



PUBLICATIONS

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WCB – EMPLOYER BY APPLICATION

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IMPACT ON LIABILITY INSURANCE

Employers' Liability does not replace Workers' Compensation

Most employers/industries in the Province of Ontario must be part of Workers' Compensation and become either Schedule 1 or Schedule 2 Employers under the Act. When employees of those industries are injured on the job, they are entitled to benefits as determined by the Workers' Compensation Board.


Some industries however, (and there are very few) are not covered under the Workers' Compensation Act on a compulsory basis. An Association for Community Living, as an example, is such an

employer. These employers may, however, become an "employer by application" and are then treated as regular employers under the Act.

We have recently received questions from some of our Insureds (e.g. Associations for Community Living and YMCAs) in respect of this issue. Some of them are attempting to make decisions about whether to cancel their coverage with the Workers' Compensation Board. If they do and one of their employees is injured on the job, that employee will not be entitled to Workers' Compensation Benefits. It may be that the employer has put some alternative in place such as a short term disability plan which could provide benefits to the injured worker. If not, then the employees' only other

recourse would presumably be to sue the employer. Under our Liability insurance policy, the Insured has Employers' Liability coverage which would respond to the lawsuit from the employee, but would only pay damages if it is determined in law that the employer was negligent and, therefore, legally liable for compensatory damages.

It is important to understand that Employers' Liability does **NOT** replace Workers' Compensation. They are completely different since one (WCB) pays regardless of fault and the other pays only where the employer is at fault.

Employers who are considering the option of dropping WCB coverage should be aware of these implications. 

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