

**Operational
Policy**Section
Employer CoverageSubject
Expanded Compulsory Coverage in Construction

Policy

Compulsory coverage extends to independent operators (IO), sole proprietors (SP), partners in a partnership, and executive officers (EO) of a corporation carrying on business in construction, with certain exemptions, as detailed in this policy.

This policy should be read in conjunction with the following policies: 14-02-18, Insurable Earnings - Construction; 14-02-19, Clearance Certificate in Construction, and 12-03-03, Who Can Obtain Optional Insurance?

Purpose

This policy identifies the coverage requirements for those carrying on business in construction.

Guidelines

Definitions

Construction

Construction means any of the industries listed in "Class G - Construction" of Schedule 1 (O. Reg. 175/98) and/or business activities included in Class 'G' in the WSIB's Employer Classification Manual (ECM).

Independent Operator

An IO carrying on business in construction means:

1. an individual who:
 - does not employ any workers,
 - reports ~~himself or herself~~ as self-employed for the purposes of an Act or regulation of Ontario, Canada, or another province or territory of Canada (e.g., reporting to Canada Revenue Agency), and
 - is retained as a contractor or subcontractor by more than one person during an eighteen (18) month period,or
2. an individual who is an EO of a corporation that:
 - does not employ any workers other than the individual, and
 - is retained as a contractor or subcontractor by more than one person during an eighteen (18) month period.

Executive Officers

To determine whether an individual is an EO of a corporation, the WSIB considers if:

- the name of the individual is recorded in the employer's minute book as an officer/director, and/or

**Operational
Policy**Section
Employer CoverageSubject
Expanded Compulsory Coverage in Construction

- the status of the individual can be verified in other documents that the WSIB may review, including resolutions by the board of directors, corporate by-laws, or public records filed with other government authorities.

The WSIB may also determine who is an EO by examining the substance of the relationship between the individual and employer. In such cases, the documentation listed [in this policy above](#) will be considered, but the substance of the relationship determines whether an individual is considered an EO.

The WSIB will consider a number of factors when examining the substance of the relationship between the individual and employer, including whether the individual:

- has been delegated the authority to act independently on behalf of the organization
- is wholly or partially responsible for the overall direction and control of the organization's operations or financial affairs
- exercises a broad scope of authority to make decisions or formulate policies for the organization as a whole, rather than authority that is strictly limited to a specific branch or division, [or](#)
- has the ability to bind the organization.

Unincorporated organizations may have individuals who are determined to be EOs under this policy based on the WSIB's examination of the substance of the relationship, as [described in this policy noted above](#). This includes organizations such as non-profits, municipalities, boards, commissions and the provincial government; but does not include SPs.

Deemed workers and deemed employers

Every IO, SP, partner in a partnership and EO of a corporation carrying on business in construction is a deemed worker, unless they are exempt under this policy.

When a person is a deemed worker, the respective IO, SP, partnership or corporation carrying on business in construction is the deemed employer.

Deemed workers and deemed employers in construction are subject to the rights and obligations of workers and employers under the *Workplace Safety and Insurance Act, 1997*, [\(WSIA\)](#), except where indicated in policy.

Home renovation work exemption

IOs, SPs, partners in a partnership, and EOs of a corporation engaged in construction are exempt from compulsory coverage if the deemed employer is engaged exclusively in exempt home renovation work.

Exempt home renovation work means construction work that is performed:

- by an IO, SP, a partner or EO, and

**Operational
Policy**Section
Employer CoverageSubject
Expanded Compulsory Coverage in Construction

- on an existing private residence that is, or will be occupied by, the person who directly retains the IO, SP, partnership, or corporation, or by a member of the person's family.

Existing private residence

An existing private residence includes:

- a house, condominium unit, apartment unit, or a private residence that is used seasonally or for recreational purposes, such as a cottage, and;
- any structures that are normally incidental or subordinate to the private residence, situated on the same site, and used exclusively for non-commercial purposes. These include such structures as garages, sheds, fences, or swimming pools.

Family member defined

A member of a person's family means:

- (a) the person's spouse;
- (b) the person's child or grandchild;
- (c) the person's parent, grandparent, parent-in-law, ~~father-in-law or mother-in-law~~;
- (d) the person's sibling, or
- (e) anyone whose relationship to the person is a "step" relationship corresponding to one mentioned in clause b), c) or d).

Directly retained

To be "directly retained", the employer must:

- be hired by the occupant or family member;
- provide estimates/contracts/invoices to the occupant or family member, in the employer's name, and;
- receive payment for the job directly from the occupant or family member.

The exemption for home renovation work does not apply to subcontractors retained by the contractor to perform construction work, as these subcontractors are not directly retained by the occupant or family member. These individuals require WSIB coverage.

WSIB may verify eligibility for exemption

The WSIB may review written documentation such as contracts, work proposals, invoices, etc., where necessary, to confirm eligibility for the home renovation exemption. The WSIB pursues employers who are not in compliance with the provisions of the WSIA, ~~See~~ [refer to 22-01-08, Offences and Penalties - Employer and 14-02-06, Employer Premium Adjustments](#).

Hiring workers

When workers are hired by an employer engaged exclusively in exempt home renovation work, the employer must cover the workers by registering with the WSIB and reporting the workers' insurable earnings. However, no coverage is required for the individual SP, partner

**Operational
Policy**Section
Employer CoverageSubject
Expanded Compulsory Coverage in Construction

or EO, since they are exempt from compulsory coverage under the home renovation work exemption.

Obligation to register

Before any non-exempt work commences, the IO, SP, partnership, or corporation must register as a deemed employer, if not already registered. As of the date the non-exempt work begins, the deemed workers must be covered and their insurable earnings from home renovation work and all other work must be reported. ~~See, refer to~~ 14-02-02, Registration.

If the employer engages in both non-exempt construction work and exempt home renovation work, all deemed workers must be covered even if one or more engages in only exempt home renovation work.

Partner/Executive Officer exemption

A partnership or corporation carrying on business in construction may elect one partner or EO for an exemption from coverage if:

- the partner or EO does not perform any construction work (periodic site visits are permitted, provided that the partner or EO is not performing construction work on the site) and;
- a declaration for the exemption is made on a form approved by the WSIB, and takes effect the day the declaration is received by the WSIB, with certain exceptions as detailed in this policy.

For the purposes of exempting a partner or an EO from compulsory coverage, construction work refers to any manual work of a skilled or unskilled nature, the operation of equipment or machinery, or the direct on-site supervision of workers.

This exemption does not apply to an incorporated IO.

The WSIB has the right to determine if the individual qualifies as an EO or partner, and meets the criteria for exemption.

The declaration for the exemption is no longer valid, and the partner or EO is subject to compulsory coverage as of the date the partner or EO begins to perform construction work.

Minimum period of coverage

This section only applies to individual IOs, SPs, partners or EOs who are currently subject to compulsory coverage.

Deemed employers may request to cancel coverage of their IOs, SPs, partners or EOs under the following circumstances:

**Operational
Policy**Section
Employer CoverageSubject
Expanded Compulsory Coverage in Construction

- the IO, SP, partner(s) or EO(s) becomes eligible for the home renovation exemption, or
- the [partner/EO](#) is eligible for the [partner/EO](#) exemption.

Requests to cancel coverage are accepted as long as the IO, SP, partner or EO has been in coverage for the three months preceding the request.

This minimum period of coverage does not apply to the initial request for the [partner/EO](#) exemption for each EO or partner. Subsequent requests for the [partner/EO](#) exemption for the same individual are subject to the three month minimum period of coverage.

Coverage remains in effect until an eligible request for cancellation is received by the WSIB, and the minimum period of coverage has been reached. The WSIB will not retroactively apply the coverage exemption. This rule is waived in the case of a business closure.

Material change must be reported

Employers must notify the WSIB within 10 days after the material change in circumstances occurs. This includes changes in eligibility for the home renovation and [partner/EO](#) exemptions. ~~See, refer to~~ 22-01-01, Material Change in Circumstances - Employer.

Deduction from benefits

When an individual is entitled to benefits due to a work-related injury and has amounts owing on [his/her/their](#) account, the WSIB may deduct the amount owing from any benefits payable to that individual.

Application date

This policy applies to all decisions made on or after ~~April 1, 2016~~ [December 5, 2024](#), for all accounts.

Policy review schedule

~~This policy will be reviewed within five years of the application date.~~

Document history

This document replaces 12-01-06, dated ~~January 2, 2014~~ [April 1, 2016](#).

This document was previously published as:

~~12-01-06, dated January 2, 2014~~

12-01-06 dated January 2, 2013.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, ~~as amended~~

**Operational
Policy**

Section
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Sections 12, ~~12.1, 12.2, 12.3~~, 135, 141.1, 141.2, 151.1, 151.2, 182.1, 182.2

~~Ontario- Regulation, 47/09~~

MinuteApproval

~~Administrative~~

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