

EXPLANATORY NOTE



This Explanatory Note was written as a reader's aid to Bill 119 and does not form part of the law. Bill 119 has been enacted as Chapter 20 of the Statutes of Ontario, 2008

Currently, optional insurance under section 12 of the *Workplace Safety and Insurance Act, 1997* is available for independent operators, sole proprietors, partners in partnerships and executive officers of corporations. New section 12.2 of the Act makes insurance coverage mandatory for these categories of persons in the construction industry. Independent operators, sole proprietors who do not employ workers, and partners in partnerships that do not employ workers are also required to register with the Workplace Safety and Insurance Board under new section 12.3 of the Act.

However, mandatory insurance coverage and the registration requirement do not apply to these categories of persons if their only construction work is home renovation work performed in specified circumstances.

Additionally, new section 12.2 of the Act permits the Lieutenant Governor in Council to make regulations to exempt certain partners in partnerships and certain executive officers of corporations from mandatory insurance coverage under that section if conditions prescribed by the regulations are satisfied. Those who are exempt by regulation are not required to register under new section 12.3 of the Act and are eligible for optional insurance coverage under section 12 of the Act.

Under existing section 141 of the Act, persons who retain contractors or subcontractors to perform Schedule 1 or Schedule 2 work may be deemed to be the employers of the contractors' or subcontractors' workers and may be liable to pay premiums (as determined by the Board) in respect of those workers. New sections 141.1 and 141.2 of the Act set out a different regime for the construction industry, as follows:

1. Only the person who directly retains the contractor or subcontractor to perform construction work may be liable for the payment obligations under the Act (as determined by the Board) in respect of the work.
2. A person who directly retains a contractor or subcontractor to perform construction work is required to obtain a certificate showing that the contractor or subcontractor has registered with the Board and complied with the payment obligations under the Act. The person must keep the certificate for at least three years. A contractor or subcontractor is prohibited from performing construction work for the person without a valid certificate.

3. These requirements do not apply to a person who directly retains a contractor or subcontractor to perform home renovation work in specified circumstances.

For enforcement purposes, additional offences are created in connection with new sections 12.2, 12.3 and 141.2.

The Bill provides for authority to make the following regulations:

1. Regulations providing for transitional matters arising out of the implementation of the *Workplace Safety and Insurance Amendment Act, 2008*.
2. Regulations requiring employers in construction to provide the Board with detailed information about their workers, and requiring workers in construction to have an approved identification card available for inspection when at work.

New section 182.1 of the Act allows independent operators, sole proprietors who do not employ workers, and partners in partnerships that do not employ workers to pre-register with the Board.

This amendment comes into force on proclamation, and the remaining amendments come into force one year later, providing a 12-month period for pre-registration before the extended mandatory coverage scheme becomes effective.

The above can be found at:

http://www.e-laws.gov.on.ca/html/source/explanatorynotes/english/2008/elaws_src_ex_exs08020_e.htm



The following section was taken from Bill 109, An Act amended the Workplace Safety Insurance Act, 1997. Chapter 20 Statutes of Ontario 2008. The Hon.P.Fonseca (Minister of Labour)

Exempt home renovation work

(8) Subsections (1) to (4) do not apply in respect of.

- (a) independent operators and sole proprietors who perform no construction work other than exempt home renovation work: and
- (b) partners in partnership and executive officers of corporations who perform construction work other than exempt home renovation work.

Material change in circumstances

(9) A person in respect of whom the exemption set out in subsection (8) applies shall notify the board of any material change in circumstances in connection with the exemption within 10 days after material change occurs.

Definitions

(10) In this section

“exempt home renovation work” means construction work that is performed,

- (a) by an independent operator, sole proprietor, a partner in a partnership or executive officer of a corporation, and
- (b) on an existing private residence that is occupied or to be occupied by the person who retains the independent operator, sole proprietor, partnership or corporation, or by a member of the person’s family; (“travaux de renovation domiciliaire exemptes”)

Please note- CARAHS recommends the reading of Bill 119 as posted on the CARAHS web site at:
<http://www.carahs.org/newsite/hfm/bill-119/>