

## APPLICATION

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### G2.1-2 Homeowners as "employers"

Issued September 22, 2006; Editorial Revision June 26, 2014; Editorial Revision April 6, 2020

#### Regulatory excerpt

Section 2.1 of the *OHS Regulation* ("Regulation") states:

This Occupational Health and Safety Regulation applies to all employers, workers and all other persons working in or contributing to the production of any industry within the scope of the OHS provisions of the *Workers Compensation Act*.

#### Purpose of guideline

The purpose of this guideline is to clarify the application of the OHS provisions of the *Workers Compensation Act* ("Act") to homeowners who hire individuals to perform work around their private residence.

#### Workplace status

The owner or occupier of a private residence may contract with various individuals to perform work in and around their homes. These work arrangements may be short term or casual, and the nature of the employment relationship may be unclear. Such uncertainty may arise in the context of renovations or roofing work where homeowners contract with individuals to work for a temporary period of time.

The key policies relevant to status determination are found in the *Assessment Manual* in *API-1-1* to *API-1-7*. Recognizing the challenge of making an individual determination of the workplace status of each individual performing work in or around a private residence, WorkSafeBC has developed criteria by which such individuals may be exempted from coverage. These exemption criteria are set out in *Assessment Manual API-4-1*.

*Assessment Manual API-4-1(c)(1)* states:

(1) An individual employed by the owner or occupier in or around a private residence, other than for the purpose of the owner's or occupier's trade or business, or employed in serving the personal needs of the owner or occupier or the owner's or occupier's family is exempt where:

(i) the individual is regularly employed for a definite or indefinite period on a weekly, monthly or similar basis for an average of less than

- o 8 working hours per week; or
- o 15 working hours per week, and the individual is employed caring for children in the period immediately preceding and following school; or

**(ii) the individual is employed to do a specific job or jobs and the total cumulative hours to be worked by all individuals employed on the job or jobs involve a temporary period of less than 24 working hours.** (emphasis added)

In determining whether a job lasts more than 24 hours, it is the **total cumulative hours for the job** that is relevant. For example, if three workers work for nine hours, the total cumulative hours worked would be 27 hours and these individuals would not be subject to the exemption.

In summary, the homeowner who hires individuals for a job less than 24 hours in duration in total does not need to register as an employer, and the individual doing the work is exempted from registration and from the application of the compensation provisions of the *Act*. To promote consistency and predictability in the exemption process, and to avoid unnecessary intrusion into private homes, WorkSafeBC generally accepts such an exemption as determinative of workplace status for the purposes of the OHS provisions of the *Act* and the *Regulation*. A WorkSafeBC prevention officer should not write orders against the homeowner for violations as an employer.

For jobs exceeding 24 working hours, a homeowner is required to register with WorkSafeBC as an employer, and must pay assessments for his or her workers. In such instances both the homeowners and workers must meet their respective obligations as employers and workers under the OHS provisions of the *Act* and the *Regulation*, and prevention officers may write orders against the homeowner and the workers.

It should be noted that if a homeowner is not exempt from registration but has failed to register with WorkSafeBC, the homeowner is still an employer. Failure to register does not negate the homeowner's responsibilities as an employer under the *Act* and the *Regulation*.

Homeowners are not required or eligible to register with WorkSafeBC when they have contracted with an independent business to perform work around their home. A homeowner may obtain a clearance letter from WorkSafeBC to ensure the independent business is registered and in good standing.

For more information, or to request a clearance letter, visit:

<https://www.worksafebc.com/en/insurance/why-clearance-letter>

[Section 25](#) of the *Act* establishes general duties of the owner of a workplace. A homeowner may be subject to obligations in relation to more than one role, including the roles of owner, prime contractor, or employer.

**G2.2 General duty to work without undue risk**

Issued August 1, 1999; Retired July 23, 2014

**G2.4 Prompt compliance**

Issued August 1999; Revised October 27, 2004; Retired September 19, 2014