

## Client Services Policy Manual

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| Policy Number: | <b>PR-08</b>  |
| Subject:       | <b>PRIME Practice for Provincially Regulated Construction Employers</b> |
| Chapter:       | <b>PRIME</b>  |

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### Policy Statement

Construction employers are those employers primarily engaged in construction (as defined in Policy RE-19 Construction Industry). Provincially regulated construction employers who are eligible for the practice incentive component under PRIME in accordance with Policy PR-01 PRIME Overview may qualify for a 5 per cent practice refund, based on their compliance with certain health and safety and return to work practices in each year of participation in the PRIME Program.

This policy defines the requirements that have been set by WorkplaceNL for the purpose of qualifying for the practice refund. Meeting these requirements does not mean that a provincially regulated construction employer has met the legislative requirements under the Occupational Health and Safety Act & Regulations.

To qualify for a PRIME practice refund, provincially regulated construction employers must be COR certified; in good standing and meet the requirements for the practice incentive criteria that apply to them based on whether they are considered a large PRIME assessment employer as defined in Policy PR-01 PRIME Overview.

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

| <b>PRIME Criteria</b>               | <b>Which Provincially Regulated Construction Employers?</b> |
|-------------------------------------|---|
| 1. Certificate of Recognition (COR) | ALL construction employers                                  |
| 2. Return to Work Program           | All large PRIME assessment construction employers           |

### Criteria 1. Certificate of Recognition (COR)

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

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

### Criteria 2. Return to Work Program

Large PRIME assessment provincially regulated construction employers as defined in Policy PR-01 PRIME Overview are required to have a return to work program.

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All elements of the Return to Work Program must be developed by provincially regulated construction employers through a joint mechanism for meaningful consultation with their workers designated either by their co-workers or through the union constitution, where applicable. One half of the participants in the joint mechanism for consultation must be representatives of workers; however, more worker participation may be agreed to by the parties. Meaningful consultation is consultation that: (a) provides information to all parties to enable full participation, (b) provides opportunities for input and (c) assesses the input of the parties in the program design, implementation, monitoring, evaluation and revision.

To facilitate education of and communication with workers regarding return to work in the event of a work-related injury or illness, the employer's orientation program for workers must include a discussion of the return to work program elements that are in place as appropriate.

### Requirements for a Return to Work Program

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

- i. **Commitment:** A commitment to injured workers' return to work is demonstrated through a return to work policy. This statement must also include a reference to joint consultation with workers in the development, monitoring, evaluation and revision of the return to work program.
- ii. **Injury Reporting System:** Provincially regulated construction employers, who meet the requirements for COR will be considered as having the element of an injury reporting system.
- iii. **Return to Work Planning:** A return to work protocol supports the requirements of the duty to co-operate in return to work under section 89 of the Act (refer to Policy RE-02 The Goal of Early and Safe Return to Work and the Roles of the Parties) and the duty to accommodate and re-employment obligations outlined in section 89.1 (refer to Policy RE-05 Re-employment Obligation). Having a return to work protocol in place does not mean that an employer has met legislative requirements under section 56 of the Act.

The return to work planning protocol must outline the steps to be followed from the time of the injury to the completion of return to work, and reflect Policy RE-18

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Hierarchy of Return to Work and Accommodation. It must be supported by appropriate forms (i.e., Early and Safe Return to Work Plan Forms or alternate forms acceptable to WorkplaceNL) to ensure injured workers are involved in the development of the return to work plan. It must protect the confidentiality of the information being used (refer to Policy RE-03 Functional Abilities Information for Return to Work). It must also include communication with WorkplaceNL as required by section 89 of the Act.

- iv. Return to Work Program Documentation: Policies and procedures are in place that outlines the roles, responsibilities and accountabilities of the parties involved in the return to work program as defined in the return to work policy statement. These include guidelines for addressing accommodation issues required by legislation for the specific employer, as well as, guidelines for advising WorkplaceNL of disputes between the workplace parties regarding a return to work plan.
- v. Joint Mechanism for Consultation: A mechanism for consultation between management and workers which provides meaningful consultation concerning the return to work program elements and advice regarding complex return to work issues. This mechanism is not intended for the day-to-day development or management of return to work plans for individual injured workers.
- vi. Evaluation and Communication: A return to work program evaluation, communication and revision protocol that is developed and implemented through the joint mechanism for consultation and conducted at least annually, or as required.

WorkplaceNL will determine whether the practice incentive criteria outlined in this policy have been met based on the employer's responses to the practice incentive questions on the annual Employer Payroll Statement and validation using WorkplaceNL's information database. Where the employer confirms that all the applicable requirements are met and, that confirmation is supported by the information available in WorkplaceNL's database or from the NLCSA, the employer is entitled to receive a practice refund calculated in accordance with Policy PR-02 PRIME Calculations. Provincially regulated construction employers, who are entitled to a practice refund, may also qualify for an experience refund.

WorkplaceNL may also determine whether or not these practice incentive criteria have been met through the use of PRIME audits and/or information provided by the NLCSA. Provincially regulated construction employers will be responsible for providing

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documentation and evidence of implementation of the practice incentive criteria through the auditing process (refer to Policy PR-10 PRIME Audits). Therefore, provincially regulated construction employers are advised to ensure documentation is an integral part of their occupational health and safety and return to work practices.

Any adjustments to PRIME refunds or charges resulting from the auditing process will be made in accordance with Policy PR-03 PRIME Adjustments.

### **Merits and Justice**

Where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would cause an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice as outlined by Policy EN-22 Merits and Justice. Such a decision will be considered for that specific case only and will not be precedent setting.

### **Reference:**

Workplace Health, Safety and Compensation Act, Sections 56, 87, 89, 89.1, 89.3 and 96

Occupational Health and Safety Act, Sections 36.1, 36.2, 37, 38, 38.1, 39-44 and 54

Occupational Health and Safety Regulations, Sections 12, 13 and 25

Newfoundland and Labrador Construction Safety

Certificate of Recognition (COR) Requirements

Policies:

EN-22 Merits and Justice, PR-01 PRIME Overview, PR-02 PRIME Calculations, PR-03 PRIME Adjustments, Policy PR-10 PRIME Audits, RE-02 The Goal of Early and Safe Return to Work and the Roles of the Parties, RE-03 Functional Abilities Information for Return to Work, RE-05 Re-employment Obligation, RE-18 Hierarchy of Return to Work and Accommodation, and RE-19 Construction Industry

### **Amendment History**

Original Effective Date 2005 01 01

Revision #1 2005 12 01

Revision #2 2010 02 01

Revision #3 Board approved on 2022 06 30 for effect on 2023 01 01

**Next Review Date** 2023 06 30