

A guide to

Miscellaneous classes

Including

Ministers of Religion

Sporting Professionals

Prescribed Volunteers

Other Volunteers

Work Experience

Self-employed Persons
and Partners

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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)

Miscellaneous prescribed classes

Ministers of Religion

Specific ministers of religion are **excluded from coverage** under the Act (this applies irrespective of whether the minister is working under a Contract of Service) They are:

- a minister ministering within The Anglican Church of Australia
- a priest or other member of a religious order ministering within the Catholic Church
- a pastor ministering within the Lutheran Church
- an ordained minister, deaconess or lay pastor of The Uniting Church ministering in an approved placement under the Classification of Ministers of that Church or
- an officer of The Salvation Army appointed in South Australia under the orders and regulations for officers of The Salvation Army.

All other ministers of religion, priests or members of a religious order are **deemed to be workers, if they are working under a contract of service.**

Sporting Professionals

Sporting participants, umpires and referees are generally **excluded** from cover under the Workers Rehabilitation & Compensation Act.

There are two exceptions to the blanket exclusion. These are persons engaged in boxing/wrestling and riders/drivers as defined by the Racing Act 1976. However, persons in these categories would need to satisfy the Contract of Service test to be entitled to benefits under the Act.

Special provisions may apply for referees in the boxing/wrestling profession. Please contact WorkCover Corporation for further clarification.

Prescribed Volunteers

Under Section 103a, the Crown (the State) is deemed to be the employer of voluntary workers if they are engaged in work which is of benefit to the State. The type of work has to be a prescribed class of work.

Regulation 14 sets out the prescribed class of work which includes volunteer firefighters, members of the C.F.S., fire control officers under the Country Fires Act.

Other Volunteers

Volunteers of organisations are not paid remuneration and accordingly **not covered** under the Act. However, volunteer workers can be deemed to be in prescribed class of work where they are engaged in work which is for the benefit of the State, under Section 103(a).

Work Experience

Work experience where no remuneration is paid is not a Contract of Service. A valid contract is only created between at least two separate legal entities, where some consideration (usually money) is involved.

Enquiries from students/employers should be directed to Centrelink officers or Insurance Companies to establish which Insurance Schemes cover students who are on Work Experience.

Self Employed Persons

Generally self-employed persons are **not workers** and are not provided coverage under the Act. However, a person working in a prescribed class of work and who meets certain criteria **may be** deemed a worker.

Partners

A partnership exists where there is an association of two or more people (or in some cases differing types of legal entities) who contribute towards a business with a view to making a profit.

Partners are **not usually considered to be workers**; they cannot employ themselves and are not required to be registered unless the partnership employs. However, a **partner working in a prescribed class of work and meeting certain criteria may be deemed a worker** and the principal contracting the partner would need to register.

NB: Trusts can not legally employ.

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