year claims experience relative to their industry group. Experience refunds range from 0.1 per cent up to potentially more than 25 per cent.

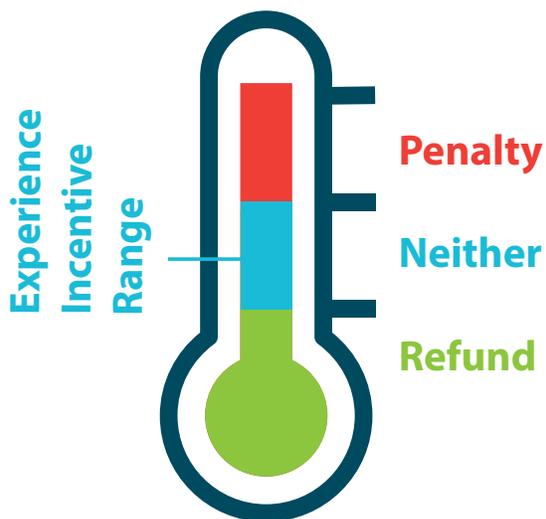
Provisional Average Assessment Rates by Industry

Industry Group	2005 (\$)	2018 (\$)	% Change 2005-2018
Agriculture	3.63	3.29	-9.4%
Fishing and Trapping	4.03	2.59	-35.8%
Logging and Forestry	9.67	4.09	-57.7%
Mining	2.85	1.04	-63.6%
Manufacturing	4.87	2.60	-46.5%
Construction	5.46	1.81	-66.8%
Transportation and Storage	4.14	2.08	-49.9%
Communications and Other Utilities	1.25	1.21	-2.8%
Wholesale Trade	2.46	1.67	-32.2%
Retail Trade	2.94	1.74	-40.7%
Finance and Insurance	0.54	0.45	-16.7%
Real Estate Op. and Insurance Agents	1.31	0.93	-29.1%
Business Services	0.90	0.60	-33.4%
Government Services	3.17	1.76	-44.5%
Educational Services	1.92	1.54	-19.6%
Health and Social Services	3.93	3.07	-21.9%
Accom. Food and Beverage Servers	3.48	1.66	-52.2%
Other Services	1.97	1.30	-33.9%



To qualify for the five per cent PRIME Practice refund, an employer must answer a series of questions on their Annual Employer Statement. The questions require a simple check mark in the corresponding answer box; no supporting documentation is required. The Practice reporting requirements are thus not onerous and are based on

An Experience incentive range is calculated for each employer based on anticipated claims costs. A firm with higher-than-expected claims costs will automatically face additional charges. A firm with lower-than-expected claims costs may receive a refund if it also passes the Practice criteria. The Experience range also depends on the employer's average calculated assessments: a firm with a high assessment will have a broader Experience range than one with a lower assessment.



A rebate is applied to an employer's premium if the basis of an OHS system is in place (the Practice component), and another rebate of potentially more than 25 per cent if they perform better than their peers (the Experience component). Tying the Practice and Experience refunds together provides the opportunity for a greater financial reward to encourage a focus on OHS. OHS and injury prevention are the keys to lower insurance costs and, more importantly, to workers returning home safely to their families at the end of their shift.

the internal responsibility model. The employer is responsible for ensuring the OHS and ESRTW components are in place.

OHS and injury prevention are the keys to lower insurance costs and, more importantly, to workers returning home to their families at the end of their shift.

Consultation Process

WorkplaceNL released “WorkplaceNL’s PRIME Program: A Consultation Document on Program Effectiveness” in May 2018, and had received feedback by September 2018.

The consultation document provided an overview of PRIME, offered insights on current trends and statistics, and posed a number of questions intended to assist interested stakeholders in providing feedback. The document was the first phase of WorkplaceNL’s review of PRIME. A copy of the document was sent to 41 stakeholder groups throughout Newfoundland and Labrador, along with a letter requesting written feedback. WorkplaceNL received 10 written submissions from a range of employers and associations.

WorkplaceNL also invited a number of employers to participate in focus groups across the province between June and September 2018. We selected focus groups as the best means to solicit detailed input on PRIME, given the program’s complexity and the challenges faced by some employers.

The response rate to the focus group invitations varied, but averaged about 30 per cent.

All sessions, even those with a small turnout, produced meaningful discussion.

Focus groups were held in Happy Valley–Goose Bay, Labrador City–Wabush, Grand Falls–Windsor, Clarenville, Corner Brook, St. John’s and Mount Pearl, and were attended by a total of about 100 representatives. Attendees represented a variety of industries including, construction, fish harvesting, forestry, health care, services, transportation and storage, manufacturing and wholesale and retail trade. Individual sessions were also held with a number of stakeholders. Approximately 300 employers — some of which participated in PRIME, others that did not — were invited to the sessions.

WorkplaceNL also conducted a telephone survey of employers that did not participate in PRIME. The response rate was low with many employers not interested in discussing the program. Despite our best efforts to engage them, employers who do not participate in PRIME are under-represented in the feedback provided.

WorkplaceNL appreciates the time participants took from their busy schedules to take part in the PRIME review.



What We Heard

Focus Group Results

A number of common themes emerged across the focus group discussions. Program awareness was an issue for many employers. PRIME participants generally agreed that an incentive-based program is needed, but viewed the current system as punitive and said that it does not recognize the good work being undertaken in areas of occupational health and safety. The “all or nothing” approach associated with the program administration and the inflexible nature of the auditing process caused great concern for many employers.

Some of the focus group discussions revealed an inaccurate understanding of the program or at least an inaccurate perception of how the program operates. These comments are presented here, whether factually correct or not, as they were the views of the stakeholders.

Claims management/ESRTW was one of the main discussion topics. While some employers clearly understood their role in the claims management process and accepted its impact on the Experience component, others were concerned—and in some cases frustrated—with

the lack of perceived control over a claim after it is accepted by WorkplaceNL. Some employers felt that systemic issues were impeding their return-to-work efforts and thus affecting any refunds under PRIME.

Many participants applauded PRIME for effectively focusing some employers on health and safety and return-to-work efforts—but they also noted a lack of knowledge of the program in the broader employer community. They recommended that WorkplaceNL increase awareness of the program and the services that complement it; they indicated that many employers do not link PRIME with either health and safety, or with assessment rebates.

Online Support and Resources

In all sessions, participants indicated that WorkplaceNL’s online resources need to be improved to help employers understand PRIME requirements, to allow them to track their progress in achieving these requirements, and to provide tools to achieve better health and safety results in the workplace. Comments included:

- The WorkplaceNL website is not user-friendly and information on PRIME is difficult to find and understand.
- Many employers, especially those whose size may fluctuate between PRIME size categories, indicated that it is critical that a firm’s size category (and associated PRIME requirements) be readily available, accurate and updated in a timely fashion.
- More training resources are needed, including:
 - ▶ links to training resources related to OHS and ESRTW,

- ▶ a process to record training attended,
 - ▶ specific training around establishing OHS systems,
 - ▶ toolsets to help employers organize OHS activities and
 - ▶ a compilation of contact information for external agencies/resources (safety associations, sectoral councils, etc.) as well as WorkplaceNL resources.
- WorkplaceNL should develop/offer more webinars and make them available on demand. Many employers were not aware of the free OHS training offered by WorkplaceNL or other groups. Online training should be used to minimize the disruptions in daily business.



Program Targeted to Small Employers

The majority of small employers who provided feedback indicated that the PRIME program, in its current form, is not effective for them. The low rebate is not sufficient incentive for them to actively participate. Although employers indicated they do focus on safety, they suggested

that a “full audit” would not be effective because the potential administrative burden would limit the usefulness of the program.

Some small employers suggested that the Practice incentive for their category should be increased. For many, the five per cent rebate is not sufficient to encourage the development of an OHS system. They felt alternative mechanisms should be considered.

Participants also indicated that the Experience range is not effective for small employers as most have limited ability to accommodate an injured worker with significant functional limitations. The narrow Experience range calculated for small employers is often exceeded by claim costs from only one injury. This can have serious consequences: an employer may be excluded from a contract-bidding process if they are in a “charge” position.

The Audit Process and Criteria

In general, discussions on the audit process for PRIME focused on the “all or nothing” approach. Participants perceived WorkplaceNL as inflexible in how it conducts audits, resulting in employers losing money unfairly. Missing one inspection or committee meeting for a company with multiple sites, for example, would result in the complete loss of the incentives.

The term “audit” has a negative connotation and does not encourage employers to proactively seek intervention or assistance from WorkplaceNL. The threat of an audit creates concerns over how intrusive the process might be and some employers indicated that they are reluctant to participate for this reason.

Many employers participating in PRIME indicated that a “full” PRIME audit each year is not helpful and detracts from their business. Instead, they suggest that WorkplaceNL consider an in-depth audit of a portion of the OHS program or repeat audits only when deficiencies are noted. WorkplaceNL conducting the same paper audit process year after year was not seen as effective.

Further, a PRIME audit is regarded as a duplication of effort where other safety standards exist. One employer indicated that they have 18 other safety-related audits and the PRIME audit does not create any additional value. Similarly, some employers indicated that they were audited when they had COR™ certification. One employer representative suggested that the responsibility for the audit process should be transferred to the OHS Division of ServiceNL.

Some employers indicated that the audit process can be helpful initially in identifying deficiencies that can be corrected; audits that are not timely are less effective. It was suggested that audits undertaken within the PRIME year would allow employers to make changes in time to allow them to maintain their refund.

Some employers indicated that, for small employers in particular, the Annual Employer Statements are usually completed by an accountant or an employer representative who may have knowledge of payroll but not of health and safety practices. It was felt that a significant group of employers likely achieve or could easily achieve the Practice criteria but do not qualify as this section of the document is left incomplete. An alternative approach should be explored for PRIME qualification.

The maintenance of OHS committees was a concern for many employers. Getting interested people on the committees can be difficult and, too often, committee members leave for other positions after they have been trained. Employers then have to incur the cost of retraining and face the issue that an OHS meeting cannot be held without a quorum. Often employers fail to receive rebates for this reason. It was suggested that WorkplaceNL should be flexible and not fail an employer for missing one or two required committee meetings.

The online recertification for OHS Committees introduced in 2018 was seen as a positive program that would help minimize operational costs.

PRIME Compliance as an OHS Standard

Some employers indicated that WorkplaceNL should enhance its PRIME compliance model so employers can use it as a marketing tool.

Some suggested public notification by making compliance status available through online search, or by issuing a certification document similar to the Letter of Good Standing (e.g., Safe Employer Certified).

Remove Link Between the Practice and Experience Incentives

The requirement that employers achieve their Practice criteria before becoming eligible for an Experience refund worsens the “all or nothing” perception of PRIME, according to some participants. They suggested that the effectiveness of the overall program would be improved by eliminating this link.

Certificate of Recognition (COR™)

The COR™ program administered by the Newfoundland and Labrador Construction Safety Association (NLCSA) was viewed as a positive program by some employers. It is considered effective in helping employers maintain their safety programs. Many employers that achieved COR™ suggested they should receive a higher rebate given their investment of time, money and resources.

Employers that did not participate in COR™ stated that the cost and human resource investments required to obtain the certificate were not worth the return. The majority that do participate in COR™ indicated that they do so in order to bid on certain contracts (e.g., provincial government) and if they do not anticipate bidding, then they withdraw from the program.

The audit and documentation process was seen as burdensome. Some suggested a less onerous program should be developed for small employers.

Many employers and associations representing employers were not aware that employers in construction classifications must be COR™ certified in order to participate in PRIME.

Linking the Practice and Experience components to COR™ certification was seen to unfairly penalize construction employers. Even if an employer meets the Practice criteria they are ineligible for refunds if they have not achieved COR™ certification.

Use of OHS Division Decision/Orders for PRIME Decision-Making

Most stakeholders commented that using enforcement orders or directives as part of PRIME may create more complexity and a heightened administrative burden. OHS directives or orders are not convictions and employers indicated that many deficiencies cited in the directives are addressed in a timely manner. The use of directives or orders by PRIME was viewed as punitive and counter-productive to helping employers maintain good OHS systems.

Disability Management and Return to Work

Some participants suggested that the structure of the ESRTW program does not support best practices in disability management.

Some also indicated they did not have enough information about the ESRTW program, or that the information received was not timely. Identifying and providing modified or alternate work can be difficult and costly for some small worksites/employers and flexibility is required.

Some employers indicated that they were concerned with their ability to control or influence health care costs. Participants suggested that WorkplaceNL should have more accountability for claims management.

Written Submissions Received

A total of 10 written submissions were received from the following employers or groups:

- Astaldi
- Canadian Federation of Independent Business
- Canadian Home Builders' Association – Newfoundland and Labrador
- Forestry Safety Association of Newfoundland and Labrador
- Hospitality Newfoundland and Labrador
- Municipal Safety Council of Newfoundland and Labrador
- Newfoundland and Labrador Employers' Council
- Newfoundland and Labrador Federation of Labour
- Newfoundland and Labrador Construction Safety Association
- Proactive Consulting

Approximately 75 recommendations were made by these groups or employers. Many of the recommendations overlapped, and some common themes emerged. The administration, scope and coverage of PRIME were common concerns, as was the benefit of the incentives as compared to the cost of OHS programs. Recommendations ranged from ending PRIME completely, to continuing it with administrative changes. In general, many of the recommendations and comments in the written submissions were consistent with the feedback received through the focus group sessions. There were, however, more specific directions on a path forward for PRIME.

The following outlines some of the recommendations received through the written submissions.

Different or Higher Practice Rebates

A more responsive Practice component was recommended. Suggestions included incorporating a tiered system in which inherent risks and investment in OHS are recognized. Certifications such as International Organization for Standardization (ISO) or COR™ could possibly help employers receive a higher rebate. Suggestions were also made to introduce minimum rebates for small employers or to provide credit for OHS-related training to help offset its cost. An annual rebate that would draw down on the current injury fund surplus was also suggested.

Practice and Experience

De-linking the Practice and Experience components was recommended. Experience was seen as important to disability management and to insurance principles whereby users pay the cost. Employers failing the Practice incentive lose access to Experience rebates. One submission recommended ending the Experience component altogether.

The link between Practice uptake and lower injury rates was questioned. Some indicated that WorkplaceNL did not provide clear proof of the link between improved safety and the PRIME program. They also questioned whether the Practice component was even necessary, given the evolution of safety systems in the province. In this regard, it was suggested that more research into PRIME, as well as into the use of voluntary systems in other jurisdictions, is required. A more risk-based program was suggested.

Occupational Health and Safety Programs

As emerged in the focus group sessions, the written submissions outlined concerns over using orders and directives as part of the qualification process for PRIME.

This approach was seen as punitive. Others had a contrary view, however, and suggested that orders and directives should be included.

The current Practice criteria related to OHS was questioned. It was suggested that all employers, small or large, should be

required to develop OHS systems and to follow OHS legislation. More in-depth OHS audits could be conducted in which the implementation of safe work practices was reviewed.

It was also recommended that current requirements for the number of workers for OHS committees be reviewed and possibly increased to federal levels. As well, the effectiveness of the committee structure and its impacts on reducing injuries should be reviewed. It was pointed out that leadership is required for effective OHS systems and senior level executives in companies should be trained in OHS.

Construction Industry

Some representatives from the construction sector suggested that the policy of linking PRIME participation to COR™ should end. Another suggestion was that COR™ should be an acceptable standard for PRIME and if a company is COR™ certified it would automatically qualify for PRIME no matter the industry.

Administration and Audit

The administration of PRIME was a common concern. The program needs to be more flexible, it was suggested, and should allow employers to pass Practice even if some components are missed. The current audit process was seen solely as a paper exercise rife with red tape that should be streamlined.

Online self-audit processes were suggested as a means to improve program uptake.



The process of WorkplaceNL completing audits post-year results in employers failing PRIME, whereas in-season audits would actually assist employers in establishing better systems and receiving refunds. As in the focus group sessions, the rigidity of the PRIME system and the “all or nothing” approach was noted as a concern.



Outreach

The level of communication related to PRIME was considered inadequate. Many employers indicated they were not aware of the program and others felt they did not have the information needed to implement OHS programs.

Employers indicated that positive outreach must be conducted to communicate the benefits of adhering to OHS legislative requirements.

Small versus Large Employers

Concerns about the low uptake of PRIME by small employers was raised consistently. It was recommended that the Practice component be eliminated for small employers. Other recommendations included creating programming that would help small employers develop OHS programs and provide credits for training or higher rebates.



Fishing Harvesting Industry

The majority of the fish harvesting industry is currently excluded from PRIME. With the structural changes that have occurred in this sector, and the consistently high injury rates, it was recommended that vessels over 45 feet participate in PRIME and be subject to the insurance principles.

The Need for Further Research

Further research was suggested in a number of areas including: claim suppression, OHS

committee structure and the effectiveness of PRIME components. A thorough analysis of incentive programs in other jurisdictions was also recommended.

Claim Suppression

The lack of research into claim suppression (the intentional avoidance of reporting a work injury with WorkplaceNL) was raised as a concern.

Jurisdictional Review

Different rate-setting models are used across Canada, but all have a payroll-based assessment process at their core. The basis for all workers' compensation board (WCB) rate-setting in Canada involves setting an assessment rate by industry and then calculating a firm's assessment by multiplying the assessment rate by the firm's assessable payroll.

A firm's total assessable payroll may also be impacted by the maximum assessable/insurable earnings which currently range from \$53,400 in Prince Edward Island to \$127,000 in Manitoba.

With the exception of the Yukon, all provinces and territories employ an experience rating model in which a firm's claims history has an impact on its assessment. The approach and application of claim experience differs.

Summary of Practice and Experience Rating in Canada

Province/Territory	Health and Safety Incentive	Experience Rating
Nova Scotia	Yes	Yes
Prince Edward Island	No	Yes
New Brunswick	No	Yes
Quebec	No	Yes
Ontario	Yes	Yes
Manitoba	Yes	Yes
Saskatchewan	No	Yes
Alberta	Yes	Yes
British Columbia	No	Yes
Northwest Territories and Nunavut	Yes	Yes
Yukon	No	No

For example, some provinces, such as New Brunswick and Quebec, do not apply an experience rating to the smallest firms.

While the majority of these experience models use a firm's claim costs in a specified period to determine the assessment rate, in Saskatchewan, firms with less than \$21,000 in assessments have their experience refund or penalty calculated using the frequency (number) of injuries.

As indicated in the summary table, Nova Scotia, Manitoba, Alberta and Ontario have health and safety incentive programs (similar to Newfoundland and Labrador) in which an employer receives a rebate for meeting specific safety practices.

These programs are not linked to the experience rating process in that employers do not have to meet a “practice incentive” to receive experience refunds (as they would with PRIME). In the Northwest Territories and Nunavut, no additional refund is offered for implementing safety practices, however; only employers that meet outlined goals are eligible for experience refunds.

Nova Scotia



Nova Scotia has two safety incentive programs: 1) Practice Incentive Rebate for Construction and Trucking; and, 2) Conditional Surcharge Refund Program. The Practice Incentive Rebate applies to construction and trucking firms that meet the criteria established by the WCB and receive or maintain certification for effective health and safety management systems (e.g., COR™). These employers must be in good standing and not have had a compensable fatal injury during that year. To be eligible for further rebates, they must show a minimum 25 per cent improvement over the next three years. Employers with assessment premiums of more than \$10,000 and meet the criteria can earn a five per cent rebate on assessments. Employers with less than \$5000 in premiums can earn 10 per cent;

eligible employers with premiums between \$5001 and \$9999 earn a \$500 rebate.

The Conditional Surcharge Refund Program provides employers an opportunity to be refunded the surcharges they paid when they invested in safety. To qualify, employers must be in good standing, have no compensable fatal claims, have paid an experience surcharge in the previous calendar year and have made investments in safety in the previous year. Safety investments must fall within the following categories: safety training for managers/supervisors or employees; third-party safety audits; health and safety programming (e.g., prevention programs); new equipment purchases or upgrades to existing equipment to prevent injuries; or hiring of contract dedicated OHS personnel. Employers must show a minimum of 25 per cent improvement in cost experience three years following the refund or they will not be eligible for further refunds.

Alberta



Alberta's Partnerships in Injury Reduction (PIR) is a voluntary program designed to help employers lower their premiums by encouraging injury prevention and the development of effective workplace health, safety and return-to-work plans. All employers can participate in the program and be eligible for refunds of up to 20 per cent.

To determine an employer's refund, three different performance measures can be used. Employers use the measure that helps them achieve the greatest refund.

In summary:

1. Achieving a certificate of recognition (COR™): A COR™ is awarded to employers that have developed a health and safety program that meets standards established by the Ministry of Labour and an accredited certifying partner. To achieve a COR™, an employer must get at least 50 per cent on each element of an audit and have an overall score of 80 per cent. After earning a COR™, an employer is eligible for an initial 10 per cent industry rate refund for the first year and then five per cent every year they maintain the COR™.
2. Improving performance: An employer's performance is compared to their own historical record. An employer can earn industry rate refunds if they improve their claim cost performance. Employers receive a one per cent refund for every one per cent that they improve their performance, up to a maximum of 20 per cent.
3. Maintaining industry leadership: An employer's performance is compared to their industry average. Employers can earn 10 to 20 per cent refunds if they perform significantly better than their industry average over two consecutive years.

Manitoba



In 2017 Safe Work Manitoba introduced a new safety incentive program. Employers certified under the SAFE Work Certified Program are entitled a rebate of 15 per cent of their premium or \$3000 (to a maximum of 75 per cent of their assessment premium).

Data systems have been developed to monitor safety performance in real-time.

To date, approximately 1,300 employers certified as COR™ have been grandfathered under the program. An additional 200 firms have been certified under other bodies and other employers are currently under certification review. Part of Safe Work Manitoba's program is to establish safety associations and these associations will be responsible for certifying employers. The associations are primarily funded by a levy and funding amounts are targeted to support a staff base of around 10 people. SAFE Work Certification is managed primarily through Safe Work Manitoba and certifying safety associations. The safety associations are similar to the safety sector councils funded by WorkplaceNL.

Certain conditions exclude an employer from receiving a rebate. The employer will not be eligible for the prevention rebate if the employer has received an administrative penalty or conviction under the Workplace Safety and Health Act and its regulations; if the employer has received an administrative penalty or conviction under various sections of their Act; or if a representative of the employer has received a conviction under section 217.1 (the "Westray Provision") of the Criminal Code of Canada.

Ontario



In 2010, the Government of Ontario commissioned a study into the OHS framework within Ontario. "The Dean Report" contains 46 recommendations currently in various stages of implementation.

Health and safety incentives were recommended as part of the report. Based on the report, Ontario has implemented new health and safety programs. As in Manitoba, the programs are in the early stages of implementation.

Ontario has established a Small Business Health and Safety Program. Participation in the program can earn an employer a one-time five per cent rebate on the prior year’s premium. To qualify, employers must: attend three four-hour in-class training sessions; complete a self-evaluation and a health and safety action plan; and develop an inspection procedure and a return-to-work procedure. Once an employer has completed the training they can schedule a visit to their workplace by a health and safety consultant.

The Safety Group Program is also offered. Through this program, employers can sign up through one of 24 approved sponsors and potentially receive a rebate of up to six per cent. For 2016, rebates for each group ranged from 0.3 per cent to 5.8 percent. The sponsors organize meetings and workshops and guide the employer in developing a health and safety action plan. At the beginning of the year, employers select five health and safety elements (e.g., hazard recognition and assessment) to target, and set goals for each of the elements in an action plan. If an employer reaches the goals and improves the health and safety performance at their workplace by the end of the year, they earn a rebate. The rebates received through the Safety Group Program are over and above any rebates or surcharges earned through Experience rating.

What We Know

In addition to feedback from stakeholders, WorkplaceNL conducted an in-depth review of PRIME. WorkplaceNL’s actuary was contracted to undertake a statistical analysis of the program. In general, the results of the actuarial analysis were inconclusive at the aggregate employer level.

One of the challenges in reviewing data at the firm level is that many firms do not provide WorkplaceNL with employment information, or if they do, the information provided does not correspond to submitted payroll information. Data quality has limited the level of analysis that can be undertaken. This is a gap that WorkplaceNL will address.

Number of Firms Passing Practice Component Versus Injury Rate



Since 2008, the participation rate in PRIME has been steadily increasing, although the increase in the number of firms “passing” has been slow and gradual—about 300 additional firms have passed annually since 2008, or about 3,000 firms total.

Over that same time period, the injury rate has declined from 1.9 to 1.5 lost time incidents per 100 workers. Based on the data collected and reviewed during the PRIME review process it was not possible to conclude that the decrease in the incident rate is solely attributable to PRIME.

A high statistical correlation exists between the reduction in injury rates and the introduction of the program. Comparing PRIME employers to non-PRIME employers indicates that both groups have seen reduced injury rates. PRIME participation varies by industry and a direct relationship cannot be drawn between industry participation and injury rates.

In the absence of a detailed longitudinal study at the individual firm level, it cannot be concluded that PRIME was the primary factor in injury rate reduction in any specific firm. A robust evaluation framework for the program was not implemented in 2005 to monitor its progress and impact over time. Employers participating in PRIME have anecdotally indicated that it has had a positive impact and that it helps keep some employers focused on OHS.

Since 2008 several other initiatives have had a positive impact on health and safety in the province, including changes in legislation, certification training, and a focus on high-risk work environments and tasks.

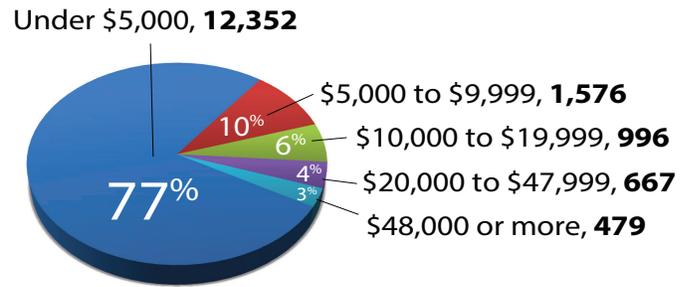
A total of 75.3 per cent more firms passed the PRIME Practice component in 2017 than did in 2008. In addition, the number of Practice-eligible employers grew 12.6 per cent.



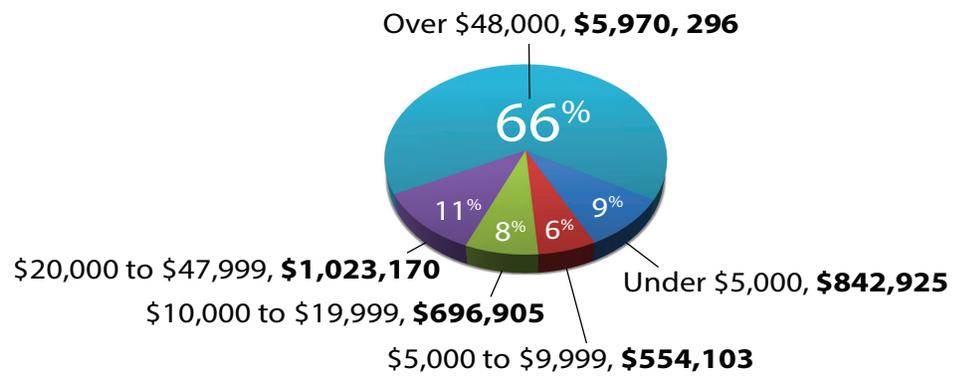
PRIME Participation

In 2008, a total of 14,149 firms were eligible to be considered for a PRIME Practice refund, of which 25.5 per cent passed, accounting for \$3.3 million refunded to employers in the province. With regard to the Experience component, 91.3 per cent of 14,149 firms were eligible to be considered for a refund. Of that 91.3 per cent which equates to 12,920 firms, 23.6 per cent (3,050 firms) received refunds totalling almost \$5.0 million, 68.1 per cent (8,795 firms) forfeited a total of over \$3.6 million in experience refunds, and 4.9 per cent (632 firms) of the Experience-eligible firms received charges for a total of almost \$4.8 million. The remaining employers fell within their Experience range.

Number of Firms by Payroll Assessment - 2016

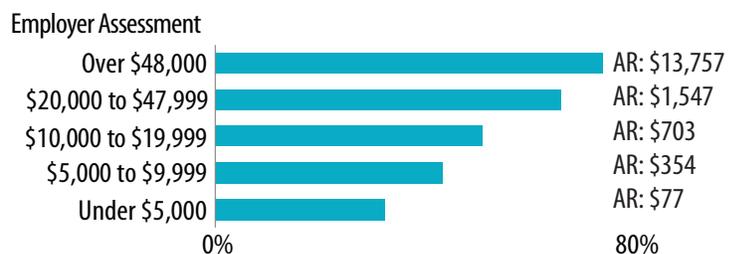


Practice Refunds Available Payroll Assessment - 2016



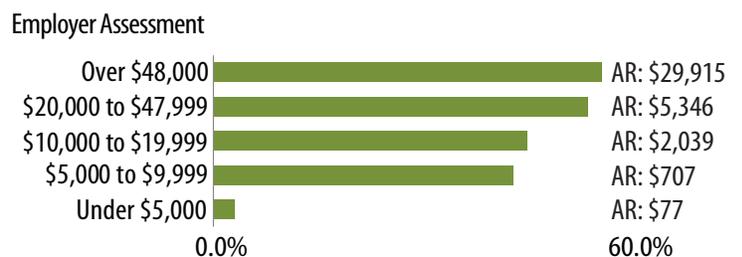
In 2017, 15,929 firms were eligible to be considered for a PRIME Practice refund. Of these, 39.7 per cent passed, accounting for a total of \$6.6 million in refunds. Regarding the Experience component, 91.5 per cent of the 15,929 were eligible for consideration. Of that 91.5 per cent which equates to 14,587 firms, 38.1 per cent (5,557 firms) received refunds over \$10.3 million, 55.6 per cent (8,112 firms) forfeited a total of over \$3.2 million in experience refunds and 4.3 per cent (627 firms) received charges totalling \$4.2 million. As in 2008, the remaining employers eligible for the Experience component of PRIME fell within their Experience range.

Per cent of Eligible Employers Receiving Practice Refunds vs. Assessments Paid and Average Practice Refund, 2016



Note: AR: Average Practice Refund.

Per cent of Eligible Employers Receiving Experience Refunds vs. Assessments Paid and Average Experience Refund, 2016



Note: AR: Average Experience Refund.

Small versus Large Employers

The firms eligible for PRIME fit into two assessment categories: 1) employers that pay \$48,000 or more in average base assessments in a three-year period are considered large; and, 2) small employers that pay less than \$48,000 in average base assessments.

Although large employers only account for about three per cent of all Practice-eligible firms, not surprisingly, these firms dominate participation. This reflects the substantial refund amounts that this group can avail of under the PRIME rebate program, and is likely a function of program awareness and the resources they dedicate to OHS and return-to-work management. This group also receives the majority of charges (in terms of value) under the Experience component of PRIME.

As originally noted in the consultation document, the average Practice and Experience refunds are considerably greater for large firms than for small firms. This equates to larger incentives and a better return on investment in OHS. In other words, the refund amounts are more likely to offset the costs of OHS program support and administration.

Since 2008, participation in PRIME by large employers has increased. Refunds have increased and charges applied have decreased. This has occurred while assessment rates have been decreasing and the employers' Experience range has been narrowing. This suggests that employers have been effective in claims management as well as in injury prevention.

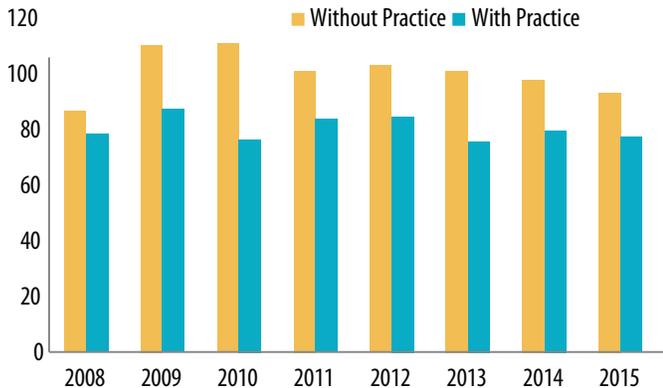
In 2008, 2.5 per cent of all Practice eligible firms were large employers. Of these, 67.6 per cent passed the Practice component and accounted for just over \$2.3 million in refunds. Of the large firms that were Experience eligible, 43.7 per cent had an Experience refund applied, equating to approximately \$3.1 million in refunds, 17.2 per cent (60 firms) forfeited almost \$980 thousand in refunds and 12.9 per cent (45 firms) were within their Experience range receiving neither a refund nor a charge. In 2008, 26.2 per cent of large employers incurred charges totalling about \$3.5 million.

In 2017, almost three per cent of all Practice eligible firms were large; of these almost 78 per cent passed the Practice component and accounted for just over \$5 million in refunds. Of the large firms that were Experience eligible, 53.7 per cent (244 firms) had an experience refund applied, equating to almost \$7 million, 14.1 per cent (64 firms) forfeited just over \$1 million in refunds and 22.5 per cent of large firms incurred charges totalling over \$2.8 million. A total of 9.7 per cent (44 firms) of the Experience eligible firms received neither a refund nor a charge.

Following a similar trend, small employers have increased participation in the program since 2008. The relative changes, however, have been slower than for large employers.

In 2008, 97.5 per cent of all Practice-eligible firms were small. Of these, almost 24.4 per cent passed the Practice component of PRIME accounting for \$950,000 in refunds.

Average Days on Claim for Small Employers



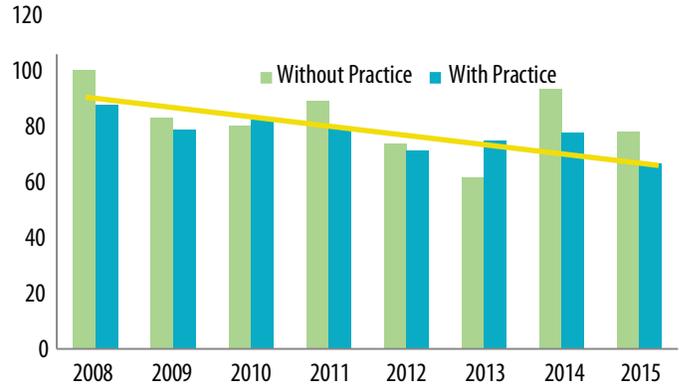
Source: WorkplaceNL; Morneau Shepell

Of the small firms that were PRIME Experience eligible, 23.0 per cent had a refund applied, equating to almost \$1.9 million. At the same time 4.3 per cent of small employers incurred charges, totalling almost \$1.3 million. Finally, 3.1 per cent (398 firms) of small employers incurred neither a refund nor a charge.

In 2017, approximately 97 per cent of all Practice-eligible firms were small. Of these, almost 38.6 per cent passed that component of PRIME accounting for just over \$1.64 million in refunds. Of the small firms that were PRIME Experience eligible, 37.6 per cent (5,313 firms) had a refund applied, equating to almost \$3.36 million, 56.9 per cent (8,048 firms) forfeited a total of over \$2.2 million in refunds and 3.7 per cent (525 firms) of small firms incurred charges totalling over \$1.39 million. At the same time 1.8 per cent (247 firms) of small employers incurred neither a refund nor a charge.

A review of Experience performance for large and small firms was undertaken for those with or without PRIME Practice.

Average Days on Claim for Large Employers



Source: WorkplaceNL; Morneau Shepell

Small firms with PRIME Practice tended to have fewer days lost than firms that were not availing of PRIME. Small employers that qualify for the PRIME Practice component have, on average, approximately 20 per cent lower lost-time claim durations than small employers that don't qualify.

As well, small employers that qualify for PRIME Practice have, on average, approximately 19 per cent lower per claim severity for short-term disability costs than small employers that do not qualify.

For large firms, the trend was not as pronounced and data is less conclusive.

Large employers that qualify for the PRIME Practice component have, on average, approximately four per cent lower lost time claim duration than large employers that do not qualify. Overall the trend is downward for both groups. In relation to severity, the difference between firms achieving or not achieving PRIME Practice is only four per cent with large PRIME firms having slightly less severe injuries.

2018 PRIME Refund

You must complete all parts to be considered for your PRIME refund.

117 Total permanent workplaces in Newfoundland & Labrador:

118 Select Employer Category* - based on workplace with largest number of workers:

- Construction (any number of workers)**
COR required, refer to instruction booklet Skip 119-123
- NCCR (less than two workers)**
Complete 119 & 120 only
- Small (less than 10 workers)**
Complete 119 to 121 only
- Medium (10 or more workers)**
Complete 119 to 122 only
- Large (more than \$48,000 in assessments)**
Complete 119 to 123

* Other conditions may apply. Please consult the instruction booklet to confirm employer category.

In 2018 did you have:

- 119 Policy statement(s) in Occupational Health and Safety and Return to Work
 Yes No
- 120 An injury reporting system?
 Yes No
- 121 A trained health and safety committee(s) and/or representative(s)/designate(s)?
 Yes No
- 122 The foundation of an occupational health and safety program?
 Yes No
- 123 The foundation of a return-to-work program?
 Yes No

In 2017, 39 per cent of employers did not participate in PRIME by either leaving the fields blank or indicating "No" to the required criteria. These are labelled as administrative reasons for not being eligible. WorkplaceNL does not distinguish between selecting "No" for the criteria and leaving the field blank. Either way the result is the same: the employer does not receive any potential PRIME rebates.

Some firms, especially those filing paper forms, answer "No" or leave the criteria fields blank. Some of those leaving the blank fields are accountants or third parties who complete the forms on behalf of their clients. About half of statements filed through the accountant and bookkeeper online connect service answered "No" to one or more of the questions in this section.

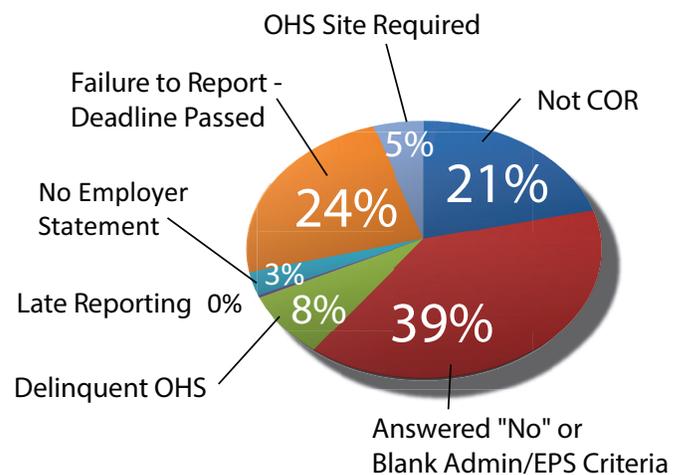
The number of firms that do not participate in the program for administrative reasons is a concern for WorkplaceNL. A recent survey by the Canadian Federation of Independent Business (CFIB) indicates that 15 per cent of their employers surveyed were not aware of the program

Reasons for Employers Failing PRIME

The relatively large number of employers not passing or not participating in PRIME is a concern. With a small level of effort, firms can indicate the status of the PRIME-related criteria on their Annual Employer Statements.

Many firms do not report and therefore forego potential rebates. The questions are clear and, as noted, are based on an internal responsibility model. Few firms are actually audited relative to the total number of PRIME eligible firms.

Reasons Employers Failed PRIME 2017



and another eight per cent chose not to participate. In a WorkplaceNL survey of employers that do not participate in PRIME, the top two reasons given for not participating was that they were not aware of the program or that the refunds were too low to make it worthwhile.

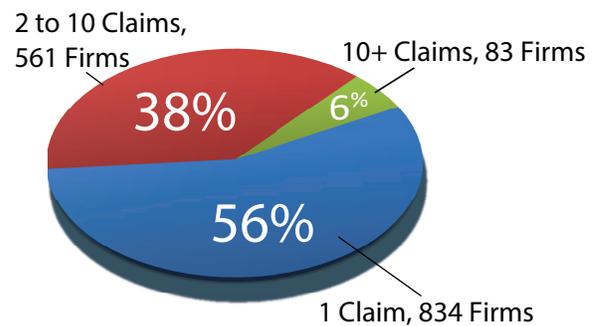
Many firms report late or do not file their forms and therefore fail PRIME (24 per cent). When this occurs, WorkplaceNL estimates their annual payroll and the required premiums (assessments) and invoices them accordingly. These firms often receive late filing penalties as well as losing potential PRIME rebates. Some employers appear willing to accept this financial loss even though it is counterintuitive to normal business operations.

Approximately 21 per cent of employers failed PRIME because they were not COR™ certified. When PRIME was introduced in 2005, the industry indicated that they would prefer that the NLCSA offer the COR™ program to all construction employers, and any employers not part of COR™ would not be eligible for PRIME.

Approximately eight per cent of employers failed PRIME due to delinquent OHS committees and another five per cent failed due to not reporting a worksite.

As noted in one written submission, "Failure to comply with the OHS criteria of the PRIME program effectively means businesses are breaking the law."

Number of Employers by Claim Count, 2017



Few individuals or employers in our society want to break the law. The large number of firms with gaps in OHS suggests a lack of understanding of what is required. It is unlikely that there is deliberate flaunting of OHS law.

High-Risk Employers

The workplace injuries that occur in the province occur primarily among a small number of employers. Indeed, over 92 per cent of employers are injury-free. In 2017, 1,500 of approximately 18,500 firms had injury claims (lost-time and health care only). This is down from 2,000 firms in 2008. In 2017, only 83 employers had 30 or more injury claims and these employers represented 44 per cent of the year's total claims. Another 561 employers had between two and 10 claims. Over half of employers who incurred a claim had only one.

Many employers had infrequent or no injury claims and from 2010 to 2017 approximately 5,100 different employers filed a claim. Approximately 55 per cent of employers (3,597) had one claim in the eight-year period. Of the approximately 1,500 firms with at least one claim in 2017, approximately 55 per cent had claims in four of the last eight years and about 300 firms had a claim in every year since 2010. The firms with the highest claims tend to have repeat claims year over year, pose the highest financial risk, and tend to have the largest gaps in OHS.

The number of times the maximum rule is applied is also an indicator of risk in the system. The maximum rule states that the charges an employer receives from the Experience component will be capped at 20 per cent above the previous year's charge.

In 2017, this rule was applied to almost 600 firms. In the absence of the maximum rule, some firms would have had their charges increase by as much as 8,000 per cent. Indeed, 49 firms were protected from charges that would have increased by over 1,000 per cent. Another 240 firms would have seen their charges increase between 100 and 999 per cent with a simple average increase of over 320 per cent. While this suggests that high-risk firms can have a significant impact on the system, it also illustrates the nature of collective liability, a key principle in workers' compensation.

Firms facing huge annual increases would be adversely impacted. A single serious injury can cost the system millions of dollars.

Through WorkplaceNL's Priority Employer Program, free OHS advisory services are offered to employers with the highest number of claims. WorkplaceNL works with these employers to identify gaps in their OHS programs and assist in addressing any issues raised. A more concerted effort is required to address high-risk and high-claim employers.

Fishing Industry

The assessment model for the Newfoundland and Labrador fishing industry differs from other industries in the province and jurisdictions across Canada. The majority of fish harvesting premiums are based on the value of catch and are paid by buying and processing companies instead of the owner of the fishing enterprise.



The harvester indirectly pays the assessment because it is a factor in determining of the market price paid to the fishing enterprise for each fish species. As a result, harvesters are not included in the PRIME program and do not directly see the workers' compensation costs of individual claims.

Recognizing the high injury rates and high-risk environment, WorkplaceNL recently approved renewed funding for a Sector Council for fish harvesting.

Forestry Industry

Workers' compensation coverage and the assessment model also differ for some employers in the forestry industry.



Assessments for timber harvesters are based on the volume of cubic metres of timber cut instead of payroll and timber harvesting is included in the PRIME program.

The timber permit holder is required to register with WorkplaceNL while their contractors are not required to register if their operations are incidental to timber harvesting. Examples of operations considered incidental include: road building to harvesting site; trucking and supply of material and equipment to that site; the actual felling or cutting down of the timber; and trucking the timber from the harvesting site to the production site. The individuals employed by contractors are covered by the assessments paid by the permit holder, but the permit holder does not directly manage these individuals.

This assessment model and application of the PRIME program presents challenges for prevention and claims management for commercial permit holders that contract out harvesting and other aspects of work incidental to harvesting.

The commercial permit holder is held financially accountable for the assessment and PRIME incentives but does not manage the individuals doing the work. As with inshore fish harvesting, claim costs are not directly passed to the company with the claims. This also means that these contractors are not in WorkplaceNL's or the OHS Division's systems for health and safety or claims management activities.



There has been major restructuring of the sector since PRIME was implemented and the industry continues to respond to national and global forces. Logging injury rates are the third-lowest of any industry but serious injury remains a concern.

Funding has been provided for a Sector Council (Forestry Safety Association of Newfoundland and Labrador) and changes in PRIME may assist in the development of safety systems.

Findings and Recommendations

PRIME helped start and sustain the OHS conversation in its early years. While the program's goals included the promotion of healthy and safe workplaces and sustainable return-to-work practices, it did not evolve with the changing operating environment. This review is timely given the legislative and operational changes that have occurred since the inception of PRIME.

Our review of PRIME was undertaken to determine if the program has met its intended objectives as a broad-based program promoting OHS and ESRTW while still maintaining the principle of collective liability. Injury rates have dropped substantially since the program's inception, but many factors have contributed to this reduction. PRIME is one component—but just one component.

Clear gaps exist in PRIME program delivery, but gaps also exist in how employers have embraced the broader OHS framework as defined by the Occupational Health and Safety Act and its associated regulations.

Some employers understand their legal requirements and the need to establish programs that reduce their legal exposure and reduce injuries. The decline in the injury rate in this province is a testament to a focused and concerted effort by employers and employees—indeed approximately 92 per cent of employers are injury-free. For the most part, this is a result of considerable work by employers and workers.

Summary of Comments and Areas for Improvement

Program Objective	Program Feature	Comments/Improvements Required
1. Promote healthy and safe workplaces	<p>Five per cent rebate provided to establish OHS systems</p> <p>Practice and Experience are linked to encourage OHS development</p>	<ul style="list-style-type: none"> • Injury rate and assessment rates have declined since the introduction of PRIME. • Inconclusive evidence in lower injury rates between employers accessing PRIME and those that do not access the program. A longitudinal study is required. • Program administration needs to be refined. • Audit process needs to be reviewed and modified. • A new risk-based program is required to meet the changing operational environment. • A new program is required that is responsive to the changing OHS environment. • The PRIME criteria are not consistent with either legislative or operational requirements for OHS programs and ESRTW.
2. Promote effective and sustainable return-to-work practices	<p>ESTRW requirement for Practice</p> <p>ESRTW legislation (Workplace Health, Safety and Compensation Act)</p>	<ul style="list-style-type: none"> • There is an opportunity to improve ESRTW, in particular communication and education on roles and responsibilities. • Small firms with PRIME have seen improvement in duration. • Mixed results for large firms. • Need to understand extent of under-reporting of claims.
3. Be inclusive so that as many employers as possible can participate	<p>Program is open to all employers paying greater than \$50 in assessments with the exception the following classifications: Fish Purchases; Volunteer Firefighters/Volunteer Ambulance Service; Government Funded Projects; and Self-insured Employers.</p>	<ul style="list-style-type: none"> • The large number of small- to medium-sized employers not participating in PRIME suggests communication and administrative gaps. • Linking PRIME to the COR™ requirement has not provided the anticipated uptake in COR™ and has limited program access. • The fish harvesting sector is excluded from the program and injury rates have not improved in line with provincial averages. • Forestry subcontractors are not directly represented.
4. Provide a program that is responsive to the individual employer's action while maintaining the principle of collective liability	<p>Maximum rule for annual increases in claim costs.</p> <p>Experience range tied to claim costs.</p>	<ul style="list-style-type: none"> • The program administration is not responsive to employers' actions. • Program features could be enhanced to further address the differences in risk profiles between employers. • The principle of collective liability has been maintained.

Since PRIME was introduced, we have seen a substantial change in the operating environment faced by employers. The supply of goods and services and the successful bidding on contracts is often predicated on a good safety record and the demonstration of commitment to safety. Employers are often asked to provide documentation of their safety programs and their resulting low injury rates. Many companies appear to have incorporated innovative safety programming in response to these requirements.

The industries and employers that continue to have high injury rates and high claim costs have the opportunity to realize the greatest return on investment in OHS, from both a cost and societal perspective. High claims costs drive assessment rates, and high assessment rates negatively impact the financial viability of sectors and can negatively impact employment levels.

We have moved past the era in which injuries occur and are accepted because a business is, by its nature, risky. Workers have the right to return home safely at the end of their work day and this requires the development of strong and innovative safety systems. Obvious gaps exist in certain industries and a focused effort must address these gaps.

A safety culture cannot be legislated. It has so many moving pieces that to attempt to create a prescriptive model will likely only serve to create more red tape and detract from the intended result.

The development of a safety culture, however, can be encouraged, and tools can be provided to assist its implementation.

Announced in 2018, the “Prevention Strategy: Advancing a Strong Safety Culture in Newfoundland and Labrador” contains key prevention initiatives intended to improve safety leadership and improve organizational safety culture. The links between the Prevention Strategy and financial incentives need to be strengthened.

It is clear from the consultations undertaken as part of this phase of the PRIME review that many employers must improve their OHS and ESRTW systems.

PRIME sets a lower standard than OHS legislation, yet a number of employers still do not meet this standard. Some employers appear not to understand how to implement strong OHS systems nor how to meet their legislative requirements.

The PRIME requirements are seen by many as a paper exercise for larger employers or employers with OHS systems. But, given the administrative nature of PRIME, it is not able to be a comprehensive check on OHS systems in place.

PRIME was intended as a financial incentive to encourage the development of the elements of OHS and ESRTW systems. A broad range of expertise and sophistication of OHS systems exists among employers in the province and many employers have developed strong systems that keep injury rates low. At the same time national and international environments have influenced OHS and PRIME is not entirely responsive to this new innovative OHS environment.

WorkplaceNL is proposing a series of recommendations that offer a phased approach to the development of a new program. Interim recommendations are intended to address immediate concerns raised about PRIME as it exists now. In the longer term, a new program will be developed that is more responsive to employer needs as communicated through the substantial input received.

Interim Recommendations

We have made interim recommendations to make changes to PRIME, and to gather additional information to help inform future changes.

Recommendation 1: Maintain Current PRIME Program with Key Operational Changes

Many of our industry partners highlighted the need to change the current program administration. The audit process needs to be responsive and practical, and duplication of effort with outside parties needs to be minimized. Employers with self-audit processes (examples include COR™, International Standards Organization and Canadian Standards Organization) should not be audited by WorkplaceNL. In the interim, PRIME audit processes will be revised as WorkplaceNL develops a new program and, wherever possible, audits should be forward-looking instead of retroactive. Audits will continue for certain high-risk employers and, as in the past, audits will be used to help employers identify OHS gaps.

Revised Criteria for Access to Program	
Criteria	Application to All Employers
OHS Policy Statement	Applicable to all firms (unchanged)
Injury Reporting System	Applicable to all firms (unchanged)
Active OHS Committee/Designate/Rep	Based on firm size as per legislation (unchanged)
OHS Program	Applicable to all firms (expanded scope)
Early and Safe Return to Work	Applicable to all firms (expanded scope)

The current differentiation for OHS and ESRTW criteria is based on employer size as determined by average base assessment amount (large is $\geq \$48,000$). In the interim, this distinction will be removed.

The criteria currently used for PRIME audits are based on specific OHS legislative criteria. All companies, large or small, need to have OHS systems in place and many employers already do. No practical difference based on firm size exists in the application of employer and worker responsibilities to worker safety as outlined in the employer and worker general duties sections of the Occupational Health and Safety Act (Sections 14 and 17).

Post-injury ESRTW is important, whether the employer is large or small. Legislative requirements based on firm size exist, but the reality is that all employers must have an ESRTW program. The broadening of the Practice criteria will be used as an opportunity to educate employers.

Linking Practice and Experience has been criticized for preventing employers from accessing Experience refunds. Large employers that have established OHS programs do not

necessarily see the benefit of the Practice incentive and suggest that Experience is the more relevant program. Keeping the link in the interim, combined with improved communication and other system changes, provides a greater incentive for those employers without OHS systems in place to begin their implementation. This was a premise for the initial establishment of PRIME, and firms participating in focus groups indicate that the incentives help keep them focused on OHS.

Recommendation 2: WorkplaceNL to Improve Program Communication

Considerable feedback has been received about WorkplaceNL's communication around PRIME. WorkplaceNL will improve in-house promotion of PRIME, including its web and social media presence, and will better leverage partnerships with industry stakeholders. Work to redevelop WorkplaceNL's website has already begun and will be part of the enhanced communication strategy. Communications material will be revised with a focus on clear language.

WorkplaceNL is moving towards mandatory use of WorkplaceNL's online employer **connect** services by the end of 2019. Employers that use this system are not able to bypass questions related to PRIME incentives and hence the fields cannot be left blank.

Once the mandatory strategy has been fully implemented, the data will be more complete and reviewed to identify problem areas.

As part of the review of communications, the current program name, PRIME, and associated branding should be reviewed.

Many stakeholders indicated that the title "PRIME" does not tell our stakeholders anything about the program. The purpose of PRIME is to provide a rebate to encourage the establishment of OHS and ESRTW programs. The revised program name should reflect this mandate. Any name change could be an opportunity to recommunicate the program to employers, especially small and medium employers.

Recommendation 3: Seek Options to Improve COR™ and PRIME Participation in the Construction Sector

There has been considerable debate on whether to include employers in the construction industry in PRIME if they are not COR™-certified. The low participation in COR™ is concerning given that COR™ has had a substantial positive impact on safety for construction employers. Improved communications on the program is required.

WorkplaceNL will support the NLCSA in a review of the COR™ program to identify reasons for, and solutions to, low participation. WorkplaceNL recommends that the NLCSA establish a committee of sector stakeholders to review the challenges faced by construction companies in establishing and maintaining health and safety programs.

WorkplaceNL will work with the NLCSA to discuss opportunities to collaborate and explore options to increase program uptake of OHS Management Systems. This may include introducing changes to the requirement to be COR™-certified for construction NICS and exploring other options.

Recommendation 4: Undertake a Detailed Study into High-Injury Employers

WorkplaceNL should undertake a more detailed study of why high-injury employers continue to face challenges in developing OHS and ESRTW programs. This understanding is critical for the possible development of further programming.

Recommendation 5: Improve Early and Safe Return to Work and Claims Management

Some participants expressed the opinion that the structure of the ESRTW program does not support best practices in disability management. Often employers report a lack of functional information from health care providers to support a return-to-work plan; they also perceive that the information they do receive is not timely. Identifying and providing modified or alternate work can be difficult and costly for some small worksites/employers and flexibility is required.

It is necessary to understand the challenges faced by employers regarding ESRTW. Many gaps, or at least perceived gaps, exist in claims administration. Claims management processes should be reviewed and communications material developed to ensure workplace parties understand their roles.

This review should include:

- Determination of required PRIME training for claims management staff
- Analysis of the PRIME data available to claims management staff to assure all required data is accessible
- Consideration of the role subject-matter-experts in claims services should have in the PRIME audit process

In addition, it is important to understand the extent of potential under-reporting of injuries. As such, policies need to be reviewed to ensure appropriate policies

are in place to ensure employers and workers abide by requirements.

Recommendation 6: Conduct an In-depth Review of Incentive Programs in Other Jurisdictions

Many jurisdictions do not provide health and safety incentives. A more detailed review is required to understand their rationale and, for those jurisdictions with programs, the impact of these programs. For organizations that have OHS systems in place, a more in-depth understanding is required of their systems and what is working or not working effectively.

New Program Development

The development of a new program has to be undertaken in partnership with our key stakeholder groups. A PRIME working group will be established. The work of this team will be informed by the additional research that is being proposed. It is anticipated that the implementation of a new program could be up to three years away. The communication of changes and time to allow workplaces to prepare is also a consideration in a new program.

Recommendation 7: Explore the Development of a Tiered Health and Safety Incentive or other Relevant Model

Given the feedback, the new program should be voluntary and include all employers irrespective of size. Eligibility will have to be defined and must consider the risks inherent in industries. A new system should recognize the range of health and safety systems, and the need to develop strong safety cultures to continue to move the injury rate lower. It should be flexible both in implementation and ease of understanding. It should be risk-based and have measurable outcomes for participants.

Risk-based tools to automate scoring and eligibility should be developed. The work begun by the Ontario's Workplace Safety and Insurance Board in developing self-assessment and risk tools will be explored. Any new tools will have to be piloted to determine their effectiveness.

Recommendation 8: Develop a WorkplaceNL Safety Certified Program

Small employers have consistently indicated that a system geared to them must be developed. One option would be to develop an online safety certification program. This would provide much-needed educational materials and offer an increased profile of the employer's adoption of safety programming.

Online modules would guide employers through the process of OHS system development with a focus on advancing a safety culture. This approach is consistent with the stakeholder-developed Prevention Strategy and could use existing technology such as the Certification Training Registry. The program should include executive level leadership modules as well as practical resources to help establish safety systems. In the longer term, an annual maintenance module could be incorporated to ensure the ongoing development of innovative safety systems. Modules will have to be developed in consultation with key stakeholders.

Recommendation 9: Explore Opportunities for Fish Harvesters to Participate in Financial Incentives under PRIME

Extensive consultation with industry is needed to identify options that provide incentives to harvesters to improve health and safety under the PRIME program.

This may include a pilot project or broader industry involvement. Lessons from other jurisdictions or industry sectors will be explored.

Recommendation 10: Include Operations Incidental to Timber Harvesting Forest Contract-Loggers in any New Program

A pilot project to register, assess and collect assessments from companies incidental to timber harvesting but currently excluded from WorkplaceNL's registration and assessment requirements should be developed. This initiative must be developed in partnership with stakeholders. The exclusion from the assessment model and PRIME has been a long-standing issue for some of the larger primary contractors.

Recommendation 11: Review the OHS Committee Program

The OHS committee structure needs to be reviewed to determine if the legislative and operational framework in place is the right one for this modern era. Most jurisdictions across Canada, including federally regulated organizations, require an OHS committee in any organization with 20 or more employees. Leadership engagement is critical for OHS success and this aspect is missing from the current framework. A review of what is being done in other jurisdictions, as well as a review of academic literature, needs to be completed.

Annex A – Description of Assessment Rate Model

Introduction

The model used by WorkplaceNL to establish assessment rates is based on two fundamental principles:

1. It is a collective liability system in which all employers share the costs of those employers that have claims.
2. WorkplaceNL collects enough money each year to provide for the lifetime cost of all claims that occur during the year. This includes making claims payments during the year as well as setting aside enough money to provide for the payment of all future costs on those claims.

Because of these two fundamental principles, it is not surprising that most employers' assessments are different from the total cost of the claims submitted by their employees. Furthermore, payments made during the first year of an average claim represent less than 20 per cent of the total claims cost. Because of this, claims costs in the short term cannot be properly compared to assessments, which are intended to provide for the lifetime costs of claims.

Although individual employers cannot expect to pay assessments that are directly related to the cost of claims submitted by their employees, the model used by WorkplaceNL contains several features that are intended to ensure an appropriate sharing of costs among employers. These are:

1. Classification of employers into industries
2. Combination of industries into industry groups
3. Calculation of assessment rates by industry group
4. Experience incentives for individual employers

Classification of Employers into Industries

WorkplaceNL assigns each employer to an industry classification based upon a description of business activities provided by the employer. The industry classification is recorded as a four-digit Newfoundland Industrial Classification (NIC) code. This code is based on the Statistics Canada Standard Industrial Classification (SIC) code, with modifications to suit the business environment in Newfoundland and Labrador. Usually an employer is assigned to only one NIC code, based on the primary business activity of the employer. However, in some cases, employers may be assigned to multiple codes.

Combination of Industries into Industry Groups

Employers in Newfoundland and Labrador are assigned to one of 585 different NIC codes. The total number of workers that fall under one of these NIC codes can be so small that claims experience tends to fluctuate significantly from year to year. To obtain more stable claims experience and more stable assessment rates, each NIC code is assigned to one of about 70 industry groups.

To assign NIC codes to industry groups, WorkplaceNL balances two main factors:

1. Similarity of business activities:

Two NIC codes with similar business activities will normally be placed in the same industry group unless they have very different claims experience and the claims experience is judged to be reliable.

2. Similarity of claims experience:

A NIC code is usually placed in an industry group that has similar claims experience. In determining this, WorkplaceNL considers the reliability of any observed experience. For NIC codes with a relatively small payroll base, observed experience can be quite unstable and is usually not a reliable indicator of likely future experience. To judge the reliability of claims experience, WorkplaceNL relies primarily on statistical analysis, and reviews of experience trends, including any identified causes of observed trends.

Calculation of Assessment Rates for Industry Groups

Assessment rates for industry groups are related to claims experience measured over a five-year period. Because of this, changes in claims experience are normally recognized gradually in base assessment rates over a five-year period. Furthermore, for smaller industry groups, a credibility factor is applied to changes in experience. This results in a portion of the change in experience being reflected immediately. The remainder of the change is reflected in later years, provided that experience continues at the new level. The credibility factor provides more stable rates for smaller industry groups. It also lengthens the period over which changes in experience will be reflected.

The industry group experience used in establishing assessment rates does not include the most recent year of experience. For example, assessment rates for 2018 included experience for 2012 to 2016, but not 2017. This is because the rates were calculated in 2017, before the end of the year. Recent changes in claims experience are not immediately reflected in the assessment rate.

PRIME Experience Incentives for Individual Employers

WorkplaceNL also provides experience incentives to individual employers through the PRIME program. PRIME automatically adjusts for any perceived unfairness in the base assessment rate for qualifying employers. The purpose of the Experience incentive is to recognize the claims experience of the individual employer and to adjust the amount of assessments paid by the employer to partially reflect that experience. Employers with claims experience that is better than the experience of their industry group may pay lower assessments through a refund. Experience refunds are only available to employers that receive their PRIME Practice refund. On the other hand, employers with claims experience that is worse than the experience of their industry group may be levied a charge and thus pay higher assessments. This improves the fairness of the overall system without exposing employers to unreasonable fluctuations in annual costs.

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