

2008

WCB facts

Workers Compensation Board of Manitoba

TRUCKING INDUSTRY COVERAGE FOR CONTRACT LABOUR

Under *The Workers Compensation Act*, the Workers Compensation Board has the responsibility to provide compensation coverage for workers in the trucking industry. Much trucking activity is performed on a contract basis. Accordingly, the WCB has an Independent Contractor Policy which determines responsibility for workers compensation coverage in trucking contract relationships.

What services does the WCB provide?

The WCB provides a no-fault insurance program in which workers cannot sue their employers for loss of income due to workplace injuries. In return, the WCB provides workers with wage loss benefits, benefits for permanent impairment, benefits to dependants in the event of a fatal injury, payment of medical expenses related to the injury and reimbursement for loss of certain personal effects.

The WCB also ensures competing employers have compensation coverage for their workers.

As a carrier, what are my responsibilities for persons or firms working for me on a contract basis?

Your responsibility is to ensure your owner/operators and their workers are covered by workers compensation. If your owner/operators are not registered with the WCB, coverage becomes your responsibility.

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The WCB recognizes three different types of trucking enterprises:

1. **Long Haul Custom Trucking:** The firm contracting with the public is considered to be the employer of all owner/lease/broker operators (both incorporated and unincorporated) and any persons they might employ (i.e., dual drivers, casual help for loading and unloading, etc.)

If the firm contracting with the public hires a person/firm with two or more trucks **and** drivers, then that person/firm can set up their own WCB registration and be responsible for paying their own WCB assessment. However, the firm contracting with the public will be responsible for paying the WCB assessment for any firm/person they hire that do not have a WCB registration.

2. **Other Trucking (local, gravel, hauling, snow removal, etc.):** Trucking of this nature is assessed in the same way as operators of other heavy equipment. That is, construction contractors are considered to be the employers of any truckers engaged unless:
 - a) the trucker is registered with the WCB as an employer (owns and operates two or more trucks or owns one truck and pays workers' earnings in excess of \$18,934 in 2008), or
 - b) the trucker is registered as a labour contractor (contracts with several firms for trucking services and has personal coverage with the WCB).
3. **The Courier Industry:** The persons or firm that contracts with the public is considered by the WCB to be the employer of the person who makes the deliveries or any worker hired by that person.

What are my responsibilities as a carrier?

- You must provide compensation coverage for owner/operators and their workers who do not qualify for their own compensation coverage
- You must also ensure qualifying owner/operators and any workers they employ are registered and in good standing with the WCB.

When should I determine who is properly registered with the WCB and how should I do so?

Before hiring a contractor you should determine if the contractor is registered with the WCB by obtaining a clearance from the WCB Clearance Request System. Otherwise, you may be liable for the assessment for any individuals or firms considered to be your workers. See examples on page 6.

The Clearance Request System operates 24 hours a day, seven days a week. The system can be accessed in three different ways:

1. **Online Directory:** Search a comprehensive list of businesses by firm number, company or trade style name and immediately see their standing with the WCB. Enter as many names as you want and get immediate information on each one. The Online Directory is available on the WCB website at www.wcb.mb.ca.
2. **Interactive Online List:** Using a secure Internet connection, registered users can create customized, interactive lists of firms and sub-contractors. If a company's status changes, the Clearance Request System will automatically flag the company's

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name in your file and email you about the change in status the next business day. To register, call **954-4803** or toll-free **1-866-751-9245**.

3. **Automated Phone and Fax Back Service:** Use your phone to get clearance information on a single company or firm by dialing **954-4988** or toll-free **1-800-362-3340**. Enter the seven digit firm number for the business on which you want clearance information. You'll also be given the option of entering a fax number to receive confirmation.

Please note: Every day there are employers who open a new registration, cancel an old registration or do not pay their assessment. Therefore, you should obtain a clearance before making final payment on any contract. Otherwise, if the sub-contractor is not registered with the WCB or owes the WCB money, you will be liable for the assessment on the labour portion of the contract.

When do I pay assessments for owner/operators?

You must pay assessments for owner/operators if:

- the owner/operator is not registered with the WCB as an employer, or
- the owner/operator is not registered with the WCB as a labour contractor.

The Workers Compensation Act states carriers are not to deduct monies to offset WCB premiums.

Can the carrier still be liable for an assessment even though the employer or labour contractor is registered?

Yes, you may be liable for an assessment if the registered employer or labour contractor you employ has not paid their assessment to the WCB. In order to protect against such a liability, carriers are advised to obtain a clearance from the WCB before making a final payment to owner/operators. This way, the carrier can withhold any assessment that may be due.

If the WCB gives a clearance, you are free to make final payment to the owner/operator. If the carrier fails to obtain a clearance and the owner/operator has an outstanding WCB assessment, the carrier is required to pay the assessment to the WCB, based on the owner/operator's labour portion of the contract.

If a firm is deemed my worker, am I assessed on the entire contract value?

No. The WCB will charge you only on the labour portion of the contract. You will not be assessed for the supply of equipment.

The WCB has a schedule for contract labour which sets out a standard labour percentage of the total contract or piecework price for various industries and types of equipment. The labour percentage reflects an average for the industry or the type of equipment. Where a contract reasonably identifies the labour cost of the contract price, the WCB and/or the employer may use these amounts, and not the contract labour schedule. If an employer disagrees with a labour percentage used, the WCB will consider documentation provided from the (sub)contractor to support a different labour cost.

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Examples:

The following are examples of how earnings for assessment purposes and initial benefit payment are calculated on the basis of this schedule:

- a. A construction firm hires a local trucker to haul gravel. The value of the contract (i.e. by the load, by the ton, mile, etc.) is \$10,000.00:

$$\begin{array}{ccccccccc} \$10,000 & \times & 50\% & = & \$5,000 & \times & \$2.93/100 & = & \$146.50 \\ \text{(contract value)} & & \text{(labour \%)} & & \text{(labour value)} & & \text{(rate)} & & \text{(assessment)} \end{array}$$

- b. A courier firm hires an owner/operator who provides a small car. In a year, the driver earns \$21,000.00, exclusive of the company commission.

$$\begin{array}{ccccccccc} \$21,000 & \times & 65\% & = & \$13,650 & \times & \$1.85/100 & = & \$252.53 \\ \text{(contract value)} & & \text{(labour \%)} & & \text{(labour value)} & & \text{(rate)} & & \text{(assessment)} \end{array}$$

Further Information:

This information is intended to provide a general explanation of the WCB's policy on contract labour trucking. It will not cover all situations. For further information on the Independent Contractor Policy, contact Employer Services Division at **954-4505** or toll-free **1-800-362-3340**, or fax **954-4900** or toll-free fax **1-866-245-0796**.

This publication is provided for general information. For more specific information see *The Workers Compensation Act of Manitoba and Regulations* available through Statutory Publications by calling (204)-945-3101. WCB Policies are available by calling (204)-954-4655. These documents are also on the WCB website at www.wcb.mb.ca.