

§102. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

1. After-tax average weekly wage. "After-tax average weekly wage" means average weekly wage, as defined in subsection 4, reduced by the prorated weekly amount that would have been paid under the Federal Insurance Contributions Act, 26 United States Code, Sections 3101 to 3126, state income tax and federal income tax calculated on an annual basis, using as the number of exemptions the disabled employee's dependents plus the employee, and without excess itemized deductions. Effective January 1, 1993 and each January 1st until and including January 1, 2012, the applicable federal and state laws in effect on the preceding July 1st are used in determining the after-tax weekly wage. Each December 1st until and including December 1, 2011, the board shall publish tables of the average weekly wage and 80% of after-tax average weekly wage that will take effect on the following January 1st. These tables are conclusive for the purpose of converting an average weekly wage into 80% of after-tax average weekly wage.

[PL 2013, c. 63, §1 (AMD).]

2. Agriculture. "Agriculture" means the operation of farm premises, including:

A. The planting, cultivating, producing, growing and harvesting of agricultural or horticultural commodities on those premises; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

B. The raising of livestock and poultry on those premises; [PL 2013, c. 111, §1 (AMD); PL 2013, c. 111, §2 (AFF).]

C. Any work performed as an incident to or in conjunction with these farm operations, including the packing, drying and storing of these commodities for market, if these operations:

(1) Are incident to or in conjunction with growing and harvesting farm operations of the same employer; and

(2) Are not provided as a service for other farm operations or employers; or [PL 2013, c. 111, §1 (AMD); PL 2013, c. 111, §2 (AFF).]

D. Equine activity, as defined in Title 7, section 4101, subsection 5. [PL 2013, c. 111, §1 (NEW); PL 2013, c. 111, §2 (AFF).]

[PL 2013, c. 111, §1 (AMD); PL 2013, c. 111, §2 (AFF).]

3. Aquaculture. "Aquaculture" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

A. All cultivating activities occurring at hatcheries or nurseries, from the egg, larval or spore stages to the transfer of the product to a growing site; and [PL 1993, c. 209, §1 (NEW).]

B. All cultivating activities occurring on water, from the receipt of fish, shellfish, seaweed or other marine plants from onshore facilities to the delivery of harvested products to onshore facilities for processing. [PL 1993, c. 209, §1 (NEW).]

[PL 1993, c. 209, §1 (AMD).]

4. Average weekly wages or average weekly wages, earnings or salary. The term "average weekly wages" or "average weekly wages, earnings or salary" is defined as follows.

A. "Average weekly wages, earnings or salary" of an injured employee means the amount that the employee was receiving at the time of the injury for the hours and days constituting a regular full working week in the employment or occupation in which the employee was engaged when injured; except that this does not include any reasonable and customary allowance given to the employee by the employer for the purchase, maintenance or use of any chainsaws or skidders used in the

employee's occupation if that employment or occupation had continued on the part of the employer for at least 200 full working days during the year immediately preceding that injury. For purposes of this paragraph, "reasonable and customary allowance" is the allowance provided in a negotiated contract between the employee and the employer or, if not provided for by a negotiated contract, an allowance determined by the Department of Labor. In the case of piece workers and other employees whose wages during that year have generally varied from week to week, wages are averaged in accordance with the method provided under paragraph B. [PL 1995, c. 560, Pt. G, §21 (AMD); PL 1995, c. 560, Pt. G, §29 (AFF).]

B. When the employment or occupation did not continue pursuant to paragraph A for 200 full working days, "average weekly wages, earnings or salary" is determined by dividing the entire amount of wages or salary earned by the injured employee during the immediately preceding year by the total number of weeks, any part of which the employee worked during the same period. The week in which employment began, if it began during the year immediately preceding the injury, and the week in which the injury occurred, together with the amounts earned in those weeks, may not be considered in computations under this paragraph if their inclusion would reduce the average weekly wages, earnings or salary. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

C. Notwithstanding paragraphs A and B, the average weekly wage of a seasonal worker is determined by dividing the employee's total wages, earnings or salary for the prior calendar year by 52.

(1) For the purposes of this paragraph, the term "seasonal worker" does not include any employee who is customarily employed, full time or part time, for more than 26 weeks in a calendar year. The employee need not be employed by the same employer during this period to fall within this exclusion.

(2) Notwithstanding subparagraph (1), the term "seasonal worker" includes, but is not limited to, any employee who is employed directly in agriculture or in the harvesting or initial hauling of forest products. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

D. When the methods set out in paragraph A, B or C of arriving at the average weekly wages, earnings or salary of the injured employee can not reasonably and fairly be applied, "average weekly wages" means the sum, having regard to the previous wages, earnings or salary of the injured employee and of other employees of the same or most similar class working in the same or most similar employment in the same or a neighboring locality, that reasonably represents the weekly earning capacity of the injured employee in the employment in which the employee at the time of the injury was working. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

E. When the employee is employed regularly in any week concurrently by 2 or more employers, for one of whom the employee works at one time and for another of whom the employee works at another time, the employee's average weekly wages are computed as if the wages, earnings or salary received by the employee from all such employers were wages, earnings or salary earned in the employment of the employer for whom the employee was working at the time of the injury. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

F. When the employer has paid the employee a sum to cover any special expense incurred by the employee by the nature of the employee's employment, the sum paid is not reckoned as part of the employee's wages, earnings or salary. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

G. The fact that an employee has suffered a previous injury or received compensation for a previous injury does not preclude compensation for a later injury or for death; but, in determining the

compensation for a later injury or death, the employee's average weekly wages are the sum that will reasonably represent the employee's weekly earning capacity at the time of the later injury in the employment in which the employee was working at that time, and are computed according to and subject to the limitations of this subsection. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

H. "Average weekly wages, earnings or salary" does not include any fringe or other benefits paid by the employer that continue during the disability. Any fringe or other benefit paid by the employer that does not continue during the disability must be included for purposes of determining an employee's average weekly wage to the extent that the inclusion of the fringe or other benefit will not result in a weekly benefit amount that is greater than $\frac{2}{3}$ of the state average weekly wage at the time of injury. The limitation on including discontinued fringe or other benefits only to the extent that such inclusion does not result in a weekly benefit amount greater than $\frac{2}{3}$ of the state average weekly wage at the time of injury does not apply if the injury results in the employee's death. For injuries occurring on or after January 1, 2020, any fringe or other benefit paid by the employer that does not continue during the disability must be included for purposes of determining an employee's average weekly wage to the extent that the inclusion of the fringe or other benefit will not result in a weekly benefit amount that is greater than $\frac{2}{3}$ of 125% of the state average weekly wage at the time of injury. The limitation on including discontinued fringe or other benefits only to the extent that such inclusion does not result in a weekly benefit amount greater than $\frac{2}{3}$ of 125% of the state average weekly wage at the time of injury does not apply if the injury results in the employee's death. [PL 2019, c. 344, §1 (AMD).]

[PL 2019, c. 344, §1 (AMD).]

5. Board; board member. "Board" means the Workers' Compensation Board created by section 151 and includes a designee of the board. "Board member" means any member of the board, including the executive director.

[PL 2003, c. 608, §4 (AMD).]

6. Community. "Community" means the area within a 75-mile radius of an employee's residence or the actual distance from an employee's normal work location to the employee's residence at the time of an employee's injury, whichever is greater.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

7. Compensation payment scheme. "Compensation payment scheme" means the procedure whereby an employer is required to provide compensation or other benefits under this Act to an employee. "Compensation payment scheme" includes a decree of the board, payment under the early-pay system provided in former Title 39, section 51-B and, in case of injuries prior to January 1, 1984, an approved agreement.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

8. Dependent. "Dependent" means a member of an employee's family or that employee's next of kin who is wholly or partly dependent upon the earnings of the employee for support at the time of the injury. The following persons are conclusively presumed to be wholly dependent for support upon a deceased employee:

A. A spouse of the deceased employee who was living with the employee at the time of the employee's death, who was living apart from the employee for a justifiable cause or because the spouse had been deserted by the employee or who was actually dependent in any way upon the employee at the time of the injury. A spouse living apart from the employee must produce a court order or other competent evidence as to separation and actual dependency; and [PL 2013, c. 63, §2 (RPR).]

B. [PL 2013, c. 63, §3 (RP).]

C. A child, including an adopted child or a stepchild, under the age of 18 years, or under the age of 23 years if a student or over the age of 18 years but physically or mentally incapacitated from earning, who is dependent upon the parent with whom the dependent is living or upon whom the dependent is actually dependent in any way at the time of the injury to the parent, there being no surviving dependent parent. For the purposes of this paragraph, "child" includes any dependent posthumous child whose mother is not living. If there is more than one child dependent, the compensation must be divided equally among them.

For the purposes of this paragraph, the term "student" means a person regularly pursuing a full-time course of study or training at an institution that is:

- (1) A school, college or university operated or directly supported by the United States or by any state or local government or political subdivision thereof;
- (2) A school, college or university that has been accredited by a state or by a state-recognized or nationally recognized accrediting agency or body;
- (3) A school, college or university not accredited pursuant to subparagraph (2) but whose credits are accepted, on transfer, for credit on the same basis as if transferred from an accredited institution by not fewer than 3 institutions accredited pursuant to subparagraph (2); or
- (4) An additional type of educational or training institution as defined by the board, but not after the dependent reaches the age of 23 or has completed 4 years of education beyond the high school level, except that, when the dependent's 23rd birthday occurs during a semester or other enrollment period, the dependent continues to be considered a student until the end of the semester or other enrollment period. A child is not deemed to have ceased to be a student during any interim between school years if the interim does not exceed 5 months and if the dependent shows to the satisfaction of the board that the dependent has a bona fide intention of continuing to pursue a full-time course of education or training during the semester or other enrollment period immediately following the interim or during periods of reasonable duration during which, in the judgment of the board, the dependent is prevented by factors beyond the dependent's control from pursuing the dependent's education. A child is not deemed to be a student under this Act during a period of service in the Armed Forces of the United States. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

In all other cases, questions of total or partial dependency must be determined in accordance with the fact as the fact was at the time of the injury. If there is more than one person wholly dependent, the compensation must be divided equally among them and persons partly dependent, if any, are not entitled to a part of the compensation during the period in which compensation is paid to persons wholly dependent. If there is no one wholly dependent and more than one person who is partly dependent, the compensation must be divided among them according to the relative extent of their dependency.

[PL 2013, c. 63, §2, 3 (AMD).]

9. Dependent of another person. For purposes of the payment or the termination of compensation under section 215, "dependent of another person" means a widow or widower of a deceased employee that over 1/2 of that person's support during a calendar year was provided by the other person.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

10. Design professional. "Design professional" means:

A. An architect, professional engineer, landscape architect, land surveyor, geologist or soil scientist licensed to practice that profession in the State in accordance with Title 32; or [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

B. Any corporation or partnership, professional or general, that employs one or more of any of the professionals described in paragraph A and whose sole purpose is the rendering of professional

services practiced by any professional described in paragraph A. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]
 [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

11. Employee. The term "employee" is defined as follows.

A. "Employee" includes officials of the State and officials of counties, cities, towns, water districts and all other quasi-public corporations of a similar character, every duly elected or appointed executive officer of a private corporation other than a charitable, religious, educational or other nonprofit corporation, and every person in the service of another under any contract of hire, express or implied, oral or written, except:

(1) Persons engaged in maritime employment or in interstate or foreign commerce who are within the exclusive jurisdiction of admiralty law or the laws of the United States, except that this section may not be construed to exempt from the definition of "employee" a person who is employed by the State and is thereby barred by the State's sovereign immunity from bringing a claim against that person's employer under admiralty law or other laws of the United States for claims that are otherwise cognizable under this Act;

(2) Firefighters, including volunteer firefighters who are active members of a volunteer fire association as defined in Title 30-A, section 3151; volunteer emergency medical services persons as defined in Title 32, section 83, subsection 12; and police officers are employees within the meaning of this Act. In computing the average weekly wage of an injured volunteer firefighter or volunteer emergency services person, the average weekly wage must be taken to be the earning capacity of the injured employee in the occupation in which the employee is regularly engaged. Employers who hire workers within this State to work outside the State may agree with these workers that the remedies under this Act are exclusive as regards injuries received outside this State arising out of and in the course of that employment; and all contracts of hiring in this State, unless otherwise specified, are presumed to include such an agreement. Any reference to an employee who has been injured must, when the employee is dead, include the employee's legal representatives, dependents and other persons to whom compensation may be payable;

(3) Notwithstanding any other provisions of this Act, any charitable, religious, educational or other nonprofit corporation that may be or may become an assenting employer under this Act may cause any duly elected or appointed executive officer to be an employee of the corporation by specifically including the executive officer among those to whom the corporation secures payment of compensation in conformity with chapter 5; and the executive officer must remain an employee of the corporation under this Act while such payment is so secured. With respect to any corporation that secures compensation by making a contract of workers' compensation insurance, specific inclusion of the executive officer in the contract causes the officer to be an employee of the corporation under this Act;

(4) Except for persons engaged in harvesting of forest products, any person who, in a written statement to the board, waives all the benefits and privileges provided by the workers' compensation laws, provided that the board has found that person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which that person is employed or a shareholder of the professional corporation by which that person is employed and that this waiver was not a prerequisite condition to employment. For the purposes of this subparagraph, the term "professional corporation" means a domestic or foreign professional corporation as defined in Title 13, section 723.

Any person may revoke or rescind that person's waiver upon 30 days' written notice to the board and that person's employer. The parent, spouse, domestic partner or child of a person who has made a waiver under the previous sentence may state, in writing, that the parent,

spouse, domestic partner or child waives all the benefits and privileges provided by the workers' compensation laws if the board finds that the waiver is not a prerequisite condition to employment and if the parent, spouse, domestic partner or child is employed by the same corporation that employs the person who has made the first waiver;

(5) Except for persons engaged in harvesting of forest products, the parent, spouse, domestic partner or child of a sole proprietor who is employed by that sole proprietor or the parent, spouse, domestic partner or child of a partner who is employed by the partnership of that partner or the parent, spouse, domestic partner or child of a member of a limited liability company who is employed by that limited liability company may state, in writing, that the parent, spouse, domestic partner or child waives all the benefits and privileges provided by the workers' compensation laws if the board finds that the waiver is not a prerequisite condition to employment;

(6) Employees of an agricultural employer when harvesting 150 cords of wood or less each year from farm wood lots, provided that the employer is covered under an employer's liability insurance policy as required in subsection 17;

(7) An independent contractor;

(8) Except as otherwise provided in sections 105-A and 401, if a person employs an independent contractor, any employee of the independent contractor is not considered an employee of that person for the purposes of this Act. The person who employs an independent contractor is not responsible for providing workers' compensation insurance covering the payment of compensation and benefits to the employees of the independent contractor. An insurance company may not charge a premium to any person for any employee excluded by this subparagraph; or

(9) A state or municipal employee while the employee is on assignment as a certified disaster service volunteer for the American Red Cross pursuant to Title 5, section 19-B or Title 30-A, section 2705. Duties performed while on a volunteer disaster relief assignment for the American Red Cross may not be considered a work assignment by a state agency or municipality. [PL 2021, c. 567, §§44, 45 (AMD).]

B. "Employee" includes, if the person elects to be personally covered by this Title, any person who regularly operates a business or practices a trade, profession or occupation, whether individually or in partnership or association with other persons or as a member of a limited liability company, whether or not the person hires employees. Such a person shall elect personal coverage by insuring and keeping insured the payment of compensation and other benefits under a workers' compensation insurance policy. The insurance policy must clearly indicate the intention of the parties to provide coverage for the person electing to be personally covered. The insurance company shall file with the board notice, in such form as the board approves, of the issuance of any workers' compensation policy to a person electing personal coverage. That insurance may not be cancelled within the time limited in that policy for its expiration until at least 30 days after mailing a notice of the cancellation of that insurance to the board and the person electing personal coverage. In the event that the person electing personal coverage has obtained a workers' compensation insurance policy from another insurance company, and that insurance becomes effective prior to the expiration of the 30 days, cancellation is effective as of the effective date of the other insurance. The Superintendent of Insurance is authorized to review for approval, at the superintendent's discretion, an appropriate classification for this class of persons and a reasonable rate. [PL 2001, c. 518, §2 (AMD).]

B-1. "Employee" includes any person engaged in harvesting forest products, except the following persons:

(1) A person who contracts directly with the landowner if the person meets the criteria for obtaining a certificate of independent status or a predetermination of independent contractor status and:

- (a) Performs all of the wood harvesting alone;
 - (b) Performs all of the wood harvesting alone or with the assistance of one or more of the following persons whose relationship with the person is that of spouse, domestic partner, parent, sibling, child, niece or nephew;
 - (c) Performs all of the wood harvesting alone or with the assistance of one or more other persons all covered by workers' compensation insurance; or
 - (d) Performs all of the wood harvesting alone or with the assistance of a partner when a legal partnership exists and neither partner acts as a supervisor of the other;
- (2) A spouse, domestic partner, parent, sibling, child, niece or nephew of a person who contracts directly with the landowner to perform all of the wood harvesting alone or with the assistance of one or more of the following: the person's spouse, domestic partner, parent, sibling, child, niece or nephew; or
- (3) A partner of a person who contracts directly with the landowner to perform all of the wood harvesting alone or with the assistance of a partner when a legal partnership exists and neither partner acts as a supervisor of the other.

Unless employed by a private employer, a person considered an employee under this paragraph shall obtain personal coverage in the same manner and under the same provisions as a person described in paragraph B who elects to be covered by this Title. [PL 2021, c. 567, §§46, 47 (AMD).]

C. "Employee" does not include any person who is otherwise an employee, if the person is injured as a result of the person's voluntary participation in an employer-sponsored athletic event or an employer-sponsored athletic team. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

D. "Employee" does not include a real estate broker or salesperson whose services are performed for remuneration solely by way of commission if the broker or salesperson has signed a contract with the agency indicating the existence of an independent contractor relationship. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

E. "Employee" does not include any person who is a sentenced prisoner in actual execution of a term of incarceration imposed in this State or any other jurisdiction for a criminal offense, except in relation to compensable injuries suffered by the prisoner during incarceration and while the prisoner is:

- (1) A prisoner in a county jail under final sentence of 72 hours or less and is assigned to work outside of the county jail;
- (2) Employed by a private employer;
- (3) Participating in a work release program;
- (5) Employed in a program established under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761;
- (6) Employed while in a supervised community confinement program pursuant to Title 34-A, section 3036-A; or
- (7) Employed while in a community confinement monitoring program pursuant to Title 30-A, section 1659-A. [PL 2013, c. 133, §35 (AMD).]

F. A person certified by the Director of the Maine Emergency Management Agency within the Department of Defense, Veterans and Emergency Management as a qualified search and rescue worker is an employee of the State within the meaning of this Act while that person is performing search and rescue activity at the request of a state, county or local government entity. In computing the average weekly wage of a certified search and rescue worker injured while performing such activity, the average weekly wage must be taken to be the earning capacity of the injured employee in the occupation in which the employee is regularly engaged. [PL 2003, c. 489, §2 (NEW).]
[PL 2021, c. 567, §§44-47 (AMD).]

12. Employer. The term "employer" includes:

- A. Private employers; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]
- B. The State; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]
- C. Counties; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]
- D. Cities; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]
- E. Towns; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]
- F. Water districts and all other quasi-public corporations of a similar nature; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]
- G. Municipal school committees; and [PL 2011, c. 678, Pt. C, §9 (AMD).]
- H. [PL 2011, c. 678, Pt. C, §10 (RP).]
- I. Design professionals. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

If the employer is insured, "employer" includes the insurer, self-insurer or group self-insurer unless the contrary intent is apparent from the context or is inconsistent with the purposes of this Act.
[PL 2011, c. 678, Pt. C, §§9, 10 (AMD).]

12-A. Harvesting forest products. "Harvesting forest products" means to sever and remove standing trees from a forest as a raw material for commercial purposes. "Forest products" has the same meaning as in Title 12, section 8881, subsection 3.
[PL 1999, c. 364, §3 (NEW).]

13. Independent contractor.

[PL 2011, c. 643, §7 (RP); PL 2011, c. 643, §14 (AFF).]

13-A. Independent contractor. A person who performs services for remuneration is presumed to be an employee unless the employing unit proves that the person is free from the essential direction and control of the employing unit, both under the person's contract of service and in fact and the person meets specific criteria. In order for a person to be an independent contractor:

A. The following criteria must be met:

- (1) The person has the essential right to control the means and progress of the work except as to final results;
- (2) The person is customarily engaged in an independently established trade, occupation, profession or business;
- (3) The person has the opportunity for profit and loss as a result of the services being performed for the other individual or entity;
- (4) The person hires and pays the person's assistants, if any, and, to the extent such assistants are employees, supervises the details of the assistants' work; and

(5) The person makes the person's services available to some client or customer community even if the person's right to do so is voluntarily not exercised or is temporarily restricted; and [PL 2011, c. 643, §8 (NEW); PL 2011, c. 643, §14 (AFF).]

B. At least 3 of the following criteria must be met:

- (1) The person has a substantive investment in the facilities, tools, instruments, materials and knowledge used by the person to complete the work;
- (2) The person is not required to work exclusively for the other individual or entity;
- (3) The person is responsible for satisfactory completion of the work and may be held contractually responsible for failure to complete the work;
- (4) The parties have a contract that defines the relationship and gives contractual rights in the event the contract is terminated by the other individual or entity prior to completion of the work;
- (5) Payment to the person is based on factors directly related to the work performed and not solely on the amount of time expended by the person;
- (6) The work is outside the usual course of business for which the service is performed; or
- (7) The person has been determined to be an independent contractor by the federal Internal Revenue Service. [PL 2011, c. 643, §8 (NEW); PL 2011, c. 643, §14 (AFF).]

[PL 2011, c. 643, §8 (NEW); PL 2011, c. 643, §14 (AFF).]

14. Insurance company. "Insurance company" means any casualty insurance company or association authorized to do business in this State that may issue policies conforming to subsection 19 and includes the Maine Employers' Mutual Insurance Company. Whenever in this Act relating to procedure the words "insurance company" or "insurer" are used they apply only to cases in which the employer has secured the payment of compensation and other benefits by insuring such payment under a workers' compensation insurance policy, instead of furnishing satisfactory proof of the employer's ability to pay compensation and benefits directly to the employer's employees.

An insurance carrier may not be qualified to issue a workers' compensation insurance policy covering any employees working in this State unless it has and continuously maintains an employee or claims agent within this State empowered to investigate claims arising under this chapter; sign agreements for the payment of compensation as provided by this chapter; and issue drafts or checks in payment of obligations arising under this chapter in amounts of at least \$1,000.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

15. Maximum medical improvement. "Maximum medical improvement" means the date after which further recovery and further restoration of function can no longer be reasonably anticipated, based upon reasonable medical probability.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

16. Permanent impairment. "Permanent impairment" means any anatomic or functional abnormality or loss existing after the date of maximum medical improvement that results from the injury.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

17. Private employer. "Private employer" includes corporations, including professional corporations, partnerships and natural persons. Any agricultural employer otherwise included under this Act is not included when harvesting 150 cords of wood or less each year from farm wood lots, provided that, in order to qualify for this exemption, the employer must be covered by an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$5,000.

[PL 2001, c. 235, §1 (AMD).]

18. Representatives. "Representatives" includes executors and administrators.
[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

19. Workers' compensation insurance policy. "Workers' compensation insurance policy" means a policy in such form as the Superintendent of Insurance approves, issued by any stock or mutual casualty insurance company or association that may now or hereafter be authorized to do business in this State, which in substance and effect guarantees the payment of the compensation, medical benefits and expenses of burial provided for, in such installment, at such time or times, and to such person or persons and upon such conditions as in this Act provided. Whenever a copy of a policy is filed, a copy certified by the Superintendent of Insurance is admissible as evidence in any legal proceeding wherein the original would be admissible.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 1993, c. 209, §1 (AMD). PL 1995, c. 560, §G21 (AMD). PL 1995, c. 560, §G29 (AFF). PL 1997, c. 600, §§3,4 (AMD). PL 1999, c. 201, §1 (AMD). PL 1999, c. 201, §2 (AFF). PL 1999, c. 364, §§1-3 (AMD). PL 2001, c. 235, §1 (AMD). PL 2001, c. 490, §1 (AMD). PL 2001, c. 518, §§1,2 (AMD). PL 2001, c. 710, §18 (AMD). PL 2001, c. 710, §19 (AFF). PL 2003, c. 344, §D27 (AMD). PL 2003, c. 423, §4 (AMD). PL 2003, c. 423, §5 (AFF). PL 2003, c. 437, §1 (AMD). PL 2003, c. 489, §2 (AMD). PL 2003, c. 608, §4 (AMD). PL 2007, c. 350, §§1, 2 (AMD). PL 2009, c. 142, §17 (AMD). PL 2009, c. 452, §§3, 4 (AMD). PL 2009, c. 529, §4 (AMD). PL 2011, c. 643, §§7, 8 (AMD). PL 2011, c. 643, §14 (AFF). PL 2011, c. 678, Pt. C, §§9, 10 (AMD). PL 2013, c. 63, §§1-3 (AMD). PL 2013, c. 111, §1 (AMD). PL 2013, c. 111, §2 (AFF). PL 2013, c. 133, §35 (AMD). PL 2019, c. 344, §1 (AMD). PL 2021, c. 567, §§44-47 (AMD).

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