

Workers' Comp Record Retention Requirements in Ontario



QUESTION

How long must we keep WSIB records for employees?

– Ontario Construction Contractor

[learn_more caption="Answer"]

Although the Ontario workers' comp law (the *Workplace Safety and Insurance Act* (Act) and regulations) doesn't specifically address this issue, you should keep employee wage records for at least 3 years.

EXPLANATION

First, let's pin down what the phrase "WSIB records for employees" in your question means. I'd break it into 2 groups:

1. Wage Records

Section 80 of the Act says employers must:

- "Keep accurate records of all wages paid to the employer's workers";
- Keep those records in Ontario; and
- Produce those records if the Board requires it to do so.

The Act doesn't define "records of wages." But as long as you keep the wage records required by the Ontario Employment Standards Act, you should be okay.

In the same vein, the Act doesn't say how long employers are supposed to hang onto these records. But the ESA requires you to retain wage records for at least 3 years after the employment ends. So 3 years should also work for the WSIB.

2. WSIB Injury/Illness Reports

The Act (and OHS regulations) also requires you to create and submit to the WSIB records of workplace fatalities, critical injuries, occupational illnesses and disabling and non-disabling injuries. Employees may need access to these records for claims disputes. But while there are strict deadlines for reporting, there are no

specifications for retention. In addition, (under Sec. 57(1) of the Act) employees can get access to these records from the WSIB if they need them for claims disputes.

Clearance Certificates Don't Count

Last but not least, note that the Act does include one specific record retention rule. But it doesn't apply to an "employee" record. Section 141.2(9) requires a person that hires a contractor or subcontractor for construction work to keep a copy of the clearance certificate for at least 3 years.

I hope this helps.

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