

## WHO IS COVERED BY THE ACT?

To be entitled to benefits and services under the *Workplace Safety and Insurance Act, 1997* (WSIA/Act), you need to be a “worker” employed in a business or industry that is “covered” by the Act. This fact sheet explains both these requirements.

### Who Is A Worker?

A worker is a person employed under a **contract of service** or apprenticeship and includes, among others:

- a learner (this includes a placement through the Ontario Works Program)
- a student
- an auxiliary member of a police force
- a member of a municipal volunteer ambulance brigade
- certain members of a municipal volunteer fire brigade
- deemed workers (see below)

A **contract of service** is one way of describing the relationship between an employer and a worker. Under a contract of service, which can be written or verbal, a worker agrees to work for an employer in return for wages or salary. The employer controls all aspects of the work: what, when, where and how the work is done. Under a contract of service the employment relationship may include full or part-time work, piece-work, temporary agency work, or short term contracts.

By contrast, the phrase **contract for service** is used to describe a business relationship where a person agrees to perform a specific job in return for payment. Someone who does a job under a contract for service (often called an independent operator) is not a worker under the Act and is not automatically insured or entitled to benefits.

For more information, please see OWA Fact Sheet 33 called “Organizational Test for Workers”.

If there is any doubt about your employment status, the Workplace Safety and Insurance Board (WSIB) will ultimately have to decide this question. If you are still unsure, you should speak with a qualified representative about your work situation. If you have applied to WSIB for benefits and been advised that you are not a worker, you can appeal that decision. See the OWA Workers’ Information Kit: [Appealing WSIB Decisions](#).

### What is a “covered business or industry”?

The Act contains lists of types of industries and these lists are called Schedule 1 and Schedule 2. A worker employed in an industry or business listed in Schedule 1 or Schedule 2 of the Act is automatically covered.

**Schedule 1 Industries** include (but are not limited to): mining and related industries; manufacturing; transportation and storage; retail and wholesale trades; and construction.

A variety of service industries are covered by the Act, including temporary agencies, hospitality and full-time domestic workers.

**Schedule 2 Industries** include (but are not limited to): provincial governments; railways; and telephone companies licensed by the federal government. Although municipal governments are listed in Schedule 2, some have opted to become Schedule 1 employers.

Some employers can make an application to WSIB to be treated like a covered industry. “By application” industries include (but are not limited to): financial institutions; health care practitioner practices; trade unions; private day cares; and travel agencies.

If you are not sure whether your employer is covered by the Act, you can look at the complete list of Schedules found at the end of Ontario Regulation 175/98. You can also call WSIB and ask if your employer is covered.

**Important:** If your employer should be paying coverage for its workers, but does not have an account with WSIB or has not been paying premiums, you still have rights to benefits and services.

### **Who Is Not Covered?**

The Act specifically does not cover certain workers. These include:

- persons employed casually by an employer to do work other than for the purposes of the employer’s industry (for example, if you are hired on a very irregular basis to mow the lawn of a factory).
- outworkers, that is, persons to whom work is given to be done in their own home or on other premises not under the control of the person who gave out the work (for example, you are provided with beads, etc., which you assemble in your home and sell to a jewellery shop).

### **Who Is a Deemed Worker?**

Other workers are not covered by the Act, but **can** apply for coverage. If WSIB accepts their application, they are considered deemed workers. These include:

- workers who are executive officers of a corporation
- independent operators
- sole proprietors
- a partner in a partnership

For more information on “deemed workers” and buying coverage, see OWA Fact Sheet 34 called “Optional Insurance”.

#### **IMPORTANT INFORMATION**

There are time limits for appealing WSIB decisions. If you wish to appeal a decision, contact a qualified representative as soon as possible. For more information on time limits, see OWA Fact Sheets 24 and 25 called “Appealing to WSIB” and “Appealing to WSIAT”.

**This Fact Sheet contains general information only. It is not a legal document. To see what the law says, you should look at the Workplace Safety and Insurance Act and WSIB policies. If you require help and do not have a union to assist you, contact the Office of the Worker Adviser:**

- Our toll free telephone number is 1-800-435-8980 (English) or 1-800-661-6365 (French)
- or visit our website at <http://www.owa.gov.on.ca>

*Cette feuille-info est aussi disponible en français*

