

Client Services Policy Manual

Policy Number: **ES-15**
Subject: **Director's Liability**
Chapter: **Employer Services**

Policy Statement

Directors' liability is only applicable to employers who are incorporated. Where the employer is a corporation and defaults in the payment of its assessment, WorkplaceNL may hold the corporation's director(s) personally responsible for the unpaid assessment pursuant to section 141 of the *Workplace Health, Safety and Compensation Act, 2022* (the Act). WorkplaceNL will make every effort to first collect the amount in default from the corporation.

General

Under the Act, a director is only liable for a corporation's unpaid assessment where WorkplaceNL has issued its certificate against the corporation and the sheriff's office has returned the execution unsatisfied in whole or in part. In liquidation, dissolution or bankruptcy, a director can be liable if a corporation has begun liquidation or dissolution proceedings or has made an assignment or receiving order in bankruptcy and the amount of the assessment is unpaid within six months after the commencement of the proceedings.

Once a director becomes liable for a corporation's assessment, WorkplaceNL's statutory lien attaches to personal property of the director. Collection processes against the director will be commenced as soon as possible, but no later than four years after the person ceases being a director of the company. A director who pays a claim in full under this section of the Act can pursue legal action for reimbursement for the share of the claim from any other director who was liable for the claim.

The directors of the corporation are those individuals on record at the Register of Companies at the time of default. Directors who dispute any of the information at the Register must follow the process outlined in the *Corporations Act* to correct those records, or, in the case of a corporation under the *Canada Business Corporations Act RS 1985, Chapter C-44*, the process outlined in that legislation.

Exceptional Circumstances

In cases where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice. Such a decision will

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be considered for that specific case only and will not be precedent setting.

Reference: *Workplace Health, Safety and Compensation Act, 2022, Section 141*
Corporations Act, RSNL 1990, Chapter C-36 as amended
Canada Business Corporations Act RS 1985, Chapter C-44
Bankruptcy and Insolvency Act, RS 1985, Chapter B-3 as amended

Amendment History

Original Effective Date 2005 01 01