
Policy

The **person in law** who is legally responsible for an operation's liabilities to the WSIB (including any liabilities incurred by branch plants, divisions, or other components) is the registered employer.

Purpose

The purpose of this policy is to define who is an employer under the *Workplace Safety and Insurance Act, 1997* (WSIA).

Guidelines

Definitions

Corporation – a legal entity separate from its owners and managers. As a general rule, it is the corporation, not its owners, which is the person in law responsible for the liabilities of the corporation.

Industry – for the sole purpose of defining employers, is an establishment, undertaking, trade, business, or service, whether run for profit or not. This includes households employing full-time domestics, see 12-04-14, Domestic Workers. For a definition of industry in relation to coverage, see 14-01-01, The Classification Structure.

Partnership – exists when two or more persons or employers carry on business together. A partnership is not a legal entity separate from its partners. The partnership is the person in law that is responsible for the liabilities of the partnership.

Sole proprietorship – exists when an employer carries on business alone, without other people except as workers. The sole proprietor is the individual in law responsible for the liabilities of the sole proprietorship.

NOTE

Without workers, corporations, partnerships or sole proprietorships are not considered employers by the WSIB unless they are deemed employers under optional insurance, or compulsory coverage in the construction industry. For information on deemed employers under optional insurance, see 12-03-02, Optional Insurance. For information on deemed employers under compulsory coverage, see 12-01-06, Expanded Compulsory Coverage in Construction. The WSIB calls a sole proprietorship without workers an independent operator.

Types of employers

Corporations, partnerships, and sole proprietorships are the main types of business ownership recognized in law. For the purpose of assigning liabilities, the WSIB categorizes business employers according to these three types of ownership.

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The WSIB also recognizes other types of employers such as

- unincorporated associations, for which the assignment of liabilities may not be obvious. In these cases, once the type of employer (or ownership) is established, the WSIB examines the organizational structure to assign potential liabilities
- a training agency that elects to be the employer of a trainee on a placement, see 12-04-05, Coverage for Unpaid Trainees
- a person who contracts the service of a domestic worker for more than 24 hours a week, see 12-04-14, Domestic Workers
- A municipality shall be treated as if it is the employer where a municipal board or commission is classified in the same business activity as the municipality, see 12-01-02, Employer by Application.
- transfer of cost employers, see 14-05-01, Transfer of Costs.

Branch plants and divisions

Branch plants, divisions, or other components of employers are not, themselves, employers for the purpose of assigning liability. Although each one may owe money to the WSIB (e.g., premiums, non-compliance interest or charges, or experience rating surcharges), legal responsibility for their liabilities ultimately rests with the employer registered with the WSIB.

If a branch plant or division is itself incorporated and registered with the WSIB, the WSIB treats it as a distinct person in law. In this case, financial liability to the WSIB does rest with the incorporated branch plant or division. It may, however, be considered associated with another employer (or employers) if the criteria set out in 14-01-06, Associated Employers are met.

Coverage

Coverage under the WSIA only applies to those employers

- whose operations are compulsorily covered by Schedules 1 or 2 of the WSIA, or
- whose operations have been added to Schedule 1 of the WSIA by application, or
- who have optional insurance only, see 12-03-02, Optional Insurance.

For details on coverage, see 12-01-04, Coverage Status, Employer by Application, and 12-01-06, Expanded Compulsory Coverage in Construction. For details on the classification structure, see 14-01-01, The Classification Structure.

Application date

This policy applies to all decisions about the status of an employer on or after January 1, 2020.

Document history

This document replaces 12-01-01 dated January 2, 2013.

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This document was previously published as:

12-01-01 dated January 3, 2007

12-01-01 dated October 12, 2004

12-01-01 dated April 11, 2003

12-01-01 dated January 31, 2002

08-01-01 dated October 28, 1996

References

Legislative Authority

Workplace Safety and Insurance Act, 1997, as amended

Sections 2(1), 12(7), 12.2, 69(3), 70, 71, 72, 141(2)

O. Reg. 175/98

Schedules 1, 2

Section 11

O. Reg. 47/09, Construction Sector – Exemptions (Partners and Executive Officers)

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