

# EMPLOYMENT LAW SUMMARY

## North Carolina: Workers' Compensation – Employer Responsibilities



*Because You're Different*

Workers' compensation is a system of no-fault insurance that provides monetary compensation and medical benefits to employees (or their survivors) for work-related injuries, diseases and deaths. Workers' compensation is governed by state law.

In North Carolina, the Workers' Compensation Act (WCA) imposes specific obligations on employers in the state. The [North Carolina Industrial Commission](#) (NCIC) monitors and enforces employer compliance with the WCA.

### COVERAGE REQUIREMENTS

A North Carolina employer is subject to the WCA if it has **at least three employees** or if its operation involves the **presence of radiation** and it has at least **one** employee.

An employer that meets these criteria must obtain workers' compensation coverage for its employees. This requirement may be satisfied by either:

- Purchasing an insurance policy from a private insurance carrier that is licensed to do business in North Carolina; or
- Obtaining the NCIC's authorization to self-insure (either as an individual employer or as part of a group of employers).

Employers cannot waive or be released from the WCA's coverage obligation. For an employer that satisfies the obligation through an insurance policy, the insurance carrier generally handles the payment of benefits and certain other tasks for the employer.

### COVERAGE NOTIFICATION

Employers subject to the WCA must display a notice, in a conspicuous place at their worksites, stating that they have workers' compensation coverage in compliance with the law and informing their employees of their rights and obligations regarding work-related conditions. Employers must use [Form 17](#) to satisfy this requirement.

If an employer's workers' compensation coverage expires, the employer must remove any coverage notification posting within **five working days** from the time it allows the coverage to lapse.

Employers must also notify the NCIC within **30 days** of the beginning or the termination of a workers' compensation policy.

### CLAIM HANDLING AND REPORTING REQUIREMENTS

The following reporting requirements apply to all employers that are subject to the WCA.

#### INJURY REPORTING

Employers must report any injury or allegation of injury to the NCIC within five days. This applies if a work-related condition causes an employee to miss work for at least one day or to require medical treatment costing \$2,000 or more. The report must be filed with the NCIC using [Form 19](#) ("Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission"). In addition, employers must provide injured employees with a blank [Form 18](#) ("Notice of Accident to Employer and Claim of Employee, Representative, or Dependent") to facilitate the reporting of injuries and the filing of claims.

## BENEFIT PAYMENTS

Employers must begin paying benefits to eligible individuals within **14 days** after they receive notice of an injury or death. Employers must also notify the NCIC of the first payment of benefits, as well as of any suspension, reinstatement, change or modification to an employee's benefits. A copy of this report must be furnished to the employee as well.

Any payment not made within the 14-day period is subject to a fine equal to **10 percent** of the delayed payment, unless the late payment is excused by the NCIC. A late payment is excusable if the employer can prove it had no control over the conditions that caused the delay.

## BENEFIT TERMINATION

Employers (or their insurance carriers) must complete [Form 24](#) ("Application to Stop Payment of Compensation") and notify their employees of the reasons that justify terminating the payment of benefits. This form must be mailed to affected employees and copies must be sent to the NCIC.

Employees have **17 days** from the time a Form 24 is filed with the NCIC to raise any objections to the termination of compensation. Employers are required to enter the expiration of the 17-day objection period on the face of Form 24. Objections must be made in writing and present the reasons for the objection. Employees must furnish copies of all objections and their supporting documentation to their employers (or the employers' insurance carrier). The NCIC may hold hearings to resolve contested applications to stop compensation.

Employers do not need to complete Form 24 if they seek to stop benefit payments because:

- They contest the compensability of a claim, based on reasonable doubts, within 90 days of the first day when they first began paying compensation benefits to an injured employee;
- An injured employee has returned to work; or
- An injured employee has begun a trial return to work.

## SELF-INSURANCE REQUIREMENTS

Employers may self-insure only if they receive a license from the NCIC, establish membership with the Association Aggregate Security System, deposit funds with the NCIC and meet other self-insurance requirements.

### LICENSE APPLICATION

To qualify for a self-insurance license, employers must have **at least \$500,000** in fixed assets and sufficient financial strength and liquidity to meet their benefit obligations under the WCA. Employers wishing to self-insure must submit a complete application for NCIC approval **at least 90 days before** their proposed licensing date.

Employers that apply will receive either an NCIC approval or the reasons why their application was denied. Employers that resolve the problems that led to the denial of their application within **60 days** can still qualify for a license without submitting a new application.

### ASSOCIATION MEMBERSHIP

Unless excluded by the NCIC, all self-insured employers must be part of the Association Aggregate Security System (Association). The Association exists to allow self-insured employers to pool their resources and protect themselves as a group against the liabilities the WCA imposes on employers. The NCIC excludes employers from the Association if they:

- Have their license revoked by the NCIC;
- Have a debt rating below the minimum set by the Association;
- Default on the payment of their workers' compensation obligations; or
- Fail to submit sufficient financial information to enable the Association to determine the employers' outstanding workers' compensation liabilities, creditworthiness or both.

## DEPOSIT OF FUNDS

Self-insured employers must deposit a **minimum of \$500,000** with the NCIC to guarantee the payment of their benefit claims. The NCIC uses this deposit to pay benefit claims when employers default on their obligations.

Additional deposit amounts vary depending on each employer's Standard & Poor's rating and its membership status in the Association. For example, a deposit above the initial \$500,000 and **up to 100 percent** of outstanding claims is required for an employer that does not qualify for membership in the Association. The deposit must be made **within 90 days** of the effective date of the approval to self-insure.

The value of these funds and deposits is assessed annually and compared with each employer's financial reporting to make sure that self-insured employers retain an adequate coverage of their current and future benefit claims. The NCIC may require employers to make additional contributions at the time of license renewal if the value of their initial deposit is insufficient to guarantee their WCA obligations.

### **ADDITIONAL REQUIREMENTS**

Self-insured employers are also required to maintain specific and aggregate excess loss insurance (reinsurance) policy. The limits and coverage of the policy depends on the risk (employer's claim experience and financial condition) and any requirements set out by the NCIC.

Self-insured employers must also use licensed claim adjusters to process their claims.

## **MORE INFORMATION**

Please see the NCIC [website](#) or contact Heffernan Insurance Brokers for more information on workers' compensation laws in North Carolina.

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