

A guide to

Taxi drivers

April 2000



www.workcover.com

Introduction

This brochure has been produced to help employers and/or workers who may be uncertain about coverage under the Workers Rehabilitation and Compensation Act, 1986.

The information provided in this publication is correct at the time of printing and is provided as general information only. The specific issues relevant to your workplace should be considered in light of this general information.

To ensure correct information is being used, or if you are in any doubt after reading this brochure, please telephone WorkCover Corporation on 13 18 55.

Translating and interpreting

If you would like more information in your language, please call the Telephone Interpreting Service on 8266 1990 and ask them to contact WorkCover Corporation on (08) 8233 2001.

Who is a worker?

The Workers Rehabilitation and Compensation Act, 1986 provides for compensation and rehabilitation of workers who sustain disabilities at work. Eligibility for compensation depends on whether a person is a 'worker' as defined under the Act.

Section 3 of the Act states that a 'worker' means a person by whom work is done under a 'contract of service'

(whether or not as an employee)

Contract of service normally represents a work relationship formed between an employer and employee.

Where a person is working under a contract for service, that person is not entitled to compensation as they are not workers under the Act. This term is used when a person is considered to be a true independent contractor.

However, cover is extended to persons working under a contract for service in certain circumstances.

These circumstances are prescribed under the Act and are known as 'prescribed classes of work' or 'prescribed work'.

Important Notes

1 Whether a person is employed ongoing, or for a short period, eg. for as little as one hour on a given day, or on a casual basis, an obligation exists on the employer to include remuneration paid to any such worker(s) in their calculation of levy payable.

2 A principal should ensure that a contractor employing a worker(s) is, at all times when performing work for the principal, registered as an employer with WorkCover Corporation.

If a contractor (who employs) is not registered, Section 3(6)* may apply and the principal be deemed the employer. It is therefore in the principal's best interests

to ensure that any contractors, who may also employ, are registered and paying levy on their workers.

- Section 3(6) - Where in a prescribed industry or in prescribed circumstances a person (the principal) contracts with another person (the contractor) for the performance by the contractor of work undertaken by the principal, the principal shall, for the purposes of this Act, be deemed to be the employer of workers employed by the contractor.

If you need any further assistance in deciding whether a person is a worker, please contact a Customer Service Officer on:-

Telephone: 13 18 55

Facsimile: (08)8233 2990

Taxi Drivers

A driver of a taxi-cab (or similar motor vehicle), used for the purpose of transporting members of the public, who does not hold or lease a taxi-cab licence plate is **deemed to be a worker** if all of the following requirements are met.

- The work is performed personally by the worker (whether or not the worker supplies tools, plant or equipment), eg. driving a taxi for a licensed taxi operator
- The worker does not employ any other person to carry out any part of the work
- The value of materials supplied or expected to be supplied does not exceed \$50
- The worker does not hold or lease a licence in relation to the vehicle.

A taxi driver who supplies fuel such as LPG, diesel or petrol, would be considered to have supplied materials for the purpose of this regulation and therefore the \$50 amount is relevant

There are two types of arrangements under which a driver can be employed.

Share of Takings

Drivers employed under this arrangement do not generally supply materials although there are exceptions. Regardless of the requirement to supply materials, a taxi driver may be considered a worker under a contract of service.

Shift Leasing

A shift lease agreement must be consistent in its terms with either the formal shift-lease agreement held by the South Australian Taxi Association and the Co-Operative Taxi-Cabs Society Ltd.

If under a shift leasing agreement the driver supplies fuel (in excess of \$50) over the period of the arrangement (usually one week or more) the driver would NOT be considered to be a worker.

Where the driver is not engaged under a shift lease agreement (as described) the engagement is most likely to be regarded as a contract of service.

If further clarification is needed please contact WorkCover Corporation for assistance to establish if a contract of service exists.