

Which “Workers” OHS Laws Protect – Know the Laws of Your Province



OHS laws require employers to take measures to protect the safety of their ‘workers’ or ‘employees.’ Being a ‘worker’ or ‘employee’ entitled to protection under OHS laws generally goes beyond a traditional employment relationship where a company hires an individual to perform work in exchange for a wage or salary. Definitions vary by jurisdiction. The basic approaches:

- In BC, Manitoba, Quebec and Yukon, ‘worker’ status seems to require the existence of a contract between the employer and individual performing work;
- By contrast, Alberta, Newfoundland, Nova Scotia, Northwest Territories and Nunavut, simply being ‘engaged in’ an employer’s work is enough to be considered an ‘employee’ or ‘worker,’ which would include those employed by contractors hired by the employer to do the employer’s work;
- New Brunswick and Prince Edward Island have even broader definitions of, respectively, ‘employee’ and ‘worker’ as including any person at an employer’s workplace in connection with work performed for the employer; and
- Saskatchewan defines ‘worker’ as including anybody an employer ‘permits’ to perform work or services on its behalf.

Here’s a look at the exact definitions in each part of Canada.

Definition of Workers Protected by OHS Laws

FEDERAL

1. ‘Employee’ means a person employed by an employer (*Canada Labour Code*, Sec. 122(1)); and
2. Employer must provide every person granted access to the workplace with required safety materials, equipment, devices and clothing (*Code*, Sec. 125(1)(l))

ALBERTA

1. Employer must protect 'workers engaged in the work of that employer'; and
2. 'Worker' means a person engaged in an occupation, including a person who performs or supplies services for no monetary compensation for an organization or employer, NOT INCLUDING: (i) a student in learning activities conducted by or within an educational institution for which no compensation is paid to the student, or (ii) certain persons engaged in farming and ranching operations, including, among others, a person not paid wages for performing farming or ranching work (*OHS Act*, Sec. 1(tt))

BRITISH COLUMBIA

'Worker' includes: (a) a person who enters into or works under a contract of service or apprenticeship, whether contract is written or oral, express or implied, and whether by way of manual labour or otherwise; (b) a person who: (i) is a learner not under a contract of service or apprenticeship, and (ii) becomes subject to the hazards of an industry within the scope of the compensation provisions for the purpose of undergoing training or probationary work specified by the employer as preliminary to employment; (c) a firefighter; (d) for purposes of mining, a person (i) while the person is actually engaged in taking or attending a course of training or instruction in mine rescue work under the direction or with the written approval of an employer in whose employment that person is employed as a worker in that industry, (ii) while, with the knowledge and consent of an employer in that industry, either express or implied, the person is actually engaged in rescuing or protecting, or attempting to rescue or protect, life or property in the case of an explosion or accident that endangers either life or property in a mine, whether or not during the time that person is so engaged the person is entitled to receive wages from the employer, or from any employer, or is performing the work or service as a volunteer, or (iii) while the person is engaged as a member of the inspection committee, appointed or elected by the workers in the mine, to inspect the mine on behalf of the workers; (e) an independent operator to whom the compensation provisions apply by the Board direction under section 4(2)(a); and (f) a person the Board deems to be a worker under section 6(2) (*Workers Comp Act*, Sec. 1)

MANITOBA

'Worker' includes: (a) any person employed by an employer to perform a service regardless of whether it's for gain or reward, or hope of gain or reward; (b) any person engaged by another person to perform services, whether under a contract of employment or not: (i) who performs work or services for another person for compensation or reward on such terms and conditions that he is, in relation to that person, in a position of economic dependence upon that person more closely resembling the relationship of any employee than that of an independent contractor, and (ii) who works or performs services in a workplace which is owned or operated by the person who engages him to perform services, (c) any person undergoing training or serving an apprenticeship at an educational institution or at any other place (*Workplace Safety & Health Act*, Sec. 1)

NEW BRUNSWICK

1. Employers must protect 'employees' which include: (a) persons employed at or in a place of employment, or (b) persons at or in a place of employment for any purpose in connection therewith (*OHS Act*, Sec. 1).

NEWFOUNDLAND

'Worker' means a person engaged in an 'occupation,' i.e., an employment, business, calling or pursuit not including an endeavour not included in one of the classes of occupations in HRSDC's current National Occupational Classification List (*OHS Act*, Sec. 2(m); *OHS Regs.*, Sec. 2(1)(q))

NOVA SCOTIA

'Employee' means a person employed to do work, including a dependent contractor (*OHS Act*, Sec. 3(o))

ONTARIO

'Worker' means any of the following, but doesn't include an inmate participating in a correctional institution or facility work project or rehabilitation program: (a) A person who works or supplies services for money; (b) A secondary school student who works or supplies services for no money under a work experience program authorized by the school board; (c) A person who works or supplies services for no money under a program approved by a college of applied arts and technology, university, private career college or other post-secondary institution; and (d) Other persons work or supply services to an employer for no monetary compensation prescribed by regulations to be workers (*OHS Act*, Sec. 1(1))

PRINCE EDWARD ISLAND

'Worker' means: (i) a person employed in a workplace, or (ii) a person in a workplace for any purpose in connection therewith (*OHS Act*, Sec. 1(x))

QUÉBEC

'Worker' means a person, including a student undergoing a job shadowing or work training period under the responsibility of an educational institution, who, under a contract of employment or contract of apprenticeship, even without remuneration, carries out work for an employer, except: (1) a person employed as manager, superintendent, foreman or as the agent of the employer in his relations with his workers; (2) a director or officer of a legal person, except where a person acts as such in relation to his employer after being designated by the workers or by a certified association (*OHS Act*, Sec. 1)

SASKATCHEWAN

'Worker' means: (i) an individual, including a supervisor, engaged in an employer's service including a person enrolled in a secondary or post-secondary educational institution and who: (A) is permitted by an employer, directly or indirectly, to perform work or services; or (B) is being trained by an employer; or (ii) a member of a prescribed category of individuals; but doesn't include an inmate participating in a correctional facility work project or rehabilitation program within the facility (*Sask. Emp. Act*, Sec. 3-1(1)(gg))

NORTHWEST TERRITORIES & NUNAVUT

"Worker" means a person engaged in work for an employer, whether working with or without Remuneration (*Safety Act*, Sec. 1)

YUKON

'Worker' means: (a) a person who performs services for an employer under an express or implied contract of employment or apprenticeship, whether paid or unpaid, (b) a learner, (c) a volunteer or (d) a self-employed person; ® (*Workers' Safety & Compensation Act*, Sec. 25)