



WORKING TO MAKE A DIFFERENCE

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Update 2007 – 1

TO: HOLDERS OF THE *ASSESSMENT MANUAL*

This update to the *Assessment Manual* contains amendments to the *Manual* implemented since Update 2006 – 3.

Amendments to Item AP1-38-1 *Registration of Employers* become effective on **January 1, 2007**.

A summary of the amendment is attached and the amended pages are included as part of this package.

If you have any questions regarding subscription information for updates to the *Assessment Manual*, please contact WorkSafeBC Customer Service at the following:

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Attachments

ASSESSMENT MANUAL

SUMMARY OF AMENDMENTS – Update 2007 - 1

AP1-38-1 Pages 1 – 5
*Registration of
Employers*

Under this new policy, the effective date of the employer's registration could be set as far back as January 1st of three years prior to the current year.

Please note, as a transitional measure, the Board of Directors resolution making the policy change provides that employer registrations will not be backdated further than January 1, 2005.

RE: Registration of Employers**ITEM: AP1-38-1**

BACKGROUND

1. Explanatory Notes

All employers must register with the Board unless exempt from the scope of Part 1 of the *Act*. The exemptions include certain home owners employing persons in or about the home, individuals employing their spouses in their unincorporated business, certain non-resident employers in the province for short periods and certain personal financial holding companies. More information about exemptions is set out in Item AP1-2-1.

2. The Act

Section 38:

- (1) Every employer must
 - (a) keep at all times at some place in the Province, the location of which the employer has given notice to the Board, complete and accurate particulars of the employer's payrolls;
 - (b) cause to be furnished to the Board
 - (i) when the employer becomes an employer within the scope of this Part; and,
 - (ii) at other times as required by a regulation of the Board of general application or an order of the Board limited to a specific employer,

an estimate of the probable amount of the payroll of each of the employer's industries within the scope of this Part, together with any further information required by the Board; and
 - (c) furnish certified copies of reports of the employer's payrolls, at or after the close of each calendar year and at the other times and in the manner required by the Board.

POLICY

(a) General

Every employer must contact the Board to determine if it is required to register, and if so required, must register with the Board. An employer is not registered until sufficient information to effect registration is received by the Board. The Board may register a firm on its own initiative if it becomes aware of a firm that is required to be registered.

The determination whether an applicant for registration is an independent firm, labour contractor, or worker is based on the facts available at the time the determination is made. The responsibility to provide full and accurate initial information and to update this information, by advising the Board of any material changes to the applicant's operations, rests with the applicant.

Shortly after a new registration has been established, the Board advises the employer of the new account number, the industry classification unit in which the employer has been registered, the assessment rate and remittance requirements, and the monthly cost of any Personal Optional Protection the employer has requested. Information is also sent to the employer, giving details about the rights and responsibilities of an employer under the *Act*.

If the employer is exempt from coverage under the *Act*, the employer is advised that registration is not required and, in most cases, the employer is offered voluntary coverage.

The effective date of registration is the date from which the employer will be assessed by the Board. Except where stated otherwise in this manual, this is the date the employer first employed workers. If the firm was employing workers, so that the registration with the Board would have been required in a previous year, the effective date will only go back as far as January 1st of three years prior to the current year. However, if there is evidence that the employer deliberately avoided registration by such means as misrepresentation, false statements or ignoring registration requests, a prior date may be used.

The Board does not provide rulings or information on ways to structure a business to avoid or minimize employer obligations under the *Act*.

(b) Labour contractors

The Board does not conduct a full investigation of each application for registration from a labour contractor. The fact that a contractor applies for registration is in itself indication of sufficient status. Most applications for registration are bona fide in respect of a properly registrable business. Therefore, applications for registration which are, on the face of it, proper, are accepted without further investigation. Where there are

grounds for suspecting that an attempt is being made to avoid the provisions of the *Act*, the status of the applicant will be fully investigated and determined according to the policies in this manual.

Where an application for registration from a labour contractor is accepted, the contractor will be informed that he or she is not personally covered for compensation benefits unless he or she applies for Personal Optional Protection. Since registration is elective, the effective date is when registration is received, unless a subsequent date is considered appropriate. Prior to that date the prime contractor is responsible for assessments.

(c) Corporations

Occasionally, a firm is registered which is inadvertently or deliberately misrepresented as an incorporated company. Alternatively, a properly incorporated and registered company may be struck from the register by the Registrar of Companies but may continue to operate as if it still has the status of a corporation. The status of such firms' accounts with the Board is changed to that of a proprietorship or partnership. The effective date of the change will be when the correct legal status of the firm is discovered. For the period up to that date, the proprietor or partners will be treated as if they were workers of the limited company, and will be provided compensation coverage and their earnings assessed. Collection of assessments owed will proceed under the proprietorship or partnership name(s) regardless of when the liability was incurred.

(d) Divisions

The term "employer" refers to the legal entity conducting the business such as a proprietorship, partnership or limited company. An employer may have one or more trade names, but the legal entity behind the name has the obligations and receives the benefits under the *Act*. The employer is generally considered one and indivisible for purposes of registration, classification, experience rating, assessment payment and all other employer obligations.

Registration of separate divisions of an employer will be considered:

- if the division is of sufficient size to warrant the administrative burden for a separation; and
- it is in the Board's best interest to allow the separation for the purpose of reporting of accurate payroll, auditing of physical payroll records and the payment of assessment.

For the purpose of this policy, "division" means an operation of a limited company that:

- operates as a profit centre (responsible for revenue and expenses - not a cost centre);

- has separate staff assigned solely to that division;
- is physically separate from any other operations of the company;
- maintains its own payroll records for all personnel (excluding senior management and/or executive payroll which is usually reported by the company head office) and payment records for contractors employed by the division);
- maintains the records physically separate from the records of any other part of the limited company; and
- carries on business in its division or trade name.

Even though divisions may be registered separately, they will be viewed as one for the purpose of classification and experience rating. Additionally, the debt of a division is the debt of the limited company and any collections action will be taken against the legal entity without regard to divisional registrations.

(e) Cancellation of registration

Registration with the Board is cancelled when the firm ceases to be an employer under the *Act*. The effective date of cancellation is when the employer ceased operating the business or ceased to employ workers. It is the employer's responsibility to notify the Board of this.

The date used for cancellation may be different if the firm is a labour contractor supplying labour and equipment. Where the contractor has no Personal Optional Protection and no reported assessable earnings, registration is cancelled when the Board becomes aware of the situation. Cancellation is effective December 31st of the year for which the report is made if the year-end report is received prior to March 31st of the next year. Apart from this situation, cancellations will not normally be made retroactively.

If a receiver-manager is appointed subsequent to the cancellation of a firm placed into receivership, a new registration must be established for the receiver-manager.

PRACTICE

For detailed information on how to register with the Board, see the Board's Internet site at http://www.worksafebc.com/for_employers/registering_with_the_wcb/registration_information/emp_10_20_40.asp.

For any other relevant PRACTICE information, readers should consult the Practice Directives available on the WorkSafeBC website.

EFFECTIVE DATE:	January 1, 2007
AUTHORITY:	s. 38(1), <i>Workers Compensation Act</i> .
CROSS REFERENCES:	See also Coverage under <i>Act</i> – Distinguishing Between Employment Relationships and Relationships Between Independent Firms (AP1-1-3) with respect to corporations, Coverage under <i>Act</i> – Labour Contractors (AP1-1-7), Exemptions from Coverage (AP1-2-1), Requesting a Variance from a General Exemption (AP1-2-2), Personal Optional Protection (AP1-2-3), Extending the Application of the <i>Act</i> (AP1-3-1), Fishing (AP1-4-1), Transfer of Experience Rating (AP1-42-3) and Reconsiderations, Reviews and Appeals – Reconsiderations of Decisions (AP1-96-1) in the <i>Assessment Manual</i> .
HISTORY:	Replaces in part Policies No. 20:20:00, 20:30:10, 20:30:20, 20:30:30, 20:30:31, 40:40:00, 40:60:00 and 70:30:00 of the <i>Assessment Policy Manual</i> and Decision No. 255 of volumes 1 - 6 of the <i>Workers' Compensation Reporter</i> . Consequential changes were subsequently made in accordance with the <i>Workers Compensation Amendment Act (No. 2)</i> , 2002, on March 3, 2003.
APPLICATION:	This Item results from the 2002 “editorial” consolidation of all assessment policies into the <i>Assessment Manual</i> . The POLICY in this Item continues the substantive requirements of the policies and items referred to in the HISTORY as they existed prior to the Effective Date, with any wording changes necessary to reflect legislative and other changes since the policies and items referred to in the history were issued. Changes extending the registration retroactivity limit to January 1 of three years prior to the current year apply to all decisions made on or after January 1, 2007 concerning the effective date of registration of employers.

