

A guide to

Cleaning Work

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, Toll Free 1800 188 000 (for SA outside the metropolitan area) or Toll Free 1800 888 508 (for Interstate callers).

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
Toll Free: 1800 188 000 (for SA outside the metropolitan area)
Toll Free: 188 888 508 (for Interstate callers)

Cleaning Work

Cleaning work is defined as the work of cleaning any building or part of a building including the windows and surrounds of the building.

It is considered a prescribed class of work and a **Contract of Service is deemed to exist** (ie the cleaner will be deemed to be a worker under the Act) if the following conditions apply:

- the type of work carried out by the worker has to be in respect of the trade or business of the principal (employer), eg. office/carpet cleaning for a cleaning company.

This would also include the situation where a doctor subcontracts directly with an office cleaner to clean his/her surgery. Whilst the cleaning does not directly relate to the trade or business of a doctor the work is for the purpose of the trade or business.

- the work is performed personally by the worker (whether or not the worker supplies tools, plant or equipment).
- the worker does not employ any other person to carry out any part of the work.

This relates to all the work required for the contract.

For example:

A contract to clean a multi-storey office. For the upper floors the person employs another to assist in this part of the contract. However, for the lower storeys the work is performed personally. The person would therefore not fulfil the requirement as he/she has employed another to carry out part of the work. The person is an employer in his/her own right.

- The value of materials for
 - a) cleaning work (excluding window cleaning) supplied or reasonably expected to be supplied does not exceed \$50 per month, or
 - b) window cleaning, supplied or reasonably expected to supply is less than \$25 per month.

Materials include detergents, floor polish, window cleaning solutions and other consumables. It does not include brooms, mops, buckets, polishing machines or other tools of trade.

If the above conditions are satisfied the person is **deemed a worker**.

The 'Cleaning Work' chart on the next page identifies the questions which should be asked.

Cleaning Work – Who is covered?

This is to be used as a guide only - for confirmation please contact WorkCover

To determine if a contractor who is in the cleaning industry is a worker for the principal - the following questions should be asked :-

