Do OHS Laws Protect Workers Who Work from Home? – Ask The Expert



In most jurisdictions, the answer is YES.

QUESTION

Do the OHS laws require us to take measures to protect workers who do their job from home or a remote location? If so, where does the law say that?

ANSWER

It depends on which jurisdiction you're in.

EXPLANATION

This question has grown in significance since the pandemic began and more workers began telecommuting. The OHS laws require employers to protect workers in the "workplace" but don't specifically mention telecommuters. But they do say other things that make it possible to determine if a home office is a workplace:

Probably No (ON, MB, NB, YK): In Ontario and Yukon, the OHS Act doesn't apply to "work performed by the owner or occupant. . . in or about a private residence"; In New Brunswick, the Act doesn't apply to a place of employment that's a private home, unless the work is done by a contractor. And in Manitoba, a person isn't considered a "worker" covered by the law unless "he works or performs services in a workplace which is owned or operated by the person who engages him to perform services."

Probably Yes (FED, AB, BC, NL, NS, NT, NU, PEI, SK): These jurisdictions define workplace broadly as any place where workplace as a location in which a worker "engages" or "is engaged in" work for the employer. Several jurisdictions have also issued government guidance suggesting that they interpret the law as applying in a home or remote work location.

Yes: Québec recently passed legislation spelling out that a home or remote office does count as a workplace where the employer's OHS law duty to protect workers applies.