

WorkSafe ACT

Employers

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Who is an Employer?

Under the [Workers Compensation Act 1951](#) (the Act) an employer is someone who employs workers under a 'contract of service', or in certain circumstances a 'contract for service'. A contract can be express or implied, made either orally or in writing and applies to full time, part time and casual workers.

A 'Contract of service' exists where there is an employer/worker relationship. In a contract of service, the employer directly engages a worker in employment. Most employment contracts are made under a 'contract of service'.

A 'Contract for service' circumstance is where an individual performs work for the principal and personally does part or all of the work. A person who is employed under a 'Contract for service' and works on a regular and systematic basis can be deemed to be a worker.

An example of a contract for service relationship, where a person is deemed a worker for the purposes of workers compensation, is the situation where a bricklayer engaged under a 'contract for service' by a particular builder for some time, who has worked for almost no-one else over that time, even if there is no express or implied guarantee of continuing work.

Both 'business' and 'non-business' employers are recognised for the purposes of the Act.

A 'business employer' is an employer who employs a person for work that is for (or incidental to) the employer's trade or business.

A 'non-business employer' is an employer who employs a person for work that is not for (or incidental to) the employer's trade or business.

General Obligations for Employers

Employers obligations include:

- holding a current workers compensation insurance policy for all workers in the ACT
- complying with their insurer's Injury Management Program
- displaying a notice that outlines the requirements under the Act for making compensation claims, including the name of the insurer and current insurance policy details
- establishing (and displaying) a written Return to Work Program in consultation with workers, an

- approved rehabilitation provider and relevant unions
- providing a Register of Injuries that is accessible to all workers
- providing specific information required by the insurer including six-monthly wage reports.

Obligations in Handling a Claim

When a worker is injured and seeks to make a workers compensation claim an employer must:

- make compensation claim forms available to the worker
- record in the Register of Injuries the date of the Notice of Injury
- notify the insurer of an injury within 48 hours of being made aware of the workplace injury.

If the employer fails to give notice within the specified timeframe (48 hours), the employer is directly liable for weekly compensation from the end of the notification time until the notice is given to the insurer and cannot be reimbursed by the insurer for compensation paid prior to the date of notification. An employer must:

- forward the worker's claim form to the insurer within 7 days of receiving the claim form from the worker
- cooperate in the development of, and comply with, the insurer's Personal Injury Plan for the injured worker
- provide vocational rehabilitation
- ensure that any payments to the worker received from the insurer are immediately paid to the injured worker
- provide suitable employment, if available for an injured worker where a request for work is received within six months of the injury.

Premium Costs

Many factors are taken into consideration by Approved Insurers when calculating workers compensation insurance premiums. These include but are not limited to industry type, claims history, wages bill and number of employees. A good claims record in conjunction with good occupational health and safety practices can influence the premium to be paid.

From 4.00pm 30 June 2010, insurers will be required to disclose the Default Insurance Fund levy on all premium notices. Through community awareness and action, those employers who avoid their workers' compensation responsibilities will be brought to account. Report fraud and non-compliance to WorkSafe ACT on 02 6207 3000.

Exempt Employers

Employers with the resources to fund any workers compensation liability imposed on them may apply to the Office of Regulatory Services to be a self-insurer.