

**Operational
Policy**

Section
Employer Accounts

Subject
Insurable Earnings - Logging

Policy

The WSIB applies fixed percentages of the contract value to determine insurable earnings, where a principal in logging:

- hires contractors considered workers by the WSIB, or by the principal, and
- business records, contractors' invoices, or written contracts are inadequate to determine the labour portion of the contract.

This policy should be read in conjunction with 14-02-08, Determining Insurable Earnings.

Purpose

The purpose of this policy is to provide guidelines on determining insurable earnings in logging.

Guidelines

Definitions

Principal - A person awarding or letting a contract to a contractor or sub-contractor.

Contractor and sub-contractor - A person providing contractual services to a principal. Contractors may themselves retain sub-contractors, in which case the contractor becomes the principal in relation to the sub-contractors.

Maximum amount of insurable earnings

The *Workplace Safety and Insurance Act, 1997* (WSIA) provides that an individual worker's insurable earnings for the purpose of premium calculation be limited to an annual maximum amount of insurable earnings.

The annual maximum for insurable earnings set by the WSIB goes into effect January 1st of each year.

Employers pay premiums on gross insurable earnings until the worker reaches the maximum amount of insurable earnings set by the WSIB each year.

Determining the status of contractors

If a contractor performing a logging business activity does not employ workers and is:

- not registered as an employer with the WSIB
 - not considered an independent operator with a WSIB independent operator identification number for the contract in question, and
 - not considered a worker by the principal to whom he or she has contracted,
- then the contractor and the principal are required to complete the logging questionnaire used by the WSIB to determine whether the person is a worker or an independent operator

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for WSIB purposes. For information about determining a person's status as a worker or an independent operator, see 12-02-01, Workers and Independent Operators.

Contractors ruled independent operators can apply for optional insurance from the WSIB. See 12-03-02, Optional Insurance.

Principal responsible to report earnings

Contractors considered workers

When the principal, or the WSIB following a worker status determination, considers a contractor, who works alone, to be a worker, the principal who purchases the contracted service must report and pay premiums on the worker's earnings based on the labour portion of the contract value.

Where the principal has neither reported the contractor's insurable earnings nor paid the premiums based on those earnings, the earnings are subject to retroactive add-back to the principal's account, see 14-02-06, Employer Premium Adjustments.

Retroactive liability for an unregistered contractor under s.141(2)

If a logging contractor who is not registered as an employer with the WSIB for any portion of the period under contract with the principal is found to have employed workers, then the principal is liable to pay premiums retroactively for the insurable labour portion of the contract between the principal and the contractor. These insurable earnings are added to the principal's account under s.141(1),(2), and (4).

The extent of the add-back of earnings to the principal is determined by 14-02-06, Employer Premium Adjustments.

Defining the labour portion of the contract

Adequate records

When business records, contractor's invoices, or written contracts accurately identify the actual labour portion of the contract by identifying the amounts allocated and billed for labour, and for materials, equipment and/or installation supplies, the labour portion is treated as the contractor's gross insurable earnings.

NOTE

1. Adequate records are defined as records where the amounts allocated and paid for labour and building materials and/or installation supplies are verified as accurate upon audit by the WSIB.
2. Deductions do not qualify for:
 - a) personal truck/vehicle expenses, or where the truck/vehicle is not specified by the principal, to be used in the direct performance of the logging job by the contractor

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- b) small installation tools (e.g. hammers, ladders, nailers, power tools, paint brushes or rollers, saws, chainsaws).

Inadequate records

When business records, contractor's invoices, or written contracts are not adequate to accurately verify upon audit the labour portion of the contract, and:

- there is no evidence that the contractor supplies logging equipment (see list below); or
 - there is evidence that the contractor supplies logging equipment, but the contractor's trade is **not** listed in the labour portion of contract table (see end of document),
- then the WSIB considers that the contract value relates 100% to labour and the total contract value becomes the gross insurable earnings.

Logging equipment includes items such as:

- chipper (mobile)
- delimber
- feller buncher
- grapple loader
- skidder, and
- slasher.

Labour portion of contract table

For the purpose of this policy, the labour portion of contract table applies in two situations.

Contractor considered worker

If **all** the following conditions are met:

- there is evidence that logging equipment was supplied
 - there are inadequate business records, contractor's invoices, or written contracts to determine the actual labour portion of the contract, and
 - the WSIB has determined the contractor to be a worker,
- then the labour portion of the contract between the contractor and the principal is determined by Column A of the table.

Unregistered contractor under s.141(2)

The table is also used in cases where the WSIB finds that an unregistered contractor has employed workers. In these cases, if there is evidence that the contractor supplied logging equipment, then the WSIB uses Column B to determine the labour portion of the contract between the contractor and the principal.

If there is no evidence that the contractor supplied logging equipment, then the WSIB uses Column C.

Columns B and C can only be used by the WSIB.

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Insurable Earnings - Logging**Labour portion of contract**

Trade	Column A Labour and material* No help	Column B Labour and help** With material*	Column C Labour and help** No material*
Logging			
Skidding ***	33 1/3%	25%	N/A
Cut & skid	33 1/3%	25%	N/A
Cut, skid & haul	33 1/3%	25%	N/A
Cut & skid with horse	33 1/3%	25%	N/A
Cut and haul	33 1/3%	25%	N/A
Haul, by truck/tractor	33 1/3%	25%	N/A

Notes for the table

1. * "Material" means logging equipment as described earlier in this policy.
2. ** The two "and help" columns (B and C) are used by the WSIB.
3. *** These percentages apply to all skidding operations with contractors regardless of whether the principal is a sole proprietor, a partner or an employer with workers.

Application date

This policy applies to decisions with respect to the calculation of premiums based on earnings earned from January 1, 2021.

Document history

This document replaces 14-02-10 dated January 2, 2013.

This document was previously published as:

14-02-10 dated October 12, 2004

14-02-10 dated July 19, 2004.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended

Sections 2(1), 12(1)(2), 54(1), 78(1), 87(1), 88(1)(3), 88.1, 141(1-6)(9)

Minute

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