

# Fines and Penalties FAQ

Injured workers and employers are responsible for fulfilling their obligations under *The Workers Compensation Act* (the Act). When they do not fulfill their obligations, they may be subject to compliance measures including the imposition of fines or administrative penalties.

## What is the difference between a fine and a penalty?

If an employer or injured worker is convicted of an offence under the Act, they may be subject to a sentence which can include a monetary penalty called a fine. The WCB may also impose a monetary administrative penalty following an investigation into allegations that an injured worker or employer failed to comply with certain sections of the Act. One cannot be charged with an offence and be subject to an administrative penalty for the same activity, unless the activity continues after the penalty is paid.

## How much can an employer be fined?

The court can fine an employer as much as \$50,000. For certain offences, the court may also order imprisonment for a term of up to six months.

## How much can a worker be fined?

The court can fine a worker as much as \$5,000. For certain offences, the court may also order imprisonment for a term of up to six months.

## How is it decided whether a fine or a penalty should apply?

The Act specifies some activities that constitute an offence and others that may be subject to administrative penalty. Many activities may be both an offence and subject to administrative penalty. In those cases, the WCB will decide if the matter should be referred to the court system or if an administrative penalty will be imposed. Generally, the more serious conduct is referred to the courts.

## What are some examples of situations where a fine or administrative penalty may be imposed?

The Act prohibits employers from preventing or discouraging workers from making a WCB claim or punishing a worker for making a claim. This conduct may be subject to a fine or an administrative penalty.

The Act requires employers to pay workers for a full day on the day the worker is injured if the WCB accepts the worker's claim. Employers who fail to pay injured workers for the day of the injury may be subject to an administrative penalty.



The Act provides that a worker's failure to advise the WCB of a return to work has committed an offence, and may therefore be subject to a fine or an administrative penalty.

A summary of administrative penalties is attached, including penalty amounts.

## Can an administrative penalty be reconsidered or appealed?

You can ask the WCB to review the imposition of an administrative penalty. The first step is to ask the original decision maker to review their decision to impose a penalty and explain in writing why you disagree with it.

If you still disagree with their decision, you may submit a request for reconsideration to the Review Office. Your request for reconsideration will be decided by a panel of three senior WCB staff members.

The independent Appeal Commission is the final level of appeal for all disputes regarding administrative penalties.

If you have been fined under the Act, you must pursue judicial avenues of appeal if you disagree with the first decision.

## If I have questions about fines and penalties who can I call?

Call WCB's Compliance Services at 204-888-8081, toll free 1-844-888-8081 or email [Compliance@wcb.mb.ca](mailto:Compliance@wcb.mb.ca).

## Workers Compensation Board of Manitoba Summary of Administrative Penalties

Obligation Under <i>The Workers Compensation Act</i>	Penalty per Occurrence for Failure to Meet Obligation
Employers are required to report a workplace injury within five business days of becoming aware of the injury.	\$500
Employers may not discourage a worker from filing an injury claim with the WCB.	\$4,000 first offence in a five-year period. \$5,000 second offence in a five-year period. \$6,000 third and subsequent offences in a five-year period.
Employers may not take or threaten to take discriminatory action against a worker.	\$4,000 first offence in a five-year period. \$5,000 second offence in a five-year period. \$6,000 third and subsequent offences in a five-year period.
If a worker is unable to complete the shift because of a workplace injury and if the claim is accepted by the WCB, the employer must still pay the injured worker for the full day.	\$225
Employers are required to advise the WCB when injured workers return to work following an absence due to a workplace injury.	\$225 or 10% of the overpayment of wage loss benefits to the injured worker, whichever is greater.
Workers are required to advise the WCB when they return to work following an absence due to a workplace injury.	\$225 or 10% of the overpayment of wage loss benefits to the injured worker, whichever is greater.
Employers are required to post a notice in a conspicuous place.	\$500 first offence in a five-year period. \$2,500 second offence in a five-year period. \$5,000 third and subsequent offences in a five-year period.
Employers may not deduct any amount from the wages of their workers to cover the cost of their WCB premiums.	\$225
Employers and workers are obligated to follow the provisions of all WCB regulations.	\$225 if no other amount is specified.

## Obligation Under *The Workers Compensation Act*

Employers are obligated to provide information to the WCB from time to time on workers' payroll estimates, records of wages, nature of work statements, etc.

Employers are obligated to provide accurate payroll information to the WCB for the purpose of assessment and from time to time, the data provided may be audited by the WCB.

Employers are obligated to produce documents or books in response to a notice served on them by the WCB.

If a principal sub-contracts work to another business or individual, it is the principal's obligation to ensure that the sub-contracted business or individual has provided all information required by the WCB and paid all premiums owing to the WCB.

**Note: The WCB's online Clearance System is an easy way to check if sub-contractors have filed the required information and paid premiums to the WCB. To access the Clearance System go to [www.wcb.mb.ca](http://www.wcb.mb.ca) and click on Clearance System under Online Services.**

Employers who have 25 or more full-time or regular part-time workers are required to re-employ injured workers who were in their employ for a least 12 continuous months prior to their injuries.

## Penalty per Occurrence for Failure to Meet Obligation

5% or 10% of their WCB assessment to a maximum of \$5,000 depending on the infraction.

15% of the difference in WCB assessment to a maximum of \$5,000 where the audit determines the employer under-reported their workers' payroll.

\$500 first offence in a five-year period.  
\$2,500 second offence in a five-year period.  
\$5,000 third and subsequent offences in a five-year period.

**\$225**

**First offence:** Greater of \$5,000 or worker's net average earnings with that employer for the three months before the injury.

**Second offence within five years:** Greater of \$10,000 or worker's net average earnings with that employer for the six months before the injury.

**Third and any subsequent offences within five years:** Worker's net average earnings with that employer for the year before the injury. A penalty amount cannot exceed the worker's net average earnings with that employer for the year before the injury.

