

Definition of a Worker

The Bill covers any worker under a contract of service or apprenticeship and clarifies coverage of contractors. Regulations may include or exclude specific work arrangements.

Key Points

Bill ref: cl. 12, 13

- Any person working under a contract of service will continue to be covered as a worker in the workers compensation scheme.
- Any person working under a work contract and training contract as an apprentice will continue to be covered as a worker.
- Coverage of contractors is clarified. Any individual who has contracted with another person for the performance of work will be covered if –
 - (i) the work is not work in the course of or incidental to a trade or business regularly carried on by the individual in the individual's own name or under a business or firm name; and
 - (ii) the individual does not sublet the contract; and
 - (iii) if the individual employs a worker, the individual performs part of the work personally.
- Regulations may bring other work arrangements under the Act by prescribing classes of worker and employer.
- Working directors and licensed jockeys continue as deemed workers with no material change to the circumstances and conditions under which the legislation applies to them.

Questions & Answers

Q. Will contractors be covered?

A. Yes, except where a contractor is doing work that is in the course of or incidental to a trade or business regularly carried out by the individual in the individual's own name or business or firm name.

Q. Will carers working for people with a disability be covered as workers?

A. It is intended the regulations will clarify the circumstances under which carers are covered as workers, as there are various engagement models in operation.

Q. Will platform or on-demand workers be covered as workers?

A. At this stage there is no decision on whether on-demand workers will be prescribed workers in the regulations. The legal status of on-demand workers is uncertain and WorkCover WA is monitoring developments. The evolving nature of these arrangements is why it is important the legislation provides for regulations to include other classes of worker if appropriate.

Q. Why aren't clergy or religious workers covered in the Bill?

A. Regulations will be made under the new Act to provide for coverage of religious workers if the person is not already working under a contract of service.