



YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD

SUBJECT: ASSESSMENTS

POLICY NO.: AS-20

BOARD APPROVAL: 

APPROVAL DATE: May 9, 2005

REVOKED

BOARD ORDER NO.:

JUL 01 2008

EFFECTIVE DATE: May 9, 2005

POLICY STATEMENT

Policy:

PAYMENT OF ASSESSMENTS

Application

This policy applies to the Workers' Compensation Health and Safety Board ('the board') and to employers that are subject to assessment under Part 7 of the *Workers' Compensation Act, R.S.Y. 2002* ('the 2002 Act'). This policy clarifies when the board will levy penalties, when security deposits and immediate payment of assessments will be required, and the use of provisional assessments.

Section References

Section 65 of the 2002 Act provides that all assessments are due on January 1 in the year for which they are made; however, the board may allow for the payment of assessments by installment.

Under section 73 of the 2002 Act, the board may require an employer to provide security for the payment of assessments that are or might be levied against an employer. An employer must, within fifteen (15) days after being served with notice to do so, provide the security to the board.

Section 74 of the 2002 Act provides that if an assessment is not paid or security is not provided when required by the board, the board may assess a penalty equal to ten percent (10%) of the unpaid assessment or the value of the security required.

Under section 75 of the 2002 Act, if an employer defaults in furnishing security required by the board or in the payment of any amount due to the board, the board may order the employer to cease employing workers until the default is remedied to the satisfaction of the board.

Section 76 of the 2002 Act requires an employer to provide the board each year with a statement estimating the earnings that will be paid to its workers in that year. If the statement is found to be incorrect, the board must reassess the employer and may charge the employer interest, at a rate determined by order of the board, on any assessment that was not paid.

Section 77 of the 2002 Act provides that if an employer does not comply with section 76, or if the statement provided does not reflect the probable amount of the employer's payroll, the board may levy a provisional assessment based on the board's estimation of the probable amount of the employer's payroll, and this is deemed to be the actual payroll of the employer.

Section 78 of the 2002 Act requires that, within (ten) 10 days of starting or re-starting an industry, the employer shall provide the board with a statement estimating the earnings that will be paid to its workers in that year, the nature of the industry, and any further information the board may require.

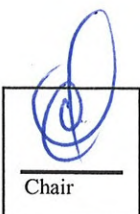
Section 87 of the 2002 Act provides that if an employer fails to pay an assessment the board may, in respect of each disability incurred by a worker in its employ that occurs during the period of default, require the employer to pay an additional assessment of up to one-half (1/2) of the cost of the compensation payable in respect of each claim to a maximum of ten thousand dollars (\$10,000).

Section 66 of the 2002 Act provides that the board has a cause of action for any unpaid assessment, and is entitled to the costs of any action to recover the unpaid assessment.

Section 86 of the 2002 Act provides that the board may issue a certificate stating what monies are owed to it, and direct the payment of that amount by the employer that owes those monies.

Section 82 of the 2002 Act gives employers the right to appeal any decision relating to assessments made by the board.

Objective



The objective of this policy is to clarify the means the board will use, when necessary, to ensure that employers provide the board with timely and accurate payroll information and pay their assessments as required under the Act.

General Information

The payment of assessments is a critical component of the workers' compensation system. This is recognized under the 2002 Act, which provides the board with the following means of ensuring that assessments are paid:

1. Immediate Payment and Security Deposits

The board may require that an employer pay its assessment at the beginning of the year in which the assessment is required, rather than by installments.

The board may also require an employer to provide security for the payment of assessments that may be required from the employer.

2. Provisional Assessments

If an employer does not provide the board with the statement estimating the earnings that will be paid to its workers in that year, or if the statement does not reflect the probable amount of the employer's payroll, the board may require a provisional assessment from the employer based on the board's estimation of the probable amount of the employer's payroll.

3. Penalties and Interest Charges

If an assessment is not made or security is not provided when required by the board, the board has the authority to impose certain penalties and interest charges on the employer that is in default.

4. Enforcement of Security and Assessment Payments

The board can enforce payment of a security or assessment payment by issuing a certificate stating what monies are owed to it, and directing the payment of the amount by the employer that owes the amount.



Policy Statement

A. Immediate Payment and Security Deposits of Required Assessments

General Application

An immediate payment of a required assessment will be required from an employer that:

- (i) is in its first year of Yukon operation; or
- (ii) has a poor credit rating; or
- (iii) cannot provide the board with a letter of good standing from its home jurisdiction; or
- (iv) has a non-compliant payment record over two (2) years.

A security deposit shall be in the form of:

- (i) a promissory note guaranteed by a bank in Canada and payable to the board;
- (ii) a certified cheque drawn on a bank in Canada and payable to the board;
- (iii) a security bond acceptable to the board;
- (iv) an irrevocable letter of credit from a bank in Canada; or
- (v) cash.

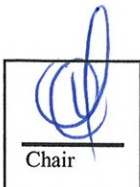
A security deposit is held by the board until the board is satisfied that the employer's financial obligations will continue to be met.

A security deposit may be required from an employer that:

- (i) has not made an immediate payment of assessments when required;
- (ii) has no assets which could be attached for the payment of assessment; or
- (iii) indicates an inability or unwillingness to pay.

In determining whether a security deposit will be levied, the following factors will be considered:

- (i) the employer's actual payroll for the previous year;
- (ii) the duration of the employer's operation;



- (iii) the number of workers employed;
- (iv) the employer's registered main operation is located outside the Yukon;
- (v) for a new employer to the Yukon, provides a letter of good standing from the originating provincial/territorial workers' compensation board.

Amount of Security Deposit

The amount of the security deposit shall be determined by the Manager of Assessments.

Refund of Security Deposits

A security deposit shall not be refunded to an employer until a payroll audit has been completed.

An employer is entitled to the security deposit minus any assessment in arrears which shall be deducted prior to any refund being made.

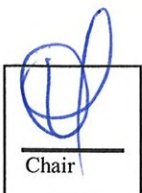
Employers That Cannot be Located

When initial attempts to contact an employer in order to conduct the audit have failed the board will:

- (i) after six months, attempt to locate the employer and, if not successful,
- (ii) again after six months, attempt to locate the employer and, if not successful,
- (iii) issue the refund to the last known address, and
- (iv) if the refund is returned, the board will keep a record of the security deposit on the employer's file for two (2) years, after which the refund will be recognized into income.

B. Provisional Assessment

When an employer has failed to provide a statement estimating the earnings to be paid to its workers during the year or where the statement filed by the employer does not reflect the probable amount of the employer's payroll, the board may require a provisional assessment from the employer based on the board's estimation of the probable amount of the employer's payroll.



In such cases the board's estimation of the probable amount of the employer's payroll will be deemed to be the actual payroll of the employer.

C. Penalties and Interest Charges

Interest Charge for Underestimating Payroll

Employers who have underestimated their payroll and who have not amended their estimated payroll by December 31 in the year of estimate will be subject to interest on any unpaid assessment. The interest due will be based on the entire assessment owing where the actual payroll is more than 150% of the estimated payroll.

The interest rate shall be 2% per annum above the average prime lending rate as established by the Bank of Canada in the preceding year (see Board Order 1993/06). The interest calculation will be from the date the estimated payroll was received to the date the actual payroll was reported.

Should a file be closed, this interest charge also applies to the difference between the estimated and actual payrolls received by the board in the current year.

Non-Payment Penalties

If an employer does not pay its assessment or provide security when it is required to do so by the board, the board may take any or all of the following actions:

- Impose a penalty equal to 10% of the unpaid assessment or the value of the security required.
- Order the employer to cease employing workers until the default is remedied to the board's satisfaction.
- When a worker is injured and the employer has not paid its assessment or provisional assessment, require the employer to pay an additional assessment of up to one-half of the claims costs (to a maximum of \$10,000).

General



The Manager of Assessments may decide not to impose a penalty equal to or less than five hundred (\$500.00). In determining whether a penalty is levied the following factors will be considered:

- (i) Is the penalty cost-effective?
- (ii) Was it a board error?
- (iii) Are there reasonable and justifiable circumstances?

The president may decide not to impose a penalty of more than five hundred (\$500.00), and shall advise the Board of Directors in each case.

All penalties and interest charges imposed by the board are in addition to any security or assessment payment owed by an employer to the board.

D. Enforcement of Assessment and Security Payments

When an employer is in default with regard to a security or assessment payment and the efforts taken by the board to contact the employer to discuss the default have failed to resolve the default, the board may issue a certificate stating what monies are owed to it and directing payment of that amount by the employer. The certificate can be filed with and become an order of the Supreme Court of the Yukon, and can be enforced as such.

Demand Letter

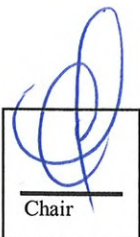
When an employer is in default with regard to a security or assessment payment, and has failed to pay the full amount due within thirty (30) days of the due date, a Demand Letter will be issued to the employer.

Legal Counsel Letter

If an employer that has been sent a Demand Letter does not respond to the Demand Letter within twenty-one (21) days, a letter signed by the board's legal counsel will be sent to the employer by registered mail.

Certificate of Assessment

The board may issue a Certificate of Assessment stating what monies are owed to it, and directing payment of that amount by the employer.



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The certificate can be filed and become an order of the Supreme Court of the Yukon, and can be enforced as such.

A Certificate of Assessment may be filed in the Supreme Court of the Yukon when:

- (i) an employer owes the board more than five hundred dollars (\$500) and fails to pay this amount within the time required by the Legal Counsel Letter; and
- (ii) the Manager of Assessments has determined that filing the Certificate of Assessment in the Supreme Court of the Yukon.

Writ of Seizure and Sale

Once a Certificate of Assessment has been filed with the Supreme Court of the Yukon, the payment of the assessment may be enforced by a Writ of Seizure and Sale. The Writ of Seizure and Sale should be filed with the Supreme Court at the same time as the Certificate of Assessment.

Right of Appeal

An employer has the right to appeal any decision relating to assessments made by the board to an Appeal Panel of the Board of Directors.

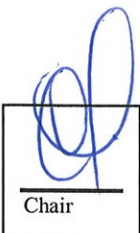
Such an appeal must be made in writing to the board within one hundred and eighty (180) days of the date of the decision.

Reference

Workers' Compensation Act, R.S.Y. 2002, subsection 108 (h) and section 113.

History

1. AS-20, Assessment Penalties, effective January 2, 1993; amended May 9, 2005.
2. AS-21, Security for Payment of Assessments, effective November 10, 1993; revoked May 9, 2005.
3. AS-22, Enforcement of Assessment Payments, effective November 10, 1993; revoked May 9, 2005.



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