



Occupational Health and Safety

USE OF EMPLOYER EXPERIENCE

Terms and Conditions of Application

Examples of transactions between employers under the *Regulation respecting financing*

- Acquisition (purchase)
- Merger of companies
- Transfer (sale)
- Spinoff
- Transfer of activities
- Constitution of an enterprise (Reg.) into a legal person (Inc.)
- Change in legal status
- Any similar situation

An asset to be valued...

Thanks to the rules on the use of employer experience set out in the *Regulation respecting financing*, a good insurance file is an asset that can be promoted to potential buyers. Thus, the efforts devoted to the prevention of occupational injuries constitute an asset.

The better the predecessor's personalized rate, the more the successor will benefit. Thus, a good insurance file is a selling point, since its effect on the successor's premium rate is felt for a few years.

In addition, when an employer plans to continue the activities of another employer following a purchase or any similar transaction, it is to the employer's advantage to inquire about the characteristics of its insurance file and to take them into account when evaluating the value of the enterprise it is acquiring.

General information

The *Regulation respecting financing* sets the ground rules for the use of employer experience by specifying the ratemaking methods applicable to successor employers¹ insured by the CNESST.

In particular, it determines when and how the CNESST must take into account the costs of work-related accidents and illnesses in the predecessor employer's¹ insurance file to calculate the premium rate for the successor when a transaction occurs.

The employers concerned

The employers concerned are those involved in a transaction under the Regulation.

The CNESST considers that a transaction occurs when, as a result of a legal act, an employer – the **successor** – continues all or part of the activities of another employer – the **predecessor** – and the workers it takes over constitute a significant proportion of the workforce assigned to these activities. Thus, **the insurable risk remains essentially the same**.

The main objectives

- To give added value to a good insurance file with the CNESST
- To encourage the successor to devote efforts to the prevention of occupational injuries and the rehabilitation of workers who have suffered an occupational injury
- To ensure continuity of ratemaking following a transaction

1. In the Regulation, an employer who continues the activities of another employer following a transaction is referred to as "the successor", and the employer who ceases to carry on those activities is referred to as "the predecessor".



When to notify the CNESST

An employer who, as a result of a transaction, continues the activities of another employer must inform the CNESST **no later** than the next time they file a statement of wages.

However, if there is a significant change in the nature of the activities carried out in the enterprise, the *Act respecting industrial accidents and occupational diseases* provides that the employer must inform the CNESST **within 14 days of the change**.

In all cases, it is in best to notify the CNESST of the change as soon as possible.

As for a person who becomes an employer as a result of a transaction covered by the Regulation, they must:

- register with the CNESST;
- provide the necessary information on the nature of their activities no later than the 60th day following the date on which they begin their activities;
- inform the CNESST that they are continuing the activities of another employer following a transaction.

Effects on the premium

The application of the Regulation does not involve any change in the rate for a predecessor who continues part of their own activities.

The successor's premium rate(s) will be adjusted to reflect the predecessor's experience, if they are or become subject to the personalized rate.

Here are the main situations.

1. Successor who is a new employer

A premium rate comparable to that of the predecessor will be applied.

2. Successor who is already an employer

A new premium rate will be calculated based on the experience of the predecessor as well as their own, depending to the scale of the activities pursued.

3. Predecessor who is a member of a prevention mutual group (PMG)

The premium rate will take into account the predecessor's participation in the PMG. However, the successor will not become a member of this PMG as a result of the transaction.

4. Predecessor who is subject to retrospective ratemaking

Successor qualification for retrospective ratemaking will be determined annually, for the year of the transaction and the following two years, based on the wages reported after the date of the transaction.

If the successor becomes subject to retrospective ratemaking, the applicable choice of limit per claim will be that of the predecessor.

However, prior to the date of the transaction, the successor may make a request to:

- select a new limit per claim;
- use the prior year's salaries of the predecessor and the successor for the year preceding the year of contribution to determine their qualification for retrospective ratemaking.

5. Successor who is already subject to retrospective ratemaking

The effect on the premium is delayed until the year following the transaction, since the premium rate for the year of the transaction is not revised.

However, prior to the date of the transaction, the successor may apply to have the premium effected upon the continuation of the predecessor's business.

6. Legal merger of employers

A premium rate will be calculated for the successor based on the experience of the merging employers, all based on the amount of business continued from each employer.

With certain exceptions, if one of the predecessors is a member of a prevention mutual group, the successor will also become a member.

If one of the predecessors is subject to retrospective ratemaking or has applied for retrospective ratemaking, the successor will also be subject to retrospective ratemaking. In this case, only one retrospective adjustment will be made for the year of transaction for all employers subject to retrospective ratemaking or who have requested to be so.

