
Law

s.74(1)

Upon application, the WSIB may declare an employer to be deemed a Schedule 1 employer for purposes of the insurance plan.

Policy

An employer may apply for Schedule 1 coverage if their operation

- does not fall under any of the industries listed in Schedule 1 or Schedule 2 (a non-compulsorily covered employer) or
- falls under one of the industries listed in Schedule 2.

The WSIB may accept or deny an application at its discretion. An employer whose application is accepted is entitled to the same rights, and subject to the same obligations, as employers who are compulsorily covered under Schedule 1.

Guidelines

Eligible for coverage

Those employers who are not compulsorily covered under either Schedule 1 or Schedule 2 of the Act but who are eligible for Schedule 1 coverage by application include, but are not limited to

- banks, insurance companies, and trust companies
- barbers and hair salons
- membership organizations (such as labour organizations, professional associations, political organizations, etc.)
- motion picture producers
- offices of lawyers, dentists, medical doctors and veterinarians
- photographers
- radio and television broadcasters
- touring and travel agencies.

The WSIB's *Employer Classification Manual* (ECM) provides descriptions of covered and non-covered activities. The ECM classifies these activities into rate groups and classification units (CUs) according to the principles set out in "The Classification Scheme" which is found in the ECM and in the OPM (see 14-01-01).

For information on the coverage status of a business activity, call your local WSIB office.

Not eligible for coverage

The WSIB does not extend coverage by application, under any circumstances, to

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- teams or individuals competing in sports
- circuses
- persons who perform stunts in films, videos, theatrical, or live performances, including any actors or performers who do their own stunts.
- Foreign diplomats and members of a diplomatic staff in embassies as defined by the Vienna Convention on Diplomatic Relations, 1961. This includes head of the mission, members of the diplomatic staff, and diplomatic agents.

Employers or individuals whose business operations involve sports (e.g., coaches) or animal training may apply for coverage. If the WSIB grants them coverage it is with the clear direction that they are not covered when they or their employees compete or train for competition.

Example

Horse trainers can apply for Schedule 1 coverage for their horse training activities, which may include riding horses. However, if these trainers also ride competitively in races, they are not covered while competing in a race. The WSIB will deny their claim if they are injured.

Optional insurance only

Independent operators, and partners not employing workers, who wish optional insurance and whose operations are not covered under Schedule 1 must also make a request for application coverage. This application must be made at the same time the application for optional insurance is made. For more information about independent operators, see 12-02-01, Workers and Independent Operators; for details on optional insurance, see 12-03-02, Optional Insurance, and 12-03-03, Who Can Obtain Optional Insurance?

Unpaid trainees

For guidelines governing employers who want application coverage in order to have their unpaid training participants considered workers, see 12-04-05, Coverage for Unpaid Trainees.

Transfers from Schedule 2

Employers with operations that are compulsorily covered under Schedule 2 can apply to have their operations transferred to Schedule 1. After they transfer, they remain individually liable to pay all costs (including future costs) for work-related accidents that occurred while they were in Schedule 2. Employers who have transferred from Schedule 2 to Schedule 1 may request to return back to Schedule 2 (see "Cancellation of coverage", below).

NOTE

Private sector employers transferring to Schedule 1 will continue to be responsible for securing their Schedule 2 liabilities.

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Coverage for part of an operation

In most cases, employers entering Schedule 1 by application request coverage for their entire operation. However, employers may enter only part of their operation in Schedule 1, provided these conditions are met

- the part entering Schedule 1 is a business activity distinct from the rest of the operation (for the purposes of this policy, the WSIB considers business activities to be distinct when the activities fall under different CUs in the ECM)
- the operation entering Schedule 1 is situated at a different location from the rest of the operation (in most cases operations at different mailing addresses are considered to be at different locations)
- Schedule 1 coverage is provided for all workers engaged in the business activity entering Schedule 1
- each worker covered under Schedule 1 engages exclusively in that one business activity entering Schedule 1
- the payroll for the activity entering Schedule 1 is properly segregated from the rest of the employer's payroll.

NOTE

These conditions also apply to Schedule 2 employers who apply for Schedule 1 coverage.

Example

An employer in the travel business 1) operates a travel agency and 2) organizes travel tour packages for travel agencies. Neither operation is compulsorily covered. The employer wants Schedule 1 coverage for the travel agency operation, and wants to leave the tour package operation uncovered.

The WSIB considers these two operations distinct business activities and classifies them in different CUs (I-958-24, Ticket and Travel Agencies, and I-958-25, Tour Packaging). The employer's workers in each operation are in different locations; the workers in the travel agency do not earn money from the tour packaging operation; and the payroll for the agency is segregated. Upon application, and receipt of all the necessary documentation, the WSIB allows the entry of the travel agency activity into Schedule 1.

Municipality treated as the employer

For the purpose of this policy, municipal boards and commissions classified in the same business activity as the municipality shall be treated as if the municipality is their employer (see 12-01-01, Who is an Employer?).

Exception to coverage of all workers

Upon initial application (or subsequent request), employers in the entertainment industry may exclude all of their actors and performers from Schedule 1 coverage. Coverage would be provided for all other workers. However, employers must retain, and submit upon request, employee records, which can be verified by WSIB staff. Employers in this industry are expected to fulfill all WSIB obligations for those workers receiving coverage.

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Conditions of coverage**To make application**

Applicants are required to submit an Employer by Application form, and follow the registration procedures for new employers. For more details about registration, see 14-02-02, Registration.

Period of coverage

Coverage begins on the date the WSIB approves the application for Schedule 1 coverage. Coverage remains in effect until the employer satisfies the conditions for cancellation of coverage (set out below), or until the business no longer employs workers.

Cancellation of coverage**Cancellation by WSIB**

The WSIB may cancel Schedule 1 application coverage when an employer's payment and/or reporting obligations have not been met, or when no reply is received in response to the WSIB's communication attempts, in situations such as

- mail is returned to the WSIB and no alternative address can be obtained
- the employer cannot be located
- the reconciliation form has not been submitted
- premium or other payments are overdue
- the WSIB has issued more than one provisional premium
- the WSIB discovers the employer's reporting obligation has stopped (i.e. the business has terminated, is in bankruptcy or receivership, or is no longer employing workers)

The WSIB sends a registered letter to the employer advising that coverage will be cancelled unless the employer complies with directions to meet their payment and/or reporting obligations by the time stipulated in the letter (within 15 days from the date of the letter).

When an employer's coverage has been cancelled, either by the employer or by the WSIB, the employer may reapply for coverage by application. Before the WSIB reinstates coverage for a previously registered employer, any previously unpaid amounts must be paid in full. It should be noted that during the period of time in which the account is cancelled, the workers would not be covered in case of a work related injury. Once the employer re-applies for coverage and the WSIB reinstates the account, coverage for the workers begins from that time forward.

Requests to cancel coverage

Employers requesting cancellation of Schedule 1 application coverage must send a written request to the WSIB.

For employers whose business activities are not listed in either Schedule 1 or Schedule 2, coverage will be cancelled effective the last day of the month in which the WSIB receives a

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certified cheque for the full payment of the departure premium (see below). For employers who also have optional insurance, the coverage will be cancelled effective the same date.

For employers requesting to transfer back to Schedule 2, Schedule 1 coverage will also cease (and Schedule 2 coverage resumes) no later than 10 calendar days from the date the WSIB receives a certified cheque for the full payment of the departure premium (see below). For those who also have optional insurance, a consent form must be completed to continue optional insurance coverage under Schedule 2.

Payment on cancellation

For employers requesting cancellation, premiums are charged up to and including the last day that coverage is in effect, which includes the day the WSIB receives the full payment of the departure premium.

For employers no longer employing workers, premiums are charged up to and including the last day the business employs workers.

All application employers remain responsible for all amounts previously owing on the account(s), even though they no longer have Schedule 1 coverage.

Departure premium

Employers requesting cancellation of Schedule 1 application coverage must pay a departure premium representing the individual employer's proportionate share of the Schedule 1 unfunded liability. The WSIB will calculate this premium individually, upon receipt of an employer's written request to cancel coverage.

NOTE

The departure premium must also be paid in those cases where the WSIB cancels coverage.

Optional insurance only

Schedule 1 application coverage ceases at the same time an employer with optional insurance only (i.e., an independent operator or partnership not employing workers) requests the cancellation of the optional insurance.

Providing notice to workers

Employers whose business activities are not listed in either Schedule 1 or Schedule 2 and who cancel Schedule 1 application coverage are required to notify their workers that they will no longer have WSIB coverage.

Renewal of coverage

Employers who withdraw from Schedule 1 application coverage may reapply for Schedule 1 coverage. The WSIB reserves the right to grant or deny coverage.

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Further information

To purchase a copy of the ECM, contact:

Knowledge Services
Workplace Safety and Insurance Board
(416) 344-4355
1-800-387-0750

Application date

This policy applies to all decisions made on or after January 1, 2005.

Document history

This document replaces 12-01-02 dated July 2, 2004.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Sections 12, 74

O.Reg 175/98, Schedule 1, Schedule 2

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