

Administrative Practice Document

Related to Policy 12-01-06 Expanded Compulsory Coverage in Construction

Note: This is not a policy; it is a supplementary document, with examples of [Policy 12-01-06 Expanded Compulsory Coverage in Construction](#) in practice. If there is a conflict between this Administrative Practice Document and Policy 12-01-06, the decision maker will rely on the policy.

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Independent Operator Status in Construction

An individual who meets the criteria for independent operator status in construction must register with the WSIB and complete the Independent Operator status declaration. Registration means the independent operator will have their own WSIB account and will have reporting obligations as their own employer. To register and complete the status declaration, use [eRegistration](#) on the WSIB website.

Construction means any of the industries listed in Class G – Construction of Schedule 1 in the Ontario Regulation 175/98 (O. Reg 175/98) and/or business activities included in Class ‘G’ in the WSIB Employer Classification Manual (ECM). This means that any employer, including independent operators, carrying on a business that is a Class G – Construction business activity, will come under compulsory coverage.

An individual with independent operator status may be required to provide copies of invoices or other financial records, as well as copies of contracts, as evidence to support their status as an independent operator.

Example	Scenario	Effective Date of Independent Operator Status in Construction
<p>Example 1:</p> <p>A contractor in construction meets the criteria of an independent operator in construction</p>	<p>Pat starts a construction business and has no workers. He takes a construction contract with one principal from January 1st, 2016 until March 31st, 2016. This is Pat’s first construction contract. He reports to the Canada Revenue Agency (CRA) as self-employed and hasn’t registered with the WSIB.</p> <p>A few months after the end of his first contract, Pat takes a contract to work for another principal. The second contract starts on May 1st, 2016.</p>	<p>As of May 1st, 2016, Pat has been retained as a construction contractor by more than one person during an 18-month period, and he meets the definition of an independent operator in construction (meets the criteria). He is required to register with the WSIB and declare his independent operator status.</p> <p>The effective date of his independent operator status is May 1st, 2016 and he starts paying premiums from the period beginning May 1st, 2016.</p>

Example	Scenario	Determining Compulsory Coverage Requirements
<p>Example 2:</p> <p>An owner-operator of a truck is not an independent operator in construction</p>	<p>Salvatore has no workers and he is an owner-operator of a dump truck. He only delivers and removes products such as aggregate, fill and gravel to and from construction sites.</p> <p>Salvatore submits a completed ‘Determining Worker/Independent Operator Questionnaire – Trucking Industry’ to the WSIB for work he is doing for ABC Construction Inc. The WSIB determines Salvatore is an independent operator in the trucking industry.</p>	<p>Salvatore is not included in compulsory coverage in construction because he is determined to be an independent operator in the trucking industry. His business activity is the transportation of dry bulk materials which is classified under Class E – Transportation and Storage.</p> <p>Since the independent operator ruling in trucking has been obtained, there is no clearance requirement for Salvatore’s work for ABC Construction Inc.</p>

At any time, if an individual’s declared status as an independent operator is in question, the WSIB will make a determination based on the definition of an independent operator, included in the **Definitions** section of [Policy 12-01-06 Expanded Compulsory Coverage in Construction](#). This may be required to determine who is responsible for WSIB obligations as the employer (e.g., to report insurable earnings and pay premiums). Independent operator status remains in effect until there is a material change (as outlined in the [Material Change in Circumstances](#) section below).

Home Renovation Work Exemption

When the Home Renovation Work Exemption Applies

The examples in this section relate to the **Home Renovation Work Exemption** section of [Policy 12-01-06 Expanded Compulsory Coverage in Construction](#).

Example	Scenario	Why the exemption from coverage applies
<p>Example 1: Occupant of a residence hires a contractor</p>	<p>Vladimir lives in a house that he is renovating. He signs a contract with Bob of Bob’s Home Repairs and pays him directly. Bob is an individual contractor who is engaged exclusively in exempt home renovation work.</p>	<p>The home renovation work exemption applies for Bob because Vladimir, the occupant of the house, is directly retaining his services. Also, Bob is engaged exclusively in exempt home renovation work.</p>
<p>Example 2: Tenant hires a contractor to do work in their rental unit</p>	<p>Cathy rents an apartment in a multi-unit rental building and she needs tiling work done in her apartment. She contracts with Angie, an individual contractor, and pays her directly to have the work done. Angie is engaged exclusively in exempt home renovation work.</p>	<p>The home renovation work exemption applies for Angie because Cathy is the occupant of the private residence, and has directly retained and paid for Angie’s services. Also, Angie is engaged exclusively in exempt home renovation work.</p>
<p>Example 3: Contractor retains subcontractors</p>	<p>Carlos’ Contracting, an individual contractor, only does exempt home renovation work. Carlos signs a contract with a homeowner/ occupant and is paid directly by them. The contract includes some electrical and plumbing work but Carlos’ Contracting does not perform this work. Instead, Carlos retains the services of an electrician and a plumber, who are registered independent operators.</p>	<p>The home renovation work exemption applies for Carlos’ Contracting because he is being directly retained by the occupant of the home, and is engaged exclusively in exempt home renovation work. However, the electrician and the plumber are not exempt from coverage because they are not being directly retained by the occupant. The plumber and electrician are required to have clearances for Carlos’ Contracting. (To learn about obtaining clearances, visit the WSIB’s page on eClearance.)</p>

Example	Scenario	Why the exemption from coverage applies
<p>Example 4:</p> <p>Occupant of a residence hires a contractor with workers</p>	<p>Steve’s Handyman Services, working exclusively in exempt home renovation, is contracted by an occupant of a home to paint their dining room walls. Steve is a registered employer with two workers whose insurable earnings he reports to the WSIB.</p>	<p>The home renovation work exemption applies for Steve, himself, because Steve’s Handyman Services is directly retained and paid by the occupant, and is engaged exclusively in exempt home renovation work. Steve is therefore not compulsorily covered and his business is not required to report his own insurable earnings to the WSIB. However, since Steve’s Handyman Services employs two workers, he must continue to report his workers’ insurable earnings.</p>

Note: If the home renovation work exemption applies to an individual who wishes to have coverage with the WSIB, the individual may apply and pay for [optional insurance](#) coverage.

When the Home Renovation Work Exemption Does Not Apply

The examples in this section relate to the **Home Renovation Work Exemption** section of [Policy 12-01-06 Expanded Compulsory Coverage in Construction](#).

Example	Scenario	Why the exemption from coverage does not apply
<p>Example 1: Property management company hires a contractor (independent operator)</p>	<p>The property management company of a condominium complex needs repairs to the leaky windows in their units. The property management company hires Roberto, an independent operator, to repair the windows.</p>	<p>The exemption does not apply to Roberto, because the construction work is contracted with the property management company, and not directly with the occupants of the condo units. Roberto must register and declare his independent operator status with the WSIB. A clearance is required for this work. (Visit the WSIB’s page on eClearance to learn more.)</p>
<p>Example 2: Contractor takes a home renovation work contract and a commercial contract</p>	<p>Bob, operating as Basement Renos, is an individual contractor who only contracts with, and is paid directly by, the occupants of homes, to perform home renovations. However, Basement Renos has secured a contract for plumbing repairs at a restaurant. The construction work for the restaurant contract will be completed during the same period that Basement Renos will be performing home renovation work at a private residence.</p>	<p>The exemption does not apply, because when construction work begins on the restaurant contract, Basement Renos is no longer engaged exclusively in exempt home renovation work. Bob must register with the WSIB and report his insurable earnings from both the restaurant contract and the home renovation work at the private residence. A clearance is required for the restaurant contract. (Visit the WSIB’s page on eClearance to learn more.)</p>

Example	Scenario	Why the exemption from coverage does not apply
<p>Example 3:</p> <p>A partnership performs home renovation work and commercial work</p>	<p>Bob and Joe operate as a partnership and take contracts with, and get paid directly by, occupants of residences. They work together without any workers. The partnership does exempt home renovation work from the start of the new year until October, when they take a contract to install new countertops for a restaurant chain. Bob continues to work exclusively on home renovation work while Joe installs the restaurant countertops.</p>	<p>Once the partnership takes the restaurant contract, the exemption does not apply to Bob and Joe because the partnership is no longer engaged exclusively in exempt home renovation work. Both partners are now compulsorily covered and the partnership must register with the WSIB within 10 days. The partnership must also report the insurable earnings of both partners starting in October. Their insurable earnings must include the earnings from both the home renovation work and the commercial work. (For more information on insurable earnings in construction, see Policy 14-02-18 Insurable Earnings – Construction.)</p>

Cancellation of Compulsory Coverage – Home Renovation Work Exemption

Independent operators, sole proprietors, partners and executive officers whose business alternates between exempt home renovation work and non-exempt construction work are compulsorily covered, as their business is not engaged exclusively in exempt home renovation work. If the business is reporting to the WSIB and it ceases doing any construction work other than exempt home renovation work, the independent operator, sole proprietor, partnership or corporation may contact the WSIB to cancel the compulsory coverage of the independent operator, sole proprietor, partners or executive officers on their WSIB account.

However, if the business employs workers other than the sole proprietor, partners or executive officers, the WSIB account will remain open and the business must report the insurable earnings of these workers.

Coverage will remain in effect until a cancellation request is made to the WSIB. Cancellation will be effective the date the cancellation request is received by the WSIB, or on a requested future date. The employer must report and pay premiums for insurable earnings on the home renovation work until the coverage is cancelled. A minimum period of three months of compulsory coverage is applicable when deciding the cancellation date of their account. (For more information, see the **Minimum period of coverage** sections, of [Policy 12-01-06 Expanded Compulsory Coverage in Construction](#).)

Example 1: Independent operator stops taking contracts for commercial work and begins taking home renovation contracts exclusively - **Minimum 3 Months of Coverage**

As of January 1st, 2016, Sue registered and declared her independent operator status. She had been taking contracts for commercial businesses, and contracts to perform electrical work for homeowners who are the occupants. Sue finished a contract to rewire a restaurant's electrical outlets, completing the work on February 15th, and then decided she would no longer take contracts for commercial work. She began taking contracts exclusively for occupants of homes, and requested to close her account with the WSIB, effective February 15th.

Although Sue was no longer taking contracts for commercial work after February 15th, she did not become eligible for the exemption from coverage immediately. The length of coverage is subject to a three-month minimum.

Example 2: Independent operator no longer takes commercial contracts, only engaged in exempt home renovation contracts – Advises WSIB to Close Account 4 Months after Commercial Work Stopped

Dave was registered as an independent operator with the WSIB effective March 1, 2016. He performed metal siding work exclusively for home occupants but on March 1, 2016 he began a metal siding contract for a commercial business, in addition to his work for the occupants of homes.

As of July 9, 2016, Dave stopped all commercial siding work and only took contracts with home occupants. Dave submitted a request to cancel his coverage in November 2016 and it was received by the WSIB on November 30, 2016.

Although Dave met the criteria for the home renovation exemption from coverage as of July 9, 2016, his WSIB coverage remained in effect until November 30, 2016, the date his request to cancel his coverage was received by the WSIB. Dave must report his insurable earnings for the commercial and exempt home renovation work from March 1, 2016 to July 8, 2016, and then for the contracts with the home occupants from July 9, 2016 to November 30, 2016.

Executive Officer Status

An Executive Officer for a company is commonly known as President, Vice-President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, or Secretary/Treasurer (among other names for officers). An Executive Officer is enumerated, appointed or empowered through corporate documents such as Articles of Incorporation, Charters, by-laws and/or corporate profile reports filed with a federal or provincial agency to act as an officer. The appointment of an executive officer should be recorded in the corporate minute book.

Title alone (such as President or Vice-President) does not make an individual an Executive Officer. The key to Executive Officer status is that the person is empowered or appointed to act as an officer of the organization. If the individual is not empowered by the organization as an officer, the WSIB will not determine them to be an Executive Officer.

The WSIB considers an Executive Officer to be part of a select group of individuals who act as directing minds of the organization or key functions within the organization (e.g. Operations, Finance, and Corporate Services). An Executive Officer is a member of executive management and not a manager of a team, unit, department or branch.

The WSIB reserves the right to determine who is an Executive Officer by reviewing the individual's roles, responsibilities and authority within the organization.

In a self-reporting system, the WSIB uses a number of processes—like audits, CRA information matching, tip lines and payroll matching—to periodically review and assess the correctness of an employer's designation of Executive Officer status for an individual. In assessing this designation, the WSIB will review the corporate minute book and/or public records filed with government authorities. The following corporate documentation will be considered as persuasive form evidence:

- Articles of Incorporation
- Charters
- By-laws
- Provincial/federal corporate profile reports

The WSIB will also consider roles with significant functional responsibilities demonstrating that the individual is a 'directing mind' and/or is wholly or partially responsible for the organization as a whole. Such roles for an individual can include:

- Having responsibility beyond their own department
- Having company-wide management responsibilities
- Reporting to the board of directors
- Attending board meetings
- Acting independently on behalf of the organization
- Having the authority to bind the organization
- Making significant decisions that can impact the corporation as a whole

- Voting at executive committee meetings
- Having fiduciary duties to the organization

The WSIB may consider any combination, or any one of the roles listed above as determinative evidence of Executive Officer status.

Employers should take these factors into consideration before designating a person as an Executive Officer. The WSIB will reject the employer's designation of Executive Officer status if it finds that the employer has not appropriately substantiated Executive Officer status through evidence. In that case, the WSIB will make retroactive premium adjustments to the employer's account, and may apply fines and penalties to their account. If an employer knowingly makes a false statement with respect to Executive Officer status, this counts as an offence which may be prosecuted.

Cancellation of Compulsory Coverage – Partner or Executive Officer Exemption from Coverage

Partnerships, corporations with workers, and corporations without workers but with multiple executive officers may exempt one partner or executive officer from coverage if that individual does not perform any construction work. Construction work refers to any manual work of a skilled or unskilled nature, the operation of equipment or machinery, or the direct on-site supervision of workers. Periodic site visits are permitted, provided the partner or executive officer does not perform construction work on the site. Independent operators are not eligible for this exemption.

An individual who is eligible for the exemption must submit the ***Declaration for Exemption from Compulsory Coverage*** form that is available on the WSIB website. The completed declaration must be submitted to the WSIB for acceptance and confirmation.

The individual and an authorized employer representative certifies that the individual making the declaration for exemption is a partner or an executive officer, and that they do not perform any construction work, as defined in [Policy 12-01-06 Expanded Compulsory Coverage in Construction](#).

The declaration must contain the signature of the partner or executive officer requesting the exemption, and the authorized employer representative. This acknowledges that the individual is not eligible for benefits under the WSIA in the event of an injury arising out of and in the course of employment.

The first exemption request made by a partner or executive officer will cancel their coverage effective the date the completed exemption form is received by the WSIB, or on a requested future date. The employer must report and pay premiums for insurable earnings of the partner or executive officer until the coverage is cancelled.

After an initial Partner or Executive Officer exemption has been granted to an individual, if that same partner or executive officer returns to compulsory coverage, all of their subsequent exemption requests that are granted will be effective the date the form is received by the WSIB once a 3 month minimum period of being in compulsory coverage has been completed.

If the WSIB discovers that the individual named in a declaration did not qualify for the exemption, a retroactive premium adjustment will be made to the employer's account.

Inaccurate information presented in the declaration form may be considered lack of full disclosure or making a false statement. This may impact the period of premium adjustments made to the employer's account. To learn more about premium adjustments, see [Policy 14-02-06 Employer Premium Adjustments](#).

Example 1: First Declaration for Partner or Executive Officer Exemption from compulsory coverage submitted

In 2015 Mike and Paul were partners in the construction industry. Mike only performed administrative duties for the partnership, and never performed any of the construction work on the work site. Paul and the partnership's other workers performed all of the construction work.

As Mike was a partner and did not perform any construction work for the partnership, he was eligible for the exemption from compulsory coverage in construction. Mike completed and signed the ***Declaration for Exemption from Compulsory Coverage*** form as the applicant and the authorized employer representative and sent it to the WSIB.

The WSIB accepted Mike's declaration and sent a letter to both Mike and the partnership confirming that the effective date of Mike's exemption from compulsory coverage was the date the declaration was received by the WSIB, March 1, 2015. The insurable earnings of Paul and the other workers had to be reported to the WSIB. Mike's insurable earnings had to be reported from January 1st, 2015, up to the effective date of his exemption, February 28, 2015.

Example 2: Second Declaration for Partner or Executive Officer Exemption from compulsory coverage submitted - **Minimum 3 Months of Coverage**

On March 15, 2016 Mike started to perform construction work therefore he cancelled his exemption. The partnership reported his insurable earnings from March 15, 2016 with the insurable earnings of Paul and the other workers. On May 2, 2016 Mike stopped performing construction work again and became eligible for the exemption. Mike completed and signed his second ***Declaration for Exemption from Compulsory Coverage*** form as the applicant and the authorized employer representative and sent it to the WSIB. Although his declaration was received by the WSIB on May 10, 2016, the effective date of his exemption is June 15, 2016, as the 3 month minimum period of coverage is applicable.

Rate Group 755 - Separate Construction Rate Group for Partners and Executive Officers

A partnership, corporation with workers, or a corporation without workers but with multiple executive officers may request to report the insurable earnings of non-exempt partners or executive officers who do not perform any construction work under rate group 755, a separate construction rate group. Construction work refers to any manual work of a skilled or unskilled nature, the operation of equipment or machinery, or the direct on-site supervision of workers. Periodic site visits are permitted, provided the partner or executive officer does not perform construction work on the site. Independent operators are not eligible for the separate construction rate group.

An authorized representative for the partnership or corporation must complete and submit the ***Request for Rate Group 755, Non-Exempt Partners and Executive Officers in Construction*** form, available from the WSIB website.

Rate group 755 for partners or executive officers is distinct from other construction rate groups, and is to be used only for reporting the insurable earnings of partners or executive officers who are eligible. This rate group must not be used for reporting the employer's premiums for non-eligible partners or executive officers and other workers who are not partners of a partnership or executive officers of a corporation.

Once confirmed, the WSIB will notify the employer in writing, stating the effective date of rate group 755 on the employer's account.

If particular partners or executive officers become ineligible for rate group 755 at any time, the partnership or corporation must begin to report those individuals' insurable earnings under the applicable rate group(s) on the employer's account. If the employer no longer has any partners or executive officers eligible for this rate group, they must report this material change to the WSIB within 10 days.

If the WSIB discovers that an individual did not qualify for rate group 755, and the individual's earnings were reported under this rate group, a retroactive premium adjustment will be made to the employer's account.

Inaccurate information presented in the request form may be considered lack of full disclosure or making a false statement. This may impact the period of premium adjustments made to the employer's account. To learn more about premium adjustments, see [Policy 14-02-06 Employer Premium Adjustments](#).

Example 1: Partnership requests rate group 755 to report one partner's insurable earnings

It's 2016. Pam, Bob and John are partners of PB & J Plumbing. PB & J Plumbing completes and submits the ***Request for Rate Group 755, Non-Exempt Partners and Executive Officers in Construction*** form, asking for the addition of rate group 755 to use for reporting one of the partner's insurable earnings. The WSIB receives the completed form on March 1st, 2016.

Pam performs the administrative duties for the partnership and never does any construction work. Bob and John perform all of the construction work. Since Pam is a partner of the partnership and she does not perform any construction work, she is eligible for rate group 755. Bob and John are not eligible because they perform construction work. Although Pam also has the option to exempt herself from coverage with the WSIB, she chooses to remain covered.

The WSIB sends a letter confirming the rate group 755 will be added to PB & J Plumbing's account, effective January 1st, 2016.

Example 2: Incorporated independent operator ineligible for rate group 755

It's 2016. Rick of Bright Lights Inc. is an independent operator. Bright Lights Inc. completes and submits the ***Request for Rate Group 755, Non-Exempt Partners and Executive Officers in Construction*** form to the WSIB.

The WSIB sends a letter to Rick informing him that Bright Lights Inc. is not eligible for rate group 755 because Rick is an independent operator. Bright Lights Inc.'s request for rate group 755 is denied.

Material Change in Circumstances

Employers and individuals are responsible for reporting any material change in circumstances related to their obligations under the WSIA and [Policy 22-01-01, Material Change in Circumstances - Employer](#). They must contact the WSIB within 10 days of the material change. Some examples of material change are:

- Independent operators no longer qualify for this status
- Independent operators, sole proprietors, partners, or executive officers no longer qualify for the home renovation work exemption
- Partners and executive officers no longer qualify for exempt status
- Employers no longer qualify for rate group 755 assigned to their partners or executive officers

Verification

The workplace health and safety system relies on workplace parties to accurately report and meet their obligations—anything less undermines the integrity of the system. The WSIB has a duty to ensure that workplace parties meet their obligations—and when they do not, to use the powers of legislation to ensure obligations are fairly met.

The WSIB has the right to verify information. For example:

- The WSIB has the right to verify information provided in the independent operator status declaration. An individual may be required to provide proof of reporting to another government agency, copies of invoices or other financial records, including copies of contracts, as supporting evidence for the status declaration.
- The WSIB may request ownership or corporate information and documentation to verify that an individual is a partner or executive officer.
- The WSIB may request documentation from the employer to verify eligibility for the home renovation work exemption.
- The WSIB may request documentation from the employer to verify eligibility for rate group 755.

Questions

- Visit the WSIB website for information about how to use [eRegistration](#).
- To obtain and download forms please visit the WSIB website at www.wsib.on.ca.
- Call the WSIB – Monday to Friday, 7:30 a.m. to 5:00 p.m. We're here to help.
Toronto: 416-344-1000 Toll Free: 1-800-387-0750
- For all eServices questions, including support issues, please call 1-888-243-1569 or 416-344-4122 (TTY: 1-800-387-0050) between the hours of 7:30 am to 5:00 pm EST, Monday to Friday.