

Who's an 'Employer' Under OHS Law – Know the Laws of Your Province



OHS laws require “employers” to take measures to protect the workers they engage to carry out work for them. That generally includes not just the employees on their own payroll but also those who work for the outside contractors and subcontractors they hire. It depends, in part, on how the OHS law of your particular jurisdiction defines “employer.” The “employer” definition has assumed new importance in the wake of the 2023 Canadian Supreme Court case called *R v. Greater Sudbury* finding that site owners who hire a “prime contractor” or “constructor” to be in charge of safety for a construction or other project carried out by workers of multiple employers may still be liable as an “employer,” regardless of how much actual control they exercise over how the project is performed. Here’s the definition of employer of each jurisdiction.

OHS Act Definition of “Employer”

FEDERAL

“Employer” means a person who employs one or more employees and includes an employers’ organization and any person who acts on behalf of an employer (*Canada Labour Code*, Sec. 122(1))

ALBERTA

“Employer” means:

- (i) a person who is self-employed in an occupation;
- (ii) a person who employs or engages one or more workers, including a person who

employs or engages workers from a temporary staffing agency;
(iii) a person designated by an employer as the employer's representative; or
(iv) a director or officer of a corporation or a person employed by the employer who oversees the occupational health and safety of the workers employed by the corporation or employer (*OHS Act*, Sec. 1(k))

BRITISH COLUMBIA

"Employer" includes:

- (a) every person having in their service under a contract of hiring or apprenticeship, whether the contract is written or oral, express or implied, a person engaged in work in or about an industry;
- (b) a person deemed to be an employer under the regulations; and
- (c) the owner and master of a fishing vessel for which there's crew to whom the compensation provisions apply as if the crew were workers; but does **not** include a person exempted from the application of the OHS provisions by order of the Board (*Workers Compensation Act*, Secs. 1 and 13)

MANITOBA

"Employer" includes:

- (a) every person who, by himself or his agent or representative employs or engages one or more workers; and
- (b) the Crown and every agency of the government (*WSH Act*, Sec. 1)

NEW BRUNSWICK

"Employer" means a person who employs one or more employees or the person's agent (*OHS Act*, Sec. 1)

NEWFOUNDLAND

"Employer" means a person who employs one or more workers (*OHS Act*, Sec. 2(f))

NOVA SCOTIA

"Employer" means a person who employs or contracts for the services of one or more employees, and includes a constructor, contractor or subcontractor (*OHS Act*, Sec. 3(p)); "contracts for work" includes contracting to perform work and contracting to have work performed (*OHS Act*, Sec. 3(h))

ONTARIO

“Employer” means a person who employs one or more workers or contracts for the services of one or more workers and includes a contractor or subcontractor who performs work or supplies services and a contractor or subcontractor who undertakes with an owner, constructor, contractor or subcontractor to perform work or supply services (*OHS Act*, Sec. 1(1))

PRINCE EDWARD ISLAND

“Employer” means a person who employs or contracts for the services of one or more workers, and includes a constructor or contractor (*OHS Act*, Sec. 1(h))

QUÉBEC

“Employer” means a person who, under a contract of employment or a contract of apprenticeship, even without remuneration, retains the services of a worker; an educational institution is deemed to be the employer of a student undergoing a job shadowing or work training period under the institution’s responsibility (*OHS Act*, Sec. 1)

SASKATCHEWAN

“Employer” means a person, firm, association or body that has, in connection with the operation of a place of employment, one or more workers in the service of the person, firm, association or body (*Sask. Employment Act*, Sec. 3-1(1)(j))

NORTHWEST TERRITORIES

“Employer” means every partnership, group of persons, corporation, owner, agent, principal contractor, subcontractor, manager or other authorized person having charge of an establishment in which one or more workers are engaged in work (*Safety Act*, Sec. 1)

NUNAVUT

“Employer” means every partnership, group of persons, corporation, owner, agent, principal contractor, subcontractor, manager or other authorized person having charge of an establishment in which one or more workers are engaged in work (*Safety Act*, Sec. 1)

YUKON

“Employer” means a person or body who employs one or more workers, whether paid

or unpaid, to perform services (*Workers Safety & Compensation Act*, Sec. 25)