

237 CMR:

**BOARD OF STATE EXAMINERS
OF ELECTRICIANS AND
BOARD OF ELECTRICIANS
APPEALS**

237 CMR: BOARD OF STATE EXAMINERS OF ELECTRICIANS
AND BOARD OF ELECTRICIANS APPEALS

237 CMR 12.00: DEFINITIONS

Section

12.01: Definitions

12.01: Definitions

For the purpose of 237 CMR 12.00, the terms listed below shall have the following meanings, however, none of these terms shall be construed beyond the scope of the provisions of M.G.L. c. 141, nor shall they be construed to restrict those provisions.

Apprentice shall mean a person who, not having been licensed under the provisions of M.G.L. c. 141, is learning to properly perform electrical and systems work under the direct supervision of an appropriately licensed person.

Agreement shall mean a written contract between the provider and the enrolling student.

Board means the Board of State Examiners of Electricians except as otherwise defined.

Business Entity means a corporation, LLC, LLP, partnership, or any other business organization authorized by the Secretary of the Commonwealth. Business Entity shall not include an individual practicing under their own name or a DBA.

Candidate Information Bulletin (CIB) shall mean a written Board approved Policy and Procedure detailing the requirements as well as the process for achieving licensure.

Certificate of Completion shall mean an 8½ inches by 11 inches Board approved certificate describing the objective(s), or in the case of course describing such course with the date of commencement and completion, the name of the student, in addition the electrical code year of the objective or course and providers signature and provider number or other means acceptable to the board.

Classroom Instruction shall mean a learning objective(s) taught by licensed electricians, contractors or technicians in a classroom style and such room meeting the definition of a place of assembly.

Clock Hour means a 60-minute hour.

Code shall mean the Massachusetts Electrical Code as currently promulgated in 527 CMR 12.00: *Massachusetts Electrical Code (Amendments)*.

Completed Application shall mean an application for licensure approved by the Board which consists of all required work experience forms, a certificate of completion of education, and all required fees.

Continuing Education Provider (CEP) means a provider of continuing education approved by the Board.

Course shall mean more than one learning objective taught consecutively without substantial interruption.

Current Code shall mean the currently in effect version of the Code.

Direct Supervision means direct, personal on-site supervision.

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Electrical Work shall mean the installation, testing, repair, or maintenance of conductors, cables, raceways, apparatus, devices, fixtures, or other appliances used for heat, light, or power functions, or for fire warning, security, or signaling, or comparable power limited functions where such wiring is permanently connected to a source of electricity or that is permanently controlled through the use of electrical signals, including optical fiber cables.

Fire Warning System means an inherently power-limited system of wires, conduits, apparatus, devices, fixtures or other appliances installed and interconnected electrically or electronically for the detection of heat, smoke, or products of combustion, or for the transmission of signals or audible alarms.

Hardships shall mean, but are not limited to, serious illness, disability, transfer of employment or other good cause shown.

Inherently Power-limited System means a system requiring no overcurrent protection due to design and construction.

Initial Education Provider (IEP) means a provider approved by the Board that provides education required to obtain a Board issued license.

Journeyman Electrician means a holder of a Class B license and a person qualified to do the work of installing, repairing, or maintaining wires, conduits, apparatus, devices, fixtures, or other appliances used for heat, light, power, fire warning or security system purposes.

Learning Objective shall mean an individual Electrical, Security, fire alarm, or other systems subject as provided in 237 CMR 22.01: *600 Hours of Education Required as a Prerequisite to Sit for Journeyman Examination (as Applicable Modular and Non-modular)*.

License Renewal Year shall mean July 31st every third year, commencing July 31, 1989.

Licensee means holder of a license issued by the Board.

Licensee of Record shall mean a licensed Master Electrician or Systems Contractor who holds a qualifying officer or manager position with a business entity who has been approved by the Board to authorize and be responsible for all electrical or systems work undertaken by that business entity.

M.G.L. means Massachusetts General Laws.

Master Electrician means a holder of a Class A license and a person, firm, or corporation having a regular place of business who, by the employment of journeymen or apprentices, performs the work of installing, repairing or maintaining wires, conduits, apparatus, devices, fixtures or other appliances used for light, heat, power, fire warning or security system purposes; provided, however, that no journeyman electrician so employed shall have more than one apprentice under his supervision; and provided, further, that not more than one such apprentice shall be employed for each journeyman electrician purposes.

NFPA means the National Fire Protection Association.

Provider means a provider of continuing education approved by the Board.

Related Classroom means instruction consisting of a curriculum approved by the Board relating to electrical and systems installation.

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Score Report shall mean written documentation indicating an over all score and the number of questions answered correctly or incorrectly on each major section of the examination.

Security System means an inherently power-limited system of wires, conduits, apparatus, devices, fixtures, or other appliances installed and interconnected electrically or electronically to permit access control, proprietary signalling, surveillance and the detection of burglary, intrusion, holdup, or other conditions requiring response or the transmission of signals or audible alarms.

Substantial Interruption shall mean an unacceptable absence as determined by the Board on a case by case basis from a regularly scheduled objective or course in which the applicant has entered into an agreement with the provider.

Successful Completion shall mean completion of the clock hours as established for each learning objective(s) as provided in 237 CMR 22.01: *600 Hours of Education Required as a Prerequisite to Sit for Journeyman Examination (as Applicable Modular and Non-modular)*. Provided further the enrolling student is in compliance of all terms and conditions set in a contractual agreement between the provider and the enrolling student.

System means a fire warning, security or other inherently power-limited system, wire, conduit or device which conducts or consumes electricity and is electrically or electronically activated.

Systems Contractor means a holder of a Class C license and a person, firm, or corporation having a regular place of business who, by the employment of systems technicians or apprentices, performs the work of installing, repairing or maintaining wires, conduits, apparatus, devices, fixtures or other appliances used for systems; provided, however, that no systems technician so employed shall have more than one apprentice under his or her supervision; and provided, further, that not more than one such apprentice shall be employed for each systems technician.

Systems Technician means a holder of a Class D license and a person qualified to do the work of installing, repairing or maintaining wires, conduits, apparatus, devices, fixtures or other appliances used for systems.

Systems Work shall mean the installation, testing, repair, or maintenance of conductors, cables, raceways, apparatus, devices, fixtures, or other appliances used for fire warning, security, or signaling, or comparable power limited functions where such wiring is permanently connected to a source of electricity or that is permanently controlled through the use of electrical signals.

REGULATORY AUTHORITY

237 CMR 12.00: M.G.L. c. 13, § 32A; c. 112, § 61; c. 141; c. 13, § 32; c. 30A, § 9.

237 CMR 13.00: Eligibility Criteria for Initial Licensure

Section

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- 13.12: Military Construction or Base Maintenance Electricians.
- 13.13: Corporate License
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13.01: Master Electrician License Exam Application Eligibility Criteria

A licensed Journeyman Electrician applying for a Master Electrician license exam shall meet the following eligibility criteria for licensure:

- (a) furnish documentary proof satisfactory to the Board of having completed at least one year of experience as the holder of a Massachusetts Journeyman Electrician license and having been actively engaged in electrical work.
- (b) furnish documentary proof satisfactory to the Board of having successfully completed without substantial interruption 150 clock hours of classroom instruction, as described in 237 CMR 22.02: *150 Hours of Education Required as a Prerequisite for Master Electrician Examination.*

13.02: Systems Contractor License Exam Application Eligibility Criteria

A licensed Systems Technician applying for a Systems Contractor license exam shall meet the following eligibility criteria for licensure:

- (a) furnish documentary proof satisfactory to the Board of having completed at least one year of experience as the holder of a Massachusetts Systems Technician license and having been actively engaged in or working at the business of systems work.

(b) furnish documentary proof satisfactory to the Board of having successfully completed without substantial interruption 75 clock hours of classroom instruction, as described in 237 CMR 22.04: *75 Hours of Education Required as a Prerequisite for Systems Contractor Examination*.

13.03: Journeyman Electrician License Exam Application Eligibility Criteria

(1) An apprentice applying for a Journeyman electrician license exam shall meet the following eligibility criteria for licensure:

(a) furnish documentary proof satisfactory to the Board of having completed electrical work experience totaling a minimum of 8000 clock hours in no less than four years before making an application for examination.

Such work experience, as an apprentice, shall have been under the direct supervision of a Massachusetts licensed Journeyman electrician in accordance with M.G.L. c. 141, § 8.

(1) Applicants may receive credit for electrical shop experience obtained in a public vocational school program approved by the Department of Elementary and Secondary Education under M.G.L. c. 74, All programs are subject to approval by the Board.

(2) Applicants with systems work experience supervised by a Systems Technician may receive a maximum of 4000 clock hours in not less than 2 years.

(3) Apprentices shall not be given credit for work experience obtained more than twenty years prior to the date of application.

(b) furnish documentary proof satisfactory to the Board of having successfully completed without substantial interruption 600 clock hours of classroom instruction as described in 237 CMR 22.01: *600 Hours of Education Required as a Prerequisite to Sit for Journeyman Examination (as Applicable Modular and Non-modular)* and obtained in a public vocational school program approved by the Department of Elementary and Secondary Education under M.G.L. c. 74, a private occupational school program licensed by the Division of Professional Licensure under M.G.L. c. 112, a college/university program, or other trade organization, approved by the Board. For purposes of this requirement, a maximum of 300 hours of education shall be granted for education completed in a public vocational school program approved by the Department of Elementary and Secondary Education under M.G.L. c. 74.

(c) furnish documentary proof satisfactory to the Board of having obtained a high school diploma or equivalent.

(2) Applicants with education in a systems program as described in 237 CMR 22.03: *300 Hours of Education Required as a Prerequisite for Systems Technician Examination* will receive that credit towards the education requirement for the Journeyman's examination.

13.04: Systems Technician License Exam Application Eligibility Criteria

An apprentice applying for a Systems Technician license exam shall meet the following eligibility criteria for licensure:

(a) furnish documentary proof satisfactory to the Board of having completed systems work experience totaling a minimum of 4000 clock hours in no less than two years before making an application for examination. Such work experience, shall have been under the direct supervision of a Massachusetts Systems Technician or Journeyman in accordance with M.G.L. c. 141, § 8.

(1) Applicants may receive credit for shop experience obtained in a public vocational school program approved by the Department of Elementary and Secondary Education under M.G.L. c. 74, in a private occupational school program licensed by the Division of Professional Licensure under M.G.L. c. 112, or in a college/university program approved by the Board.

(2) Applicants with electrical work experience may receive a maximum of 2000 clock hours in not less than 1 year towards the experience requirement for the Systems Technician examination.

(3) Apprentices shall not be given credit for systems work experience obtained more than twenty years prior to the date of application.

(b) furnish documentary proof satisfactory to the Board of having successfully completed without substantial interruption 300 clock hours of education as described in 237 CMR 22.00: *Required Electrical Education* obtained in a public vocational school program approved by the Department of Elementary and Secondary Education under M.G.L. c. 74, or in a private occupational school program licensed by the Division of Professional Licensure under M.G.L. c. 112, or in a college/university program approved by the Board.

(c) furnish documentary proof satisfactory to the Board of having obtained a high school diploma or equivalent.

(1) Applicants with education in electrical may apply 25% of that education, up to a maximum of 75 clock hours, towards the education requirement for the Systems Technician examination.

13.05: Continuing Education and Education Expiration for all Applicants

(1) Continuing Education.

Applicants must complete, in addition to the required education, a 15 hour Continuing Education Program as provided in 237 CMR 17: *Mandatory Continuing Education (MCE)*. This continuing education must be based on 527 CMR 12.00: *Massachusetts Electrical Code (Amendments)* in effect at the time of application.

(2) Education Expiration.

Education shall be deemed to expire and cannot be utilized for licensure purposes twenty years from when the applicant commences the program.

13.06: Rules Governing Applicant Education

(1) Successful Completion.

(a) Students are required to successfully complete without duplicating an objective(s) to meet the required clock hours for examination. If a student feels this would create a hardship, he or she shall submit such requests in writing to the Board, prior to enrolling in such objective(s), documenting the hardship and requesting waiver of this requirement to receive credit for such clock hours.

(b) Students shall successfully complete the clock hours for each objective(s) provided in their agreement and as provided in 237 CMR 13.00 to receive credit for such clock hours.

(c) Students who do not successfully complete an objective shall not receive any clock hours of education for that objective.

(d) Students who successfully complete an objective(s) shall receive the clock hours of education for that objective(s) as provided in 237 CMR 22.00: *Required Electrical Education*.

(e) Students shall successfully complete the clock hours of education as established in 237 CMR 13.00 before making an application for examination.

(2) Students are not allowed to sit in any objective(s) prior to the signing of an Agreement with their provider.

(3) Students are required to purchase, for classroom instruction, 527 CMR 12.00: *Massachusetts Electrical Code (Amendments)*, (available at the State Bookstore, State House, Room 117, Boston, MA 02133), Documents and Standards intended to be used as an aid in instruction for each learning objective listed in 237 CMR 22.00: *Table 22.01*, unless provided by others.

(4) Certificates of Completion.

(a) Students are responsible for maintaining their Certificates of Completion for any objective(s) completed by them until they have passed their applicable examination and received a license.

(b) Students shall not receive credit from the Board for any objective(s) without a Certificate of Completion. Students are not allowed to sit for any objective(s) prior to obtaining the required books, documents and standards, calculators *etc.* applicable to their selected learning objective(s).

(c) Students who fail to comply with this requirement may be subject to the forfeiture of registration fees and attendance clock hours.

(5) Hardship.

(a) Students are required to submit a written request of hardship to their provider as provided in 237 CMR 18.00: *Rules Governing Practice*, with regards to their intention of withdrawal or being absent from any learning objective(s). Failure to submit such a request may cause the student to forfeit their right for a hardship.

(b) Hardship agreements shall be submitted to the Board upon request.

13.07: Education Documentation Requirements for Out of State Applicants Who do not Hold a License in Another Jurisdiction and all Out of Country Applicants

(1) An applicant who has received his or her qualifying education either in another state or in another country shall, at the time of application, petition the Board for review and approval of those classroom instruction clock hours. Such petition shall be accompanied by the following documentation, in the English language:

(a) A certificate of completion for each learning objective successfully completed documenting the clock hours, with commencement and the completion dates of such instruction.

(b) A letter of accreditation from the institution, recognized by a Department of Education or the equivalent, providing such instruction.

(c) Documentation describing whether such instruction was based on the National Electrical Code, the International Electrical Code, a County regulation or regulations or codes promulgated by some other regulatory body and the code year.

(d) The Board may request additional information regarding out of state education. In its discretion, the Board may determine that such education is not substantially equivalent to the requirements in Massachusetts and may deny credit for part, or all, of the education submitted.

(2) In no case shall an applicant for licensure receive credit for the education or experience unless such education and experience was based on the National Electrical Code then in effect, an International Electrical Code then in effect, or related adopted standards acceptable to the Board.

13.08: Work Experience Documentation Requirements for Out of State Applicants Who do not Hold a License in Another Jurisdiction and all Out of Country Applicants

(1) An applicant for licensure who has received his or her qualifying experience either in another state or in another country shall, at the time of application, petition the Board for review and approval of those experience clock hours. The petition shall be accompanied by a certified statement from the employer with the following information:

- (a) The name of the applicant.
 - (b) The employer's name and supervising electrician's name, with the supervising electrician's license number and a description of the class and/or type of license held by that supervising electrician, education and work experience requirements.
 - (c) The beginning date of employment, a statement describing the employment as full time or part time, the number of clock hours worked on a weekly basis during the period of employment, and the termination date of employment.
 - (d) The type of work experience supervised by the licensed supervising electrician and the total number of clock hours of work experience during the period of employment.
 - (e) A statement that the work experience was based upon the national or an international electrical code as well the cycle year for that code(s).
- (2) In no case shall an applicant for licensure receive credit for the education or experience unless such education and experience was based on the National Electrical Code then in effect, an International Electrical Code then in effect, or related adopted standards acceptable to the Board.

13.09: Education and Work Experience Requirements for Applicants Licensed in a State Without Reciprocity with Massachusetts

(1) An Applicant who holds a current license issued by examination in another state may apply for the equivalent license in Massachusetts provided the applicant held his or her license for a period of not less than one year and has been actively engaged in licensed work. The applicant's education and work experience required by the jurisdiction of originating license must be documented and equivalent to the education and experience requirements provided in 237 CMR 13.00. Said examination application must include the following:

Required Education documentation:

- (a) Program overview and course description
- (b) Transcripts showing commencement and the completion dates, completion of each learning objective, accumulated clock hours and code standard.
- (c) A letter of accreditation from the institution recognized by the state's Department of Education or similar authority.
- (d) Documentation describing whether such instruction was based on the National Electrical Code, the International Electrical Code, a County regulation or regulations or codes promulgated by some other regulatory body and the code year.

Work Experience documentation:

- (a) Most recent years of work experience actively engaged in licensed work.

- (b) Letter(s) of present or recent employment on letterhead including the applicant's name, qualifying officer's name and license number, the beginning date of employment, indication of employment as full time or part time, capacity, description of work, the number of clock hours worked on a weekly basis during the period of employment, and the termination date of employment.
- (c) A statement should indicate whether the work experience was performed to the specifications of the national or an international electrical code as well the effective year.
- (d) Self- employed individuals with a non-apprentice level license shall document work with as much information as possible, including references.

License documentation

- (a) Applicants shall present a certified statement signed by the Keeper of Records for the originating jurisdiction of license issuance indicating whether the license is current and in good standing and any disciplinary actions taken by the license authority.
 - (b) The Board may request additional information regarding out of state education and work experience. In its discretion, the Board may determine that such education and/or experience is not substantially equivalent to the requirements in Massachusetts and may deny credit for part or all of the education and experience submitted.
- (2) An applicant for licensure may receive credit for the education or experience if such education and experience was based on the National Electrical Code then in effect, an International Electrical Code then in effect, or related adopted standards acceptable to the Board.

13.10: Military Education and Work Experience

- (1) Applicants for licensure as an electrician or systems person who qualify as a veteran as defined in M.G.L. c. 4, § 7, clause forty-third and have obtained education instruction and work experience while serving in the armed services shall submit a breakdown of such instruction and experience on discharge papers (currently forms DD214 and DD215).
- (2) Documentation of experience or instruction obtained while serving in the armed services shall be submitted on military stationary. Such documentation shall include a statement that states that "This certifies that the subject individual has worked as (indicating the title of the position) performing (indicate the specific work performed) in accordance with the provisions of the (National Electrical Code or International Electrical Code) for the period (date of commencement) to (date of completion).

13.11: Aircraft or Shipboard Electricians and Merchant Marines Strikers

(1) Education instruction and work experience gained while acting in the capacity of an aircraft or shipboard electrician or as a Merchant Marine Striker may be considered by the Board, and may receive the following maximum credit clock hours of work and education required by 237 CMR 13.00:

- (a) Work Experience: No more than 2,000 clock hours of work experience credit.

(b) Education: No more than 150 clock hours of education credit.

13.12: Military Construction or Base Maintenance Electricians

(1) Education instruction and work experience gained while supervised in military construction work or base maintenance such instruction and experience may be considered by the Board, and may receive the following maximum credit clock hours of instruction and work experience required by 237 CMR 13.00:

(a) Work Experience: No more than 50% credit of total work experience clock hours up to a maximum of two years or 4000 clock hours of experience.

(b) Education Clock Hours: No more than 300 clock hours of education.

13.13: Corporate License

(1) Applicants for a Class A (Master's) or Class C (Systems Contractor) Corporation Certificate shall be holders of a Massachusetts Class A (Master's) or Class C (Systems Contractor) license in order to be the holder of a corporate license and shall provide to the Board the following:

(a) a completed application form together with the fee set by the Secretary of Administration and Finance;

(b) a list of all officers of such corporation and the qualifying officer certified by the Clerk of the corporation as a true copy of its records;

(c) a copy of its Articles of Organization;

(d) a copy of the bylaws or if applicable agreement naming the Qualifying Officer and his or her responsibilities;

(e) the name of the individual holding the Class A (Master's) or Class C (System Contractor) license who will serve as the Qualifying Officer who may be a current employee; and

(f) a letter from the Qualifying Officer requesting that the Board grant the corporation a certificate based on the examination previously passed by him or her.

13.14: Partnership License

(1) Applicants for a Partnership license shall provide to the Board the following:

(a) a completed application form together with the fee set by the Secretary of Administration and Finance;

(b) the name of the individual holding the Class A (Master's) or Class C (System Contractor) license who will serve as the Qualifying Officer of the partnership and may be a current partner in the partnership;

(c) a letter from the Qualifying Officer of the partnership requesting that the Board grant the partnership a license based on the examination previously passed by him or her; and

(d) a fully completed Partnership Agreement Form obtained from the Board and signed by all partners listing the Qualifying Officer with his or her responsibilities.

13.15: LLC and LLP

(1) Applicants for LLC and LLP license shall provide to the Board the following:

(a) a completed application form together with the fee set by the Secretary of Administration and Finance;

(b) the name of the individual holding the Class A (Master's) or Class C (System Contractor) license who will serve as the Qualifying Officer;

(c) a letter from the Qualifying Officer requesting that the Board grant the LLC or as the case may be LLP a license based on the examination previously passed by him or her; and

(d) a fully completed LLC or as the case may be LLP Agreement Form listing the Qualifying Officer with his or her responsibilities.

REGULATORY AUTHORITY: 237 CMR 13.00: M.G.L. c. 141, §§ 2 and 3.

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237 CMR 14.00: EXAMINATIONS FOR LICENSURE

Section

14.01: Applications

14.02: Examination Administration, Passing Requirements and Reexamination Requirements for All
Class/Type of Licenses

14.03: Examination Review

14.01: Applications

(1) General Requirements.

(a) All applicants for licensure shall submit an application for examination to the Board for its approval.

(b) Applications, which are not complete, not legible, or are not accompanied by the required fee(s) shall not be accepted and shall be returned to the applicant.

(2) Application Deadlines.

(a) Applications shall remain current for a maximum of one year based on the Board's application approval date after which time such applications will be deemed expired.

(b) In situations, where applications have expired, candidates will be required to resubmit a completed application form, work experience form and education form, with appropriate fees before he or she will be allowed to proceed with the examination process.

14.02: Examination Administration, Passing Requirements and Reexamination Requirements for All
Class/Type of Licenses

(1) General Examination Format.

(a) Examinations for licensure shall be given in the English language.

(b) Journeyman and Technician Examinations are given in two parts. One part of the examination questions are derived from apprentices supervised work experience. Part two of the examination questions are derived from the current Code, other Standards and Reference material, as provided in the Candidate Information Bulletin (CIB).

(c) Master's and System Contractor's Examinations are given in two Parts. One part of the examination questions is derived from Business and related Laws. Part two of the examination questions are derived from the current Code, other Standards and Reference material, as provided in the Candidate Information Bulletin (CIB).

(2) Passage Requirements.

(a) Candidates shall obtain a grade of at least 70% on each part of the examination to obtain licensure.

(b) New exam items may be added to the examinations, to reflect the adoption of a current Code, or adoption of other related Regulations or laws seven months from the enforcing date of such Code, Regulation or Law.

(c) Credit to Veterans. The Board shall grant credit of 5% on each part of the examination standing of each applicant who is a veteran as defined in M.G.L. c. 4, § 7, clause forty-third.

(3) Reexamination Requirements

(a) Candidates who have failed both or only passed one part of an examination will have 12 months, from the board's application approval date, to pass the part he or she failed otherwise, they will have to resubmit a completed application and take both parts of the examination.

(b) In no case shall an applicant be allowed to sit for an exam more than three times unless they have complied with the provisions in 237 CMR 14.00 regarding additional education.

(c) Candidates who have failed to pass an examination shall wait a minimum of 24 clock hours to reschedule and sit for an exam.

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14.02: continued

(d) Candidates who have not successfully passed the examination after three attempts shall furnish documentary proof satisfactory to the Board of having reviewed and addressed their examination deficiencies with a Board approved provider. This requirement may also be met by successfully completing an examination preparation course or Board approved 15 hour continuing education course (if not previously taken).

(e) Candidates who have not successfully passed the examination after a total of six attempts shall be required to repeat the full number of education hours required for licensure as outlined by 237 CMR 13.00: *Eligibility Criteria for Initial Licensure*.

(f) Candidates who were unsuccessful in passing an examination, and the examination item bank changes to reflect a promulgated code, or change in regulation or law shall successfully complete a 15 hour Continuing Education Program as provided in 237 CMR 17.01(1): *Continuing Education Requirement* on the currently adopted Code incorporating the Massachusetts Amendments in order to sit for reexamination. These candidates must submit to the Board their certificate of completion prior to taking the examination in the future.

14.03: Examination Review

(1) Any applicant who fails an examination may apply to the Board in writing for an opportunity to review the examination in accordance with the Board's policy and examination process provided in the Board's Candidate Information Bulletin.

(2) Each applicant seeking review of an examination shall submit the required fee for such review in accordance with the Board's policy and examination process provided in the Board's Candidate Information Bulletin.

(3) Applicants permitted to review an examination may not be accompanied by any individual while engaged in such review in accordance with the Board's policy and examination process provided in the Board's Candidate Information Bulletin.

(4) The Board shall make all final decisions with respect to the validity of examination questions, applicant scores and applicant licensure.

(5) Review Timelines.

(a) Requests for review of an examination shall be accepted in accordance with the Board's policy and examination process provided in the Board's Candidate Information Bulletin. The Board may delegate this authority, as well as authority to review appeals of examination questions/items to its test administration vendor per policies and procedures implemented by the Board.

(b) Requests for review of an examination will not be accepted more than 30 days from the score report date.

(c) Requests for the Board to entertain an appeal of examination questions/items will not be accepted more than 30 days from the date an examination review takes place.

REGULATORY AUTHORITY

237 CMR 14.00: M.G.L. c. 141, §§ 2 and 2A; St. 1997, c. 306.

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237 CMR 15.00: LICENSURE WITHOUT EXAMINATION

Section

15.01: Standards

15.02: Application for Licensure Without Examination (by Reciprocity)

15.01: Standards

(1) The Board may license without examination any person who has been licensed as a Master or Journeyman electrician or System contractor or technician in another state under laws which, in the opinion of the Board, maintain standards substantially the same as those of the commonwealth for electricians; provided, however, that the state which has already granted licensure has entered a written agreement with the commonwealth giving a like privilege to holders of electricians' licenses issued by the commonwealth.

(2) In determining what constitutes "standards substantially the same as those of the commonwealth" as set forth in 237 CMR 15.01(1), the Board shall require the following of each applicant for licensure without examination:

- (a) Class A (Master) License: An applicant for a Master electrician license shall provide evidence satisfactory to the Board of:
1. completing a minimum of five years of having been actively engaged in, or working at the business of, installing, repairing, or maintaining wires, conduits, apparatus, devices, fixtures or other appliances used for light, heat, power, fire warning or security system purposes; and
 2. holding a current Class B (Journeyman) license issued by the Board (application for a Class B license may be made at the time of application for a Class A license).
- (b) Class B (Journeyman) License: An applicant for a Journeyman electrician license shall provide evidence satisfactory to the Board of having completed an equivalent of the 600 hour Journeyman's Course as described in 237 CMR 22.01 within ten years of the date of application for the Journeyman's license; and practical experience totaling a minimum of 8000 hours obtained in no less than four years as an apprentice working at installing, repairing, or maintaining wires, conduits, apparatus, devices, fixtures or other appliances used for light, heat, power, fire warning or security system purposes. The Board may request further information regarding qualifications.
- (c) Class C (System Contractor) License: An applicant for a System Contractor license shall provide evidence satisfactory to the Board of having completed practical experience totaling a minimum of 8000 hours obtained in no less than four years of installing fire warning or security systems. The Board may request further information regarding qualifications.
- (d) Class D (System Technician) License: An applicant for a System Technician license shall provide evidence satisfactory to the Board of having completed practical experience totaling a minimum of 6000 hours obtained in no less than three years of installing fire warning or security systems. The Board may request further information regarding qualifications.
- (e) Corporation License: An applicant for a Corporation license shall provide to the Board:
1. evidence satisfactory to the Board that one of its corporate officers is a Master electrician or System Contractor licensed by the Board who is currently employed by the corporation;
 2. a copy of the corporation's Articles of Organization or Charter;
 3. a copy of its Foreign Corporation Certificate filed with the Massachusetts Office of the Secretary of State; and
 4. a fully completed Corporation Clerk's Form provided by the Board indicating the names and addresses of the corporate officers.
- (e) Partnership License: An applicant for a Partnership license shall provide satisfactory evidence to the Board that:
1. one of the members of the partnership is a Master electrician or System Contractor licensed by the Board;
 2. a copy of the Partnership Agreement; and
 3. a fully completed Partnership Agreement Form provided by the Board signed by both partners.

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15.02: Application for Licensure Without Examination (by Reciprocity)

- (1) Applicants for either a Class A (Master), Class B (Journeyman), Class C (System Contractor) or Class D (System Technician) license shall complete an application form provided by the Board and shall submit the completed, notarized application to the Board for its approval.
- (2) Applications shall be accompanied by payment in full of the required fee in the form of a certified check, postal money order, or express money order; applications not submitted with the required fee shall not be accepted by the Board.
- (3) The fee submitted in connection with an application which is rejected by the Board shall not be returned to the applicant.
- (4) Applicants shall submit with a completed application form a Statement of Registration from the licensing board of the state from which the applicant is applying; the Statement of Registration shall include the applicant's full name, address, license type and number, shall indicate whether the license is current and in good standing, and shall be certified by an appropriate official and bear the board seal.
- (5) All applications, papers and other documents submitted to the Board in connection with an application for licensure without examination shall become the property of the Board.
- (6) Applicants who have been previously examined by the Board for a Master or Journeyman Electrician's license or System Contractor or Technician shall not be issued a license under the provisions of 237 CMR 15.00.
- (7) All persons licensed without examination shall be subject to all Board statutes and regulations.

REGULATORY AUTHORITY

237 CMR 15.00: M.G.L. c. 141, §§ 2 and 2B.

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237 CMR 16.00: BUSINESS AND OTHER LICENSE PROCEDURES

Section

- 16.01: License Renewal
- 16.02: Changes in License Information
- 16.03: Business Entities
- 16.04: Duplicate Licenses
- 16.05: Record of Standing
- 16.06: Transfer, Assignment, and Return of Licenses

16.01: License Renewal

- (1) General Requirement. Individual holders of a Master Electrician, Journeyman Electrician, Systems Contractor, or Systems Technician license shall submit to the Board by the established deadline a license renewal application form completed and signed by the individual license holder, along with appropriate evidence of completion of all required continuing education.
- (2) Fees for License Renewal. Renewal application forms shall be accompanied by the appropriate renewal fee.
- (3) Renewal of Expired Licenses. A license holder who fails to renew by the renewal deadline must meet the requirements of 237 CMR 17.00: *Mandatory Continuing Education (MCE)* along with filing any required applications and fees prior to being permitted to renew their licenses.
- (4) Active Military Service. Expiration and renewal of licenses of those who are active in the military shall be managed in accordance with M.G.L. c. 112, § 1B.

16.02: Changes in License Information

- (1) A license holder shall within ten days of a change of name and/or mailing or legal address notify the Board in writing of such change.
- (2) In the case of a name change, the Board shall issue a new license in the new name upon receipt of the appropriate form available from the Board, the surrender of the original license, and payment of the required fee.

16.03: Business Entities

- (1) Licenses Required.
 - (a) Per M.G.L. c. 141, § 3, Certificates A and C shall be issued to any “person, firm, or corporation” engaged in electrical or systems work. For purposes of M.G.L. c. 141, § 3 and 237 CMR 16.00, “firms” and “corporations” shall be referred to as “business entities” and shall include corporations, partnerships, limited liability companies, or other forms of business entities regulated by the Massachusetts Secretary of State. Business entities shall not be deemed to include a licensee conducting business in his or her real name or a master electrician, or systems contractor, practicing via a business certificate issued pursuant to M.G.L. c. 110, § 5 when in compliance with the name requirements of 237 CMR 18.00: *Rules Governing Practice*.
 - (b) All business entities engaged in electrical or systems work for which a license is required shall maintain a license in the name of the business entity. However, any business entity in good standing, that was previously approved by the Board to practice in conjunction with a master electrician or systems contractor, does not need to obtain a business license until November 20, 2017 after which time the Board shall issue licenses in the name of said business entities.
 - (c) 237 CMR 16.03 shall not be deemed to expand or restrict the requirements for licensure contained in M.G.L. c. 141, §§ 1 through 10.

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(2) Applications.

(a) All applications submitted by a business entity must meet the following general criteria to obtain a license:

1. Submission of a properly completed application in the manner prescribed by the Board, attested to under the pains and penalties of perjury by a master electrician or systems contractor, as the case may be, who will be the licensee of record responsible for the business entity's compliance to the laws and regulations in accordance with 237 CMR 12.00 through 22.00 and M.G.L. c. 141, and accompanied by such other information that the Board may require;
2. All principals of the business entity shall be of good moral character as determined by the Board; and
3. Applicants for licensure must pay the non-refundable fee as established by the Secretary of Administration and Finance pursuant to M.G.L. c. 7, § 3B and 801 CMR 4:00: *Rates.*

(b) Corporations. Applications for a business entity practicing as a corporation must include the following:

1. a signed and stamped copy of the Articles of Organization. Out of State Corporations must provide a signed and stamped copy of the filed Foreign Corporation Certificate or such other document as required by the Massachusetts Secretary of State;
2. a list of all officers of such corporation which includes the licensee of record, certified by the clerk of the corporation as a true copy of its records; and
3. a copy of the bylaws or if applicable agreement naming the licensee of record and his or her responsibilities.

(c) Limited Liability Companies (LLC's). Applications for a business entity practicing as an LLC must include the following:

1. a signed and stamped copy of the Certificate of Organization. Out-of-State LLC's must provide a signed and stamped copy of the filed Foreign LLC Certificate or such other document as required by the Massachusetts Secretary of State;
2. a list of all managers of such LLC which includes the licensee of record, certified by the clerk of the LLC as a true copy of its records;
3. a fully completed LLC Agreement Form listing the licensee of record with his or her responsibilities; and
4. a copy of the Operating Agreement, if applicable.

(d) General Partnerships, Limited Partnerships, and Limited Liability Partnerships (LLP's). Applications for a business entity practicing as any kind of partnership must include the following:

1. a fully completed Partnership Agreement Form obtained from the Board and signed by all partners listing the licensee of record with his or her responsibilities;
2. in the case of a general partnership, a notarized written agreement signed by all partners creating the general partnership; and
3. in the case of a Limited Partnership or LLP, a signed and stamped copy of the partnership certificate filed with the Massachusetts Secretary of State.

(e) A licensed master electrician or systems contractor may serve as licensee of record for more than one business entity. However, said licensee shall be required to produce evidence satisfactory to the Board that he or she is capable of ensuring each business entity he or she is affiliated with is fully compliant with the laws, rules, and regulations enforced by the Board.

(3) Routine Changes and Expiration of the Licensee of Record's License

(a) Notification of Withdrawal to the Board. To withdraw as the licensee of record from a business entity, a licensee must notify the Board via a Board approved form. A licensee of record will be responsible for the practice of their affiliated business entity until this form is filed with the Board. The effective date of withdrawal shall be the date the Board receives this form.

(b) Expiration of the License of the Licensee of Record. In the event the licensee of record's license expires, the expiration date shall be considered the equivalent of the date of withdrawal of the licensee of record from the business entity.

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(c) Operation of the Business Entity Prior to Board Approval of a New Licensee of Record. A business entity may continue engaging in the electrical or systems business after the withdrawal of its licensee of record for up to 60 calendar days provided it meets the following requirements:

1. Application Required within 15 Days. The Board must receive a new application to operate a business entity from a licensed master electrician or systems contractor, if applicable, within 15 calendar days of the date of withdrawal of the licensee of record. Unless the Board has granted an extension per 237 CMR 16.03(7), any practice beyond this date without a new application shall be deemed unlicensed practice.
2. Practice While Application Is Pending. After the Board receives a new application per 237 CMR 16.03(3)(c)1., the business entity may continue to operate while the application is pending. Unless the Board has granted an extension per 237 CMR 16.03(7), the business entity may not provide electrical or systems services beyond 60 calendar days from the date the licensee of record withdraws or the date the Board denies the application for a new licensee of record, whichever comes first.
3. Employees of the Business Entity Must Be Licensed. All individuals performing electrical or systems work for a business entity must be validly licensed (other than duly employed and supervised apprentices).
4. Failure to Comply with Deadlines. A business entity may not engage in the electrical or systems industry and shall be considered unlicensed after the expiration of the deadlines provided in 237 CMR 16.03.

(4) Death of the Licensee of Record.

(a) Notification to the Board. In the event its licensee of record dies, a business entity must notify the Board in writing of said death within 15 calendar days.

(b) Operation of a Business Entity Prior to Board Approval of a New Licensee of Record. Provided that the Board has been notified of the death per 237 CMR 16.03(4), a business entity may continue operating in the electrical or systems business after the death of its licensee of record for up to 60 calendar days from the date of the death of the licensee of record provided it meets the following requirements:

- (1) Employees of the Business Entity Must Be Licensed. All individuals performing electrical or systems work for the business entity must be validly licensed (other than duly employed and supervised apprentices).
- (2) Cessation of Business. A business entity which has lost its licensee of record due to death may continue practicing for a maximum of 60 calendar days from the date of death regardless of whether it intends to replace its licensee of record. No application for a new licensee of record need be filed if all business activities are concluded within this 60 day period.
- (3) Continued Operation of the Business. A business entity whose licensee of record has died and intends to continue operating into the future, may continue practicing for a maximum of 60 calendar days from the date of death without a new licensee of record. However, said business entity must take reasonable steps to obtain a new licensee of record. If said business entity is unable to obtain a new licensee of record prior to the expiration of the 60 day period, it may only continue practice with Board approval after good cause is shown. The business entity is responsible for obtaining Board approval of a new licensee of record or an extension prior to the expiration of the 60 day window.
- (4) Failure to Comply with Deadlines. A business entity may not engage in the electrical or systems industry and shall be considered unlicensed after the expiration of the deadlines provided in 237 CMR 16.03.

(5) Disciplinary Actions.

(a) Notice of a disciplinary action against a business entity shall be satisfied by providing notice to the licensee of record.

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(b) Discipline applies to both licensee of record and business entity. Should the Board find cause to commence a disciplinary proceeding against a licensee of record, said proceeding shall also be taken against the license of the business entity unless waived by the Board. Notwithstanding this provision, a licensed business entity may petition the Board for a separate disciplinary action apart from the licensee of record for good cause shown. Disciplinary action against either a business entity or licensee of record may be grounds for the Board to deny future licensure applications as it may deem necessary for the protection of the public's health, safety, and welfare.

(c) Loss of Licensure by the Licensee of Record.

1. Business Must Cease Immediately. Unless waived by the Board, if the licensee of record's personal license is suspended or revoked, the business entity shall not operate in the electrical or systems industry in any capacity until such time as the suspension or revocation is removed or a transfer of the business entity's license is granted by the Board by application of a new licensee of record.

2. Conditions for New Licensees of Record. The Board may restrict or place conditions on anyone seeking approval from the Board to replace a licensee of record who is unable to practice due to disciplinary reasons.

(6) Permits and Inspections While a Business Entity Has No Licensee of Record.

(a) Outstanding Permits for Completed Jobs. A licensee of record withdrawing from a business entity shall make every reasonable effort to ensure all jobs completed prior to the date of withdrawal have obtained final inspections. If the licensee of record has passed away, licensed employees acting on behalf of the business entity must obtain final inspections of all jobs as a condition of future licensure.

(b) Outstanding Permits for Incomplete Jobs. The business entity may only complete work on incomplete jobs if it is operating pursuant to the provisions of 237 CMR 16.00. During this period, a licensed employee of the business entity may seek final inspections on behalf of the business entity.

(c) New Permits. A business entity that is permitted to operate without a licensee of record pursuant to 237 CMR 16.00 may have a single designated licensed employee submit new applications to perform electrical or systems work on behalf of the business entity pursuant to M.G.L. c. 143, § 3L if the business entity does the following:

1. provides documentation to any Inspectors that they have notified the Board of the change as well as that it has met the requirements of 237 CMR 16.03;
2. continues to have valid liability insurance coverage required by M.G.L. c. 141, § 8;
3. places the business entity's license number on any permits, the license number of the previous licensee of record may not be utilized; and
4. meets all other requirements set out by 237 CMR 16.00.

(d) Responsibility of New Licensees of Record. Once a new master electrician or systems contractor has been approved by the Board to become licensee of record for a business entity, that master electrician or systems contractor must notify the Inspector in each city or town where the business entity has existing open permits of the change in writing within five business days, and must assume responsibility for the existing permits taken out by the entity, along with meeting other such requirements set out by the Inspector.

(7) Extensions. The Board may extend any time requirements in 237 CMR 16.03 for good cause shown. Only extensions in writing shall be deemed to have been granted.

16.04: Duplicate Licenses

The Board shall issue a duplicate license upon submission of satisfactory evidence by the licensee that the original license has been lost or destroyed and upon receipt by the Board of the appropriate form and payment of the required fee.

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16.05: Record of Standing

The Board shall issue a Record of Standing stating the licensee's name, address, license number, license expiration date, and license status to any licensee making such a request upon payment of the required fee.

16.06: Transfer, Assignment and Return of Licenses

Licenses issued by the Board shall not be transferred or assigned. Unless otherwise specified in a consent agreement or final decisions and orders, Licensees who have been suspended or revoked must physically return any licenses issued by the Board which, due to their expiration date, appear current.

REGULATORY AUTHORITY

237 CMR 16.00: M.G.L. c. 141, §§ 2, 3, and 4.

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237 CMR 17.00: MANDATORY CONTINUING EDUCATION (MCE)

Section

17.01: Requirements for Licensees

17.02: Requirements for Continuing Education Providers and Seminars/Courses

17.01: Requirements for Licensees

(1) Continuing Education Requirement.

(a) Except as otherwise provided in 237 CMR 17.01, each licensee of the Board, as a condition for license renewal, shall present evidence satisfactory to the Board that, in the three-year period before license renewal, he or she has completed 21 clock hours of continuing education.

(b) Of the required 21 clock hours, 15 clock hours shall be on topics related to 527 CMR 12.00: *Massachusetts Electrical Code (Amendments)*, business, law, and related topics with a Provider in an area of study approved by the Board. Courses offered for Master Electricians and Journeyman Electricians shall focus on 527 CMR 12.00 and other laws and regulations as they pertain to Electrical Work. Courses for Systems Contractors and Systems Technicians shall focus on the applicable chapters of 527 CMR 12.00, the adopted version of NFPA 72, and other laws and regulations as they pertain to Systems Work. The Board may require specific content to be contained in any approved courses. It shall be the licensee's responsibility to ensure that their Provider has been approved by the Board.

(c) Of the required 21 clock hours, six clock hours shall be in areas chosen by the licensee for professional development in the subjects of Electrical Code, business, law, first aid, safety, Building Code, and related topics. Said instruction need not be offered by a Board approved Provider.

(d) Notwithstanding the previous provisions of 237 CMR 17.01, Inspectors of Wires, appointed pursuant to M.G.L. c. 166, § 32, electrical inspectors/ investigators employed by the Division of Professional Licensure, and licensed members of the Board, shall complete the required 15 hours of mandatory continuing education within the first year of the release of the updated edition of 527 CMR 12.00: *Massachusetts Electrical Code (Amendments)* as a condition of license renewal.

(e) In addition to the 21 hours for renewal as provided, each Inspector of Wires appointed pursuant to the provisions of M.G.L. c. 166, § 32 shall complete in each license cycle six hours of continuing education in courses approved by the Board (for a total of 27 clock hours). The Board may designate one or more associations of Inspectors of Wires or other Providers to offer these courses.

(2) Extensions and Exemptions from Continuing Education Requirement. The Board may, at its discretion, consider a written request for an extension or exemption from the deadlines for the continuing education requirement under the following circumstances:

(a) Illness or Disability. A request for an extension based on illness, disability, or other medically-related condition, shall be in writing, under oath, and accompanied by a letter addressed to the Board, written and signed by a licensed medical doctor, stating the nature of the licensee's medical condition and the correlation between that condition and the licensee's inability to work in any trade capacity, as well as to complete the required continuing education within the required period.

(b) Exemption of 15/Six Hour Programs. Instructors who teach two 15 clock-hour seminars/courses and/or two six-hour professional development courses per cycle shall be deemed to have met the continuing education requirements.

(c) Issuance of License 90 Days Preceding Renewal Date. Any holder of a Journeyman Electrician or Systems Technician license issued by the Board following examination or by reciprocity during the 90 days preceding the license renewal date shall be exempt from the continuing education requirement for the license renewal cycle in effect at the time of licensure.

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(3) Failure to Complete Continuing Education Requirement. Any licensee who does not complete the required hours of continuing education shall not be eligible for license renewal. A licensee who misrepresents completion of continuing education in a license renewal shall be subject to disciplinary action which could include fines and/or license suspension or revocation.

(4) Reinstatement of Lapsed Licenses. A licensee who allows their license to lapse beyond 90 days, who did not complete their continuing education prior to their license expiration, shall not be eligible to reinstate their license until they complete the latest Board approved version of the 15 hour continuing education course and a six hour professional development course. In addition to the above requirements, if a license has been expired for more than three years (one license cycle), even if originally obtained by reciprocity, the former licensee shall be required to pass the Massachusetts examination for the license they previously held in order to reinstate their license.

(5) Certificate/Documentation.

(a) Upon successful completion of the 15 clock hours of continuing education, each licensee shall receive from their CEP a certificate of completion. Each licensee shall retain such documentation for ten years, and shall furnish it to the Board for verification of completion of the required continuing education if so requested. This requirement shall not be deemed to waive the requirement that CEP's also maintain records as required in 237 CMR 17.00.

(b) Upon successful completion of the six clock hours of professional development, each licensee shall receive from the sponsor a certificate of completion as covered in 237 CMR 17.02(3)(b). Each licensee shall retain such documentation for ten years and shall furnish it to the Board for verification of completion of the professional development if so requested.

(c) Appointed Inspectors of Wires pursuant to M.G.L. c. 166, § 32 shall provide to the Board successful completion and documentation of the required 27 clock hours of mandatory continuing education and certification programs as required by the Board pursuant to these regulations indicating qualification for initial or continuing appointment as an Inspector of Wires.

17.02: Requirements for Continuing Education Providers and Seminars/Courses

(1) CEP's Must Be Board Approved. The Board may withdraw its approval of any provider or course for good cause shown.

(2) CEP's shall notify the Board in writing of any change of his or her instructors within ten days of the change.

(a) All course instructors, whether teaching independently or employed by an approved provider, shall be Massachusetts licensed electricians.

(b) CEP's shall attend any Board-sponsored seminars/courses on the proper content, administrative procedures and data transfer.

(3) Seminar/Course Sponsors Records.

(a) CEP's shall maintain for a period of ten years complete and accurate records on each licensee who has completed continuing education;

(b) Certificate of Completion of Continuing Education Seminar/Course. CEP's shall provide attendees certificates of completion which contain the following:

1. CEP number;
2. CEP name and Massachusetts license number;
3. Instructor signature signed under pains and penalties of perjury;
4. Date of course and hours completed;
5. CEP contact phone number;
6. Name of attendee and license number(s).

(c) Certificate of Completion of Professional Development Seminar/Course. As the Board generally does not approve Professional Development sponsors, Licensees shall be solely responsible for obtaining certificates of completion from their sponsor for any Professional Development seminars/courses taken. Such certificates of completion must contain the following:

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1. Subject matter;
 2. Date of course and hours completed;
 3. Course Sponsor's name;
 4. Speakers name;
 5. Name of attendee.
- (d) CEP's shall maintain in electronic medium the names, license number(s), of all licensees attending the continuing education seminar(s). A copy of such shall be submitted to the Board within ten working days of the completion date of such seminar.

(4) Falsification of any information relating to the requirements of 237 CMR 17.00 by a CEP shall be grounds for the withdrawal of Board approval of the CEP and, where Board licensee(s) are found to be involved, the initiation of formal disciplinary proceedings against such licensee(s).

(5) Renewal of application for providership shall be submitted on a prescribed form or other medium acceptable to the Board for its review and approval not later than 90 days prior to the adoption of an Electrical Code.

REGULATORY AUTHORITY

237 CMR 17.00: M.G.L. c. 141, § 2.

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237 CMR 18.00: RULES GOVERNING PRACTICE

Section

18.01: Rules Governing Practice

18.02: Submittals, Renewals, Minimum Requirements, Audits and Sanctions for Providers Conducting Learning Objective(s) for All Classes/Types of Licenses.

18.01: Rules Governing Practice

(1) Two or more Journeyman electricians shall not associate as partners or otherwise engage in the business or occupation of installing, repairing or maintaining wires, conduits, apparatus, devices, fixtures, or other appliances used for light, heat, power, fire warning or security system purposes without obtaining the necessary Master electrician license.

(2) A licensee shall only engage in the electrical or systems trade or otherwise conduct business in the name printed on his or her license. Any sign, advertisement or other business communication of a Master Electrician Journeyman Electrician or Systems Contractor shall indicate the type of license and the license number. Systems Technicians may only engage in systems work when employed by a Master Electrician or Systems Contractor. A Systems Technician may supervise a single apprentice so long as said apprentice is under the employ of the same Systems Contractor who employs the Systems Technician. Notwithstanding, the foregoing, licensees whose names/businesses are listed in telephone directories need not include their license number so long as said listing is limited to the name and phone number of the licensee/business.

(3) All persons, firms, and corporations engaging in or working at the business of installing wires, conduits, apparatus, devices, fixtures, or other appliances for carrying electricity for light, heat, power, fire warning, systems, or security system purposes and employing learners and apprentices shall keep, or cause to be kept, accurate and detailed records of such employment for no less than nine years and shall permit the Board or its agents to inspect and copy such records upon request.

(4) Any Master Electrician, Journeyman Electrician, or Systems Contractor performing electrical or systems installations shall comply with the uniform state electrical permit application and notification processes as set forth in M.G.L. c. 143, § 3L and 527 CMR 12.00: *Massachusetts Electrical Code (Amendments)*. System Technicians shall not file the uniform electrical permit application on their own behalf; they may only do so on behalf of an employing Master Electrician or Systems Contractor unless otherwise allowed by 237 CMR 16.03: *Business Entities*.

(5) Each licensee shall disclose to the Board any conviction (regardless of whether it is a felony or misdemeanor) or civil finding made against him or her made by a court, other state or federal agency or, where applicable, by a licensing board of another jurisdiction. Said disclosure must occur within 15 days of the finding or conviction.

(6) Each person, firm, or corporation holding a license and entering into, engaging in, or working at the business of installing, testing, repairing, or maintaining wires, conduits, apparatus, devices, fixtures, or other appliances used for carrying or using electricity for light, heat, power, fire warning, systems, or security system purposes shall be governed by the regulations of the Board, all applicable provisions of Massachusetts laws, and any regulations promulgated pursuant to the provisions of such laws; and with respect to all requirements of public safety not therein provided for, such person, firm, or corporation shall be governed by the minimum standards set forth in 527 CMR 12.00: *Massachusetts Electrical Code (Amendments)*.

(7) A Journeyman electrician shall have no more than one apprentice under his or her direct supervision or employ. A systems Technician may only supervise one apprentice so long as said apprentice is employed by the same Systems Contractor or Master Electrician who employs the Systems Technician.

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(8) A Systems Contractor cannot act as an electrical contractor. A Journeyman electrician employed by a Systems Contractor is limited to performing electrical work for the Systems Contractor, which is directly related to the provision of power to a security system or fire alarm. This does not preclude the electrician from doing work normally done by Systems Technician.

(9) Requirement to Cooperate with the Board.

(a) A licensee or applicant shall respond in the requested timeframe to any written communication from the Board or its designee and shall make available to the Board any requested/relevant records with respect to an inquiry or complaint about the licensee or applicant's professional conduct.

(b) A licensee or applicant shall cooperate with any agent or employee acting on behalf of the Board.

(c) Failure to abide by the provisions of this section shall be grounds for disciplinary action against a licensee and, in the case of an applicant, denial of a license.

18.02: Submittals, Renewals, Minimum Requirements, Audits and Sanctions for Initial Education Providers Conducting Learning Objective(s) for All Classes/Types of Licenses.

(1) IEP Applications.

(a) IEP's shall submit for review and approval a written application, on a prescribed form, or other medium acceptable to the Board of State Examiners prior to commencing any advertisement for any objective or course.

(b) Such submittal of application must include learning objective(s), reference books used, the site location, commencement date, if such learning objectives are taught daily or as an evening program, with the starting and completion date.

(c) Renewal of application for providership shall be submitted on a prescribed form, or other medium acceptable to the Board for its review and approval not later than 90 days prior to the adoption of an Electrical Code.

(2) Hardships and Makeup Classes.

(a) IEP's are required to make available to truant students, who have documented their hardships, a make-up class or a written examination on the learning objective for the excused student.

(b) Students are required to provide written documentation, within 30 days of such hardship to their provider.

(c) No consideration for hardship shall be given to a student, unless written documentation is provided by the student to the provider within 30 days of such hardship and such hardship is accepted by the provider.

(d) Students who fail to complete the scheduled make up class, or if applicable, have not obtained a 70% score on the examination, are required to successfully complete the learning objective to receive credit for such clock hours.

(e) No makeup class or examination shall be given for a learning objective where a student is absent for 10% or more in a learning objective. In such situations the student must retake and successfully complete the learning objective to receive credit for such clock hours.

(3) IEP Duties.

(a) IEP's are required to have available for each registered student a written copy of 237 CMR and Candidate Information Bulletin.

(b) Providers are required to have available on location, a copy of the related Reports of Proposals and Reports of Comments for the current Electrical Code and other related Regulations.

(c) Agreements.

1. IEP's shall enter into a written signed agreement for the objective(s) offered with each student.

2. Such signed agreements, upon written request and within 30 days of such request, shall be given to the Board.

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18.02: continued

(d) IEP's shall maintain on a prescribed form or other medium acceptable to the Board 'Student Competency Profiles' (SCP) for each student. SCP's must meet the following requirements:

1. Documents each of the learning objective(s) the student has completed with the student's name, dates of commencement and completion and the clock hours of successful completion.
2. Are updated by the IEP at the end of each semester year.
3. Upon written request and within 30 days of such request, shall be given to the Board. The Board may audit any IEP's educational program for compliance of 237 CMR.

(e) Certificates of Completion.

1. Certificates of Completion shall be given to each student upon the completion of each learning objective or course and shall be incorporated into the student's Electrical Competency Profile.
2. IEP's shall issue a Certificate of Completion only to those students who have successfully completed the learning objective(s) and have otherwise complied with their agreement.
3. Certificates of Completion shall have the student's name, program, date of commencement and completion, and the signature of the IEP representative.
4. IEP's shall maintain a copy of the Certificate of Completion for each student for 10 years after completion.
5. Certificates of Completion shall be provided to the Board, upon written request and within 30 days of such request.

(4) Attendance Records.

- (a) IEP's shall maintain daily attendance records for each student.
- (b) Attendance records shall be maintained by the IEP for ten years after completion of such program.
- (c) Attendance records shall be provided to the Board within 30 days of such request.

(5) IEP Notification to the Board.

- (a) IEP's shall provide the Board, upon request, a detailed list of all enrolled students by program within 30 days of the commencement date of such program.
- (b) IEP's are required to immediately notify the Board upon terminating any Agreement with a student.
- (c) IEP's are required to immediately notify the Board of withdrawal or the termination of their providership.
- (d) An IEP, who cancels a program, shall immediately notify the Board of such cancellation.
- (e) IEP's failing to comply with the requirements of these regulations shall be grounds for removal as a Board approved provider.

REGULATORY AUTHORITY

237 CMR 18.00: M.G.L. c. 141, §§ 1, 1A, 2, 2A, and 3.

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237 CMR 22.00: REQUIRED ELECTRICAL EDUCATION

Section

22.01: 600 Hours of Education Required as a Prerequisite to Sit for Journeyman Examination (as Applicable Modular and Non-modular)

22.02: 150 Hours of Education Required as a Prerequisite for Master Electrician Examination

22.03: 300 Hours of Education Required as a Prerequisite for Systems Technician Examination

22.04: 75 Hours of Education Required as a Prerequisite for Systems Contractor Examination

22.01: 600 Hours of Education Required as a Prerequisite to Sit for Journeyman Examination (as Applicable Modular and Non-modular)

Candidates may elect to take a 600-hour modular format as listed in 237 CMR 2.01(2) or a non-modular format as listed in 237 CMR 22.01(1) as a Prerequisite to Sit for Journeyman Examination.

(1) The 600 hours of education required for eligibility for examination as a Journeyman Electrician shall include, but not be limited to, the following learning objectives:

- (a) DC Theory
- (b) AC Theory
- (c) National Electrical Code application of AC and DC Theory
- (d) Branch Circuit Calculations and Requirements
- (e) Feeder and Service Calculations and Requirements
- (f) Electrical Bonding and Grounding and Ground Path Theory
- (g) Conductor Selection and Overcurrent Protection
- (h) Wiring Methods
- (i) Motors and Controls
- (j) Transformers
- (k) Low Voltage Systems and Controls
- (l) Fire Warning and Security Systems
- (m) Fiber, Data and Communications Wiring and Systems
- (n) Use of Code book tables and examples
- (o) Massachusetts Electrical Code and Amendments (527 CMR 12.00)
- (p) Massachusetts Laws and Regulations Pertaining to Electrical Wiring
- (q) Conduct of Electricians and Apprentices Including Inspection Requirements
- (r) Job-site and Electrical Safety

(2) Modular Format:

(a) First Tier: The curriculum (300-clock-hours) shall be consecutive clock-hours:

1. Module I:

- a. Jobsite and Electrical Safety
- b. Introduction to the National Electrical Code and Process
- c. DC/Alarm Theory
- d. Basic Math

2. Module II:

- a. Electrical Bonding and Grounding
- b. Low Voltage Systems and Controls
- c. Fire Warning and Security Systems
- d. Design and Testing (NFPA 72)

3. Module III:

- a. National Electrical Code application of DC Theory
- b. Massachusetts Electrical Code and Amendments (527 CMR 12.00)
- c. Wiring Methods

4. Module IV:

- a. Fiber, Data and Communications Wiring and Systems

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22.01: continued

- b. Massachusetts Laws and Regulations Pertaining to Electrical Wiring
- c. Conduct of Technicians and Apprentices Including Inspection Requirements
- (b) Second Tier: The Electrical curriculum (300-clock-hours) shall be consecutive clock-hours:
 - 1. Module V:
 - a. Electricians Math and Basic Electrical Formulas
 - b. Electrical Circuit
 - c. AC Theory
 - d. Raceway, Outlet boxes and conductor fill
 - e. Conductor Selection and Overcurrent Protection
 - 2. Module VI:
 - a. Branch Circuit /Feeder/ Service Requirements
 - b. Branch Circuit/Feeder/ Service Calculations and Voltage Drops
 - c. Motors, Controls and Transformers Requirements
 - d. Use of Code book tables and examples
 - e. Swimming Pools, and similar Installations
 - 3. Module VII:
 - a. One Family Dwelling Calculations
 - b. Multi-family Dwelling Calculations
 - c. Commercial Load Calculations
 - d. Use of Code book tables and examples
 - 4. Module VIII:
 - a. Motor Calculations
 - b. Transformer Calculations
 - c. Review of Board rules and Regulations
 - d. Review of Massachusetts General Laws applicable to Electricians
 - e. General Review of all subjects covered

(3) The Board may set additional education requirements by Board policy statements issued periodically as developments in the profession so require.

22.02: 150 Hours of Education Required as a Prerequisite for Master Electrician Examination

- (1) The 150 hours of education which is required for eligibility for examination as a Master Electrician shall include, but not be limited to, the following learning objectives:
- (a) Plan review and calculations
 - (b) Advanced AC Theory
 - (c) Advanced Code calculations
 - (d) Branch Circuit/Feeder/ Service
 - (e) Emergency Systems
 - (f) Health-care
 - (g) Hazardous Locations
 - (h) Applicable Massachusetts General Laws pertaining to:
 - 1. Licensing Laws
 - 2. Permitting Laws
 - 3. Inspection Laws
 - 4. Appeals Process
 - 5. Board Rules and Regulations
 - 6. 237 CMR 12.00 through 23.00.
 - 7. Good Business Practices/GBP
 - (i) General review of all subjects covered in the 600-Clock-hour Journeyman course, as applicable.
- (2) The Board may set additional education requirements by Board policy statements issued periodically as developments in the profession so require.

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22.03: 300 Hours of Education Required as a Prerequisite for Systems Technician Examination

(1) In order to qualify to sit for the Systems Technician (Class D) examination, each apprentice whose electrical work experience can be properly documented shall complete 300-clock-hours (75-clock-hour/Module) of education as a prerequisite for examination as a Systems Technician. Said education will be divided into 75 hour modules. The 300 hours of education shall include, but not be limited to, the following learning objectives:

- (a) Module I:
 - 1. Jobsite and Electrical Safety
 - 2. Introduction to the National Electrical Code and Process
 - 3. DC/Alarm Theory
 - 4. Basic Math
- (b) Module II:
 - a. Electrical Bonding and Grounding
 - b. Low Voltage Systems and Controls
 - c. Fire Warning and Security Systems
 - d. Design and Testing (NFPA 72)
- (c) Module III:
 - a. National Electrical Code application of DC Theory
 - b. Massachusetts Electrical Code and Amendments (527 CMR 12.00)
 - c. Wiring Methods
- (d) Module IV:
 - a. Fiber, Data and Communications Wiring and Systems
 - b. Massachusetts Laws and Regulations Pertaining to Electrical Wiring
 - c. Conduct of Technicians and Apprentices Including Inspection Requirements
 - d. General Review of all subjects covered

(2) The Board may set additional course requirements by Board-policy statements issued periodically as developments in the profession so require.

22.04: 75 Hours of Education Required as a Prerequisite for Systems Contractor Examination

(1) The 75 hours of education which is required for eligibility for examination as a Systems Contractor shall include, but not be limited to, the following learning objectives:

- (a) Advanced alarm system theory.
- (b) Applicable Massachusetts General Laws pertaining to:
 - 1. Licensing Laws
 - 2. Permitting Laws
 - 3. Inspection Laws
 - 4. Appeals Process
- (c) Board Rules and Regulations:
 - 1. 237 CMR 12.00 through 23.00
 - 2. Good Business Practices/GBP

(2) The Board may set additional education requirements by Board-policy statements issued periodically as developments in the profession so require

REGULATORY AUTHORITY

237 CMR 22.00: M.G.L. c. 141, § 2.

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237 CMR 23.00: INSURANCE REQUIREMENTS FOR LIMITED LIABILITY CORPORATIONS
AND LIMITED LIABILITY PARTNERSHIPS

Section

23.01: Liability Insurance Requirements for Limited Liability Corporations and Limited Liability Partnerships

23.02: Cancellation of Insurance

23.03: Verification of Insurance

23.01: Liability Insurance Requirements for Limited Liability Corporations and Limited Liability Partnerships

A limited liability company and a limited liability partnership which own or operate any facility or business which is licensed by the Board to provide electrical services shall maintain professional liability insurance which meets the following minimum standards:

- (a) The insurance shall cover negligence, wrongful acts, errors and omissions and insure the LLC and its officers or the LLP and its partners as required by M.G.L. c. 156C, § 65 and M.G.L. c. 108A, § 45(8)(a), respectively.
- (b) For each claim concerning an LLC, the minimum insurance coverage shall be either:
 - 1. in an amount of at least \$50,000.00 multiplied by the number of individual licensees employed by or who are officers of the LLC; or
 - 2. in an aggregate amount of at least \$150,000.00 multiplied by the number of individual licensees employed by or who are officers of the LLC.
- (c) For each claim concerning an LLP, the minimum insurance coverage shall be:
 - 1. in an amount of at least \$50,000.00 multiplied by the number of individual licensees employed by or who are partners of the LLP; or
 - 2. in an aggregate amount of at least \$150,000.00 multiplied by the number of individual licensees employed by or who are partners of the LLP.
 - 3. An LLP shall be considered to have complied with the requirements of 237 CMR 23.01(1)(c) if the partnership provides for the above-specified amount of funds specifically designated and segregated for the satisfaction of judgments against the partnership or its partners based on negligence, wrongful acts, errors and omissions by:
 - 4. deposit in trust or in bank escrow of cash, bank certificates of deposit, or United States Treasury obligations; or
 - 5. a bank letter of credit or insurance company bond.
- (d) The insurance coverage required by this section may provide that it does not apply to any dishonest, fraudulent, criminal or malicious act or omission of the insured LLC or any employee or officer thereof or the insured LLP or any employee or partner thereof.

23.02: Cancellation of Insurance

(1) Cancellation or any other interruption in required insurance coverage shall require an LLC or LLP to immediately cease the business of electrical work until such time as the LLC or LLP is in compliance with this section.

(2) An LLC or LLP must notify the Board within five business days if its insurance coverage is cancelled or otherwise interrupted. Failure to provide the required notice to the Board will subject to disciplinary action pursuant to M.G.L. c. 112, § 59 licensees who are officers of the LLC or are partners of the LLP.

23.03: Verification of Insurance

An officer of an LLC or a partner of an LLP may be required to provide verification of compliance with 237 CMR 23.03 to the Board when he or she seeks initial licensure, renewal of a license or at any other time as requested by the Board.

REGULATORY AUTHORITY

237 CMR 23.00: M.G.L. c. 156C, § 65.

237 CMR: BOARD OF STATE EXAMINERS OF ELECTRICIANS
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Section DEFINITIONS
1

Section 1. The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:

"Fee", a fee to be determined annually by the commissioner of administration under the provision of section three B of chapter seven.

"Fire warning system", an inherently power limited system of wires, conduits, apparatus, devices, fixtures or other appliances installed and interconnected electrically or electronically for the detection of heat, smoke, or products of combustion, or for the transmission of signals or audible alarms.

"Inherently power limited system", a system requiring no overcurrent protection due to design and construction.

"Journeyman electrician", a person qualified to do the work of installing, repairing, or maintaining wires, conduits, apparatus, devices, fixtures, or other appliances used for heat, light, power, fire warning or security system purposes.

"Master electrician", a person, firm or corporation having a regular place of business who, by the employment of journeyman or apprentices, performs the work of installing, repairing or maintaining wires, conduits, apparatus, devices, fixtures or other appliances used for light, heat, power, fire warning or security system purposes; provided, however, that no journeyman electrician so employed shall have more than one apprentice under his supervision; and provided, further, that not more than one such apprentice shall be employed for each journeyman electrician.

"Security system", an inherently power limited system of wires, conduits, apparatus, devices, fixtures, or other appliances installed and interconnected electrically or electronically to permit access control, proprietary signalling, surveillance and the detection of burglary, intrusion, holdup, or other conditions requiring response or the transmission of signals or audible alarms.

"System", a fire warning, security or other inherently power limited system, wire, conduit or device which conducts or consumes electricity and is electrically or electronically activated.

"Systems contractor", a person, firm or corporation having a regular place of business who, by the employment of systems technicians or apprentices, performs the work of installing, repairing or maintaining wires, conduits, apparatus, devices, fixtures or other appliances used for

systems; provided, however, that no systems technician so employed shall have more than one apprentice under his supervision; and provided, further, that not more than one such apprentice shall be employed for each systems technician.

"Systems technician", a person qualified to do the work of installing, repairing or maintaining wires, conduits, apparatus, devices, fixtures or other appliances used for systems.

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Section ELECTRICIAN LICENSURE
1A REQUIREMENT; EXCEPTIONS

[First paragraph effective until July 18, 2021. For text effective July 18, 2021, see below.]

Section 1A. No person, firm or corporation shall enter into, engage in, or work at the business or occupation of installing wires, conduits, apparatus, devices, fixtures, or other appliances for carrying or using electricity for light, heat, power, fire warning or security system purposes, unless such person, firm or corporation shall be licensed by the state examiners of electricians in accordance with this chapter and, with respect to security systems, unless such person, firm or corporation shall also be licensed by the commissioner of the division of professional licensure in accordance with the provisions of sections fifty-seven to sixty-one, inclusive, of chapter one hundred and forty-seven.

[First paragraph as amended by 2021, 39, Sec. 83 effective July 18, 2021. See 2021, 39, Sec. 128. For text effective until July 18, 2021, see above.]

No person, firm or corporation shall enter into, engage in, or work at the business or occupation of installing wires, conduits, apparatus, devices, fixtures, or other appliances for carrying or using electricity for light, heat, power, fire warning or security system purposes, unless such person, firm or corporation shall be licensed by the state examiners of electricians in accordance with this chapter and, with respect to security systems, unless such person, firm or corporation shall also be licensed by the commissioner of the division of occupational licensure in accordance with the provisions of sections fifty-seven to sixty-one, inclusive, of chapter one hundred and forty-seven.

This chapter shall not apply to: a person not engaged in the business described in this section who employs or contracts for the services of a person, firm or corporation engaged in such business; or to an apprentice employed by a person, firm or corporation licensed in accordance with this chapter; or to an agent, employee or assistant of a person, firm or corporation licensed in accordance with this chapter who does not engage in or perform the actual work described in this section.

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Section STATE EXAMINERS; RULES;
2 EXAMINATIONS; REPORTS

Section 2. The state examiners of electricians, in this chapter called the examiners, may make necessary rules for the proper performance of their duties.

They shall hold frequent examinations in Boston, and, twice in each year, shall hold examinations in at least five other convenient places within the commonwealth, and they may hold annual or occasional examinations in other places. Public notice shall be given of all examinations.

They shall make a biennial report of their doings in each odd-numbered year.

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Section EXAMINATIONS; UNIFORM
2A REQUIREMENTS FOR TOWNS;
CREDIT TO VETERANS;
FREQUENCY; TYPES;
SUPERVISION; SANCTION OF
EXAMINERS

Section 2A. In the conduct of examinations they shall make uniform requirements for all towns, which may be revised from time to time, as circumstances require. They shall grant a credit of five per cent to the examination standing of each applicant who is a veteran, as defined in clause Forty-third of section seven of chapter four. Said examinations shall be sufficiently frequent to give ample opportunity for all applicants to be thoroughly and carefully examined, may be written or in practical work, and may be supervised by one or more of the examiners, but no license

shall be granted without the sanction of the examiners. The examiners shall promulgate regulations to determine the allowable education and work hour credits for veterans and military personnel.

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Section ELECTRICIANS LICENSED IN
2B OTHER STATES; RECIPROCAL
LICENSURE WITHOUT
EXAMINATION; FEES

Section 2B. The examiners may license without examination any person who has been licensed as an electrician in another state under laws which, in the opinion of the examiners, maintain standards substantially the same as those of the commonwealth for electricians. The amount of the fee for licensing without examination under this section for a master and journeyman electrician's license shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven for the filing thereof.

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Section FORMS OF, AND GENERAL
3 PROVISIONS RELATING TO,
EXAMINATIONS, LICENSES AND
CERTIFICATES; RECORDS;
MANUAL OF REGULATIONS AND
LICENSES

Section 3. The following forms of license shall be issued: certificate A, known as master electrician's license; certificate B, known as journeyman electrician's license; certificate C, known as systems contractor's license; and certificate D, known as systems technician's license.

(1) Certificate A shall be issued to any person, firm or corporation engaged in or about to engage in the business of installing wires, conduits, apparatus, devices, fixtures or other appliances and systems; provided, however, that such person or a member of such firm or an officer of such

corporation has passed an examination before the state examiners of electricians and such person or a member of such firm or officer of such corporation has held a certificate B license for at least twelve months.

(2) Certificate B shall be issued to any person who has passed an examination before the state examiners of electricians. It shall specify the name of such person, who shall thereby be authorized to engage in the occupation of journeyman electrician.

(3) Certificate C shall be issued to any person, firm or corporation engaged in or about to engage in the business of installing fire warning, security or other systems; provided, however, that such person or a member of such firm or an officer of such corporation has passed an examination before the state examiners of electricians and such person or a member of such firm or officer of such corporation has held a certificate D license for at least twelve months.

(4) Certificate D shall be issued to any person who has passed an examination before the state examiners of electricians. It shall specify the name of such person who shall thereby be authorized to engage in the occupation of systems technician.

(5) Both certificate A and certificate C shall specify the name of the person, firm or corporation licensed and the name of the person passing the examination by which such person, firm or corporation shall be authorized to enter upon or engage in business as set forth therein. The holding of certificate A or certificate C shall not entitle the holder individually to engage in or perform the actual work of installing wires, conduits, apparatus, devices, fixtures or other appliances or systems but

the holding of certificate A shall entitle the holder to conduct business as a master electrician and the holding of certificate C shall entitle the holder to conduct business as a systems contractor.

(6) Persons desiring an examination shall make written application therefor, accompanied by an examination fee. A person passing an examination for a master electrician's license, a systems contractor's license, a journeyman electrician's license, or a systems technician's license shall pay a fee before being issued such license.

(7) Each certificate A and certificate C shall expire on July thirty-first every third year, commencing July thirty-first, nineteen hundred and eighty-nine, but may be renewed by the same person, firm or corporation acting by one or more of its members or officers, without further examination, upon payment of a fee, application therefor being made during said month. In case of failure to renew a license as aforesaid on or before July thirty-first of the third year, the person named therein, upon payment of said fee, increased by such additional fees as would have been payable had such license been continuously renewed may receive a deferred renewal thereof which shall expire July thirty-first of ensuing three year period; provided, however, that such renewed license shall not constitute its holder a licensee for any period preceding its issue.

(8) Each certificate B and certificate D shall expire on July thirty-first every third year, commencing July thirty-first, nineteen hundred and eighty-nine, but may be renewed upon payment of a fee upon the same conditions set forth in clause (7).

(9) Holders of certificate A and certificate C shall keep their certificates of registration displayed in a conspicuous place in their principal offices or places of business. The examiners shall furnish holders of certificate B and certificate D with evidence of having been so licensed by the examiners, in card form or otherwise, which shall be carried on the person of the licensee and exhibited on request.

(10) Any certificate expiring while the holder thereof is in the military or naval service of the United States shall be renewed without further examination, upon payment of the prescribed fee, at any time within four months after such person's discharge from the service.

(11) Examination papers and applications for certificate A, certificate B, certificate C and certificate D, shall be preserved for at least two years, after which time they may, at the discretion of the examiners, be destroyed.

(12) Records of the meetings of the examiners shall be open for inspection at all times, and they shall have printed annually a manual of their regulations, including the names of all licensees.

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Section TRANSFERABILITY, SUSPENSION
4 AND REVOCATION OF
CERTIFICATES

Section 4. No certificates issued under this chapter shall be assignable or transferable. They may, after hearing, be suspended or revoked by the examiners upon failure or refusal of the licensee to comply with the rules and requirements of the examiners, or for other sufficient cause.

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Section ENGAGEMENT IN BUSINESS OR
5 WORK WITHOUT COMPLIANCE
WITH STATUTES; ENFORCEMENT

Section 5. Any person, firm or corporation, or employee thereof, and any representative, member or officer of such firm or corporation individually, entering upon or engaging in the business and work hereinbefore defined, without having complied with this chapter, shall for the first offence be punished by a fine of not less than \$1,000 and not more than \$1,500, for a second offence by a fine of not less than \$1,500 and not more than \$2,000 and for each subsequent offence by a fine of not less than \$2,000 and not more than \$2,500 or by imprisonment in the house of correction for six months, or both.

The examiners and the inspectors of wires in each city and town, as defined in section thirty-two of chapter one hundred and sixty-six, shall be charged with the enforcement of this chapter. They shall have all

necessary powers to require compliance therewith, including the power to institute and prosecute proceedings in the superior court department of the trial court.

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Section LIABILITY FOR WORK OF
6 EMPLOYEE

Section 6. No person, firm or corporation holding a "certificate A or certificate C" shall be liable for work done by his or its employees, unless it appears that such work was done with his or its knowledge or consent or by his or its authorization.

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Section NONAPPLICABILITY OF STATUTES
7

Section 7. This chapter shall not apply to: the installation, repairing, and wiring of elevators; the work in connection with the erection, construction, maintenance or repair of lines for transmission of electricity from the source of supply to the service switch on the premises where used by municipal electric plants, by electric companies as defined in section one of chapter one hundred and sixty-four, by gas companies authorized to make or sell electricity, by electric street railway companies, by electric railroad companies or by railroad companies; the work of such plants or companies on premises owned or controlled by them; the work of said municipal electric plants or of said electric or gas companies in installing, maintaining and repairing on the premises of customers, service connections and meters and other apparatus and appliances remaining the property of such plants or companies after installation; public employees

engaged in the work of installing, maintaining or repairing public signalling systems; the work in connection with the lighting of public ways, alleys, private ways, or public parks, areas or squares; the work of companies subject to regulation by the department of public utilities or the department of telecommunications and cable, and incorporated for the transmission of intelligence by electricity in installing, maintaining or repairing wires, apparatus, fixtures, or other appliances used by such companies and necessary for, or incident to, their business, whether or not such wires, conduits, apparatus, fixtures or other appliances are on its own premises; or the work in connection with the installation, construction, maintenance, repair and renovation of telephone equipment, cable television service or computer systems by a person, firm or corporation primarily engaged in the telecommunications or the information systems industry.

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Section LEARNERS OR APPRENTICES;
8 THEATRICAL COMPANIES;
EMPLOYERS WITHOUT A
CERTIFICATE; LIABILITY
INSURANCE

Section 8. Electricians regularly employed by persons, firms or corporations other than holders of certificate A, may install such electrical wiring, conduits and appliances or make such repairs as may be required only on the premises and property of such persons, firms or corporations; provided that such electricians hold journeymen's licenses, and have otherwise complied with this chapter. Any such person, firm or corporation may employ learners or apprentices to work with and under the direct personal supervision of electricians referred to in this paragraph in said installation and repair work, provided that no such journeyman electrician shall have more than one learner or apprentice working with

him and under his supervision as aforesaid; but not more than one such learner or apprentice shall be so employed for each journeyman electrician.

Electricians employed by theatrical companies may install temporary wiring and appliances required for the purpose of the engagement of any such company, subject to the supervision of a person licensed under this chapter.

Notwithstanding the provisions of any general or special law to the contrary, no permit for the performance of electrical work pursuant to chapters one hundred and forty-one and one hundred and forty-three shall be issued by any city or town unless the licensee provides proof of liability insurance, including "completed operation" coverage, which has been issued by an insurance company licensed to do business in the commonwealth, or a bond or other type of indemnity against liability providing substantially equivalent coverage. In lieu of said insurance requirement the permit issuing authority shall accept the signature of the owner or his agent on the uniform application for a permit for work to be performed by electricians.

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Section MISSTATEMENTS
9

Section 9. Any person applying for a journeyman electrician's license or a systems technician's license and making any misstatement as to his experience or other qualifications, or any person, firm or corporation subscribing to, or vouching for, any such misstatement shall be subject to the penalties set forth in section five.

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Section DISPOSITION OF FEES AND FINES
10

Section 10. Fees and fines collected under this chapter shall be paid to the commonwealth.

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**INSPECTION AND REGULATION
OF, AND LICENSES FOR,
BUILDINGS, ELEVATORS AND
CINEMATOGRAPHS**

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Section REGULATIONS RELATIVE TO
3L ELECTRICAL WIRING AND
FIXTURES; NOTICE OF
ELECTRICAL INSTALLATION

Section 3L. The board of fire prevention regulations shall make and promulgate, and from time to time may alter, amend and repeal, rules and regulations relative to the installation, repair and maintenance of electrical wiring and electrical fixtures used for light, heat and power purposes in buildings and structures subject to the provisions of sections three to sixty, inclusive, and the state building code. Such regulations shall be in accordance with generally accepted standards of engineering practice, and shall be designed to provide reasonable uniform requirements of safety in relation to life, fire and explosion.

Upon the making of such rules and regulations and prior to their promulgation, the board shall hold a public hearing thereon, notice of which shall be given by advertising in at least one newspaper in each of the cities of Boston, Worcester, Springfield, Fall River, Lowell and Lynn, at least ten days before said hearing. If, subsequent to their being deposited with the state secretary, as provided herein, the board on its own initiative contemplates changes in said rules and regulations, or if a petition is filed by any other person for changes therein, like notice and a hearing shall be given and held before the adoption thereof.

Such rules and regulations, and any alterations, amendments or repeals thereof shall be deposited with the state secretary, and the same shall become effective when so deposited.

No person shall install for hire any electrical wiring or fixtures subject to this section without first or within five days after commencing the work giving notice to the inspector of wires appointed pursuant to the provisions of section thirty-two of chapter one hundred and sixty-six. Said notice shall be given by mailing or delivering a permit application form prepared by the board, to said inspector. Any person failing to give such notice shall be punished by a fine not exceeding five hundred dollars. This section shall be enforced by the inspector of wires within his jurisdiction and the state examiners of electricians.

Any person installing for hire electrical wiring or fixtures subject to this section shall notify the inspector of wires in writing upon the completion of the work. The inspector of wires shall, within five days of such notification, give written notice of his approval or disapproval of said

work. A notice of disapproval shall contain specifications of the part of the work disapproved, together with a reference to the rule or regulation of the board of fire prevention regulations which has been violated.

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Section APPEAL TO BOARD OF
3P ELECTRICIANS' APPEALS;
JUDICIAL REVIEW

Section 3P. Whoever is aggrieved by a notice, interpretation, order, requirement or direction of an inspector of wires or other person charged with the enforcement of the rules and regulations of the board of fire prevention regulations, may, within ten days after the service of notice thereof, appeal therefrom, to the board of electricians' appeals. Said board shall, after such notice as it may direct, hold a public hearing on such appeal at a time and place to be fixed by it, but not later than thirty days after the entry of such appeal, unless such time shall be extended by agreement with the appellant. The appellant may appear in person or by agent or attorney at such hearing. Said board shall hear all pertinent evidence and determine the facts, and shall issue an appropriate decision or order reversing, affirming or modifying in whole or in part said notice,

interpretation, order, requirement or direction. Such decision or order of the board shall be made within a reasonable time, and within forty-five days after such hearing, unless such time is extended by like agreement. The board shall forthwith send by registered mail a copy of its decision or order to the interested parties.

Any person aggrieved by a decision or order of the board of electricians' appeals, whether or not a party to the proceeding, or any municipal board or officer, may within thirty days after receipt of notice of such decision or order appeal to the superior court sitting in equity for the county in which the building or installation concerned is situated. Said court shall hear all pertinent evidence and determine the facts and may annul such decision if it is found to exceed the authority of said board, or may make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases. Costs shall not be allowed against the board unless it appears to the court that said board acted with gross negligence or in bad faith or with malice in making the decision or order appealed from. Costs shall not be allowed against a party appealing from the decision or order of said board unless it appears to the court that said appellant acted in bad faith or with malice in making the appeal to the court.

Compliance with any notice, interpretation, order, requirement or direction of an inspector of wires or other person charged with the enforcement of the rules and regulations of the board of fire prevention regulations shall be excused pending the final determination of any appeal therefrom taken under this section.

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Section HINDERING COMMISSIONER,
50 CHIEF OF INSPECTION OR
INSPECTORS OR LOCAL
INSPECTORS FROM ENTERING
BUILDING OR ENCLOSURE

Section 50. Any person who hinders or prevents or attempts to prevent the commissioner, the chief of inspections of the department or any inspector or local inspector from entering any building, structure or enclosure or part thereof in the performance of his duty in the enforcement of the laws of the commonwealth relating thereto shall be punished by a fine of not less than fifty nor more than one hundred dollars. The word "inspector" as used in this section, shall include an inspector of buildings of a city or town, or of a district referred to in section four A of chapter twenty-two.

Mass. General Law
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MINIMUM FAIR WAGES

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Chapter MINIMUM FAIR WAGES

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Section OPPRESSIVE AND
1 UNREASONABLE WAGES;
VALIDITY OF CONTRACTS

[Text of section effective until January 1, 2022. For text effective January 1, 2022, see below.]

Section 1. It is hereby declared to be against public policy for any employer to employ any person in an occupation in this commonwealth at an oppressive and unreasonable wage as defined in section two, and any contract, agreement or understanding for or in relation to such employment shall be null and void. A wage of less than \$13.50 per hour, in any occupation, as defined in this chapter, shall conclusively be presumed to be oppressive and unreasonable, wherever the term "minimum wage" is used in this chapter, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine.

Notwithstanding the provisions of this section, in no case shall the minimum wage rate be less than \$.50 higher than the effective federal minimum rate.

Chapter 151: Section 1. Oppressive and unreasonable wages; validity of contracts

[Text of section as amended by 2018, 121, Sec. 20 effective January 1, 2022 until January 1, 2023. See 2018, 121, Sec. 36. For text effective until January 1, 2022, see above. For text effective January 1, 2023, see below.]

Section 1. It is hereby declared to be against public policy for any employer to employ any person in an occupation in this commonwealth at an oppressive and unreasonable wage as defined in section two, and any contract, agreement or understanding for or in relation to such employment shall be null and void. A wage of less than \$14.25 per hour, in any occupation, as defined in this chapter, shall conclusively be presumed to be oppressive and unreasonable, wherever the term "minimum wage" is used in this chapter, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine. Notwithstanding the provisions of this section, in no case shall the minimum wage rate be less than \$.50 higher than the effective federal minimum rate.

Chapter 151: Section 1. Oppressive and unreasonable wages; validity of contracts

[Text of section as amended by 2018, 121, Sec. 21 effective January 1, 2023. See 2018, 121, Sec. 36. For text effective until January 1, 2023, see above.]

Section 1. It is hereby declared to be against public policy for any employer to employ any person in an occupation in this commonwealth at an oppressive and unreasonable wage as defined in section two, and any contract, agreement or understanding for or in relation to such employment shall be null and void. A wage of less than \$15.00 per hour, in any occupation, as defined in this chapter, shall conclusively be presumed to be oppressive and unreasonable, wherever the term "minimum wage" is used in this chapter, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine. Notwithstanding the provisions of this section, in no case shall the minimum wage rate be less than \$.50 higher than the effective federal minimum rate.

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Section OVERTIME PAY; EXCLUDED
1A EMPLOYMENTS

Section 1A. Except as otherwise provided in this section, no employer in the commonwealth shall employ any of his employees in an occupation, as defined in section two, for a work week longer than forty hours, unless such employee receives compensation for his employment in excess of forty hours at a rate not less than one and one half times the regular rate at which he is employed. Sums paid as commissions, drawing accounts, bonuses, or other incentive pay based on sales or production, shall be excluded in computing the regular rate and the overtime rate of compensation under the provisions of this section. In any work week in which an employee of a retail business is employed on a Sunday or certain holidays at a rate of one and one-half times the regular rate of compensation at which he is employed as provided in chapter 136, the

hours so worked on Sunday or certain holidays shall be excluded from the calculation of overtime pay as required by this section, unless a collectively bargained labor agreement provides otherwise. Except as otherwise provided in the second sentence, nothing in this section shall be construed to otherwise limit an employee's right to receive one and one-half times the regular rate of compensation for an employee on Sundays or certain holidays or to limit the voluntary nature of work on Sundays or certain holidays, as provided for in said chapter 136.

This section shall not be applicable to any employee who is employed:—

- (1) as a janitor or caretaker of residential property, who when furnished with living quarters is paid a wage of not less than thirty dollars per week.
- (2) as a golf caddy, newsboy or child actor or performer.
- (3) as a bona fide executive, or administrative or professional person or qualified trainee for such position earning more than eighty dollars per week.
- (4) as an outside salesman or outside buyer.
- (5) as a learner, apprentice or handicapped person under a special license as provided in section nine.
- (6) as a fisherman or as a person employed in the catching or taking of any kind of fish, shellfish or other aquatic forms of animal and vegetable life.
- (7) as a switchboard operator in a public telephone exchange.

(8) as a driver or helper on a truck with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provisions of section two hundred and four of the motor carrier act of nineteen hundred and thirty-five, or as employee of an employer subject to the provisions of Part 1 of the Interstate Commerce Act or subject to title II of the Railway Labor Act.

(9) in a business or specified operation of a business which is carried on during a period or accumulated periods not in excess of one hundred and twenty days in any year, and determined by the commissioner to be seasonal in nature.

(10) as a seaman.

(11) by an employer licensed and regulated pursuant to chapter one hundred and fifty-nine A.

(12) in a hotel, motel, motor court or like establishment.

(13) in a gasoline station.

(14) in a restaurant.

(15) as a garageman, which term shall not include a parking lot attendant.

(16) in a hospital, sanitorium, convalescent or nursing home, infirmary, rest home or charitable home for the aged.

(17) in a non-profit school or college.

(18) in a summer camp operated by a non-profit charitable corporation.

(19) as a laborer engaged in agriculture and farming on a farm.

(20) in an amusement park containing a permanent aggregation of amusement devices, games, shows, and other attractions operated during a period or accumulated periods not in excess of one hundred and fifty days in any one year.

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Section OVERTIME COMPENSATION;
1B FAILURE TO PAY; PENALTIES;
COLLECTION PROCEEDINGS;
UNCLAIMED AWARDS; DEPOSIT
OF FUNDS

Section 1B. Any employer or the officer or agent of any corporation who pays or agrees to pay to any employee less than the overtime rate of compensation required by section one A shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149, and each week in which such employee is paid less than such overtime rate of compensation and each employee so paid less, shall constitute a separate offense. In addition, if a person is paid by an employer less than such overtime rate of compensation, the person may institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred, and for the full

amount of the overtime rate of compensation less any amount actually paid to him by the employer. An agreement between the person and the employer to work for less than the overtime rate of compensation shall not be a defense to such action. An employee so aggrieved who prevails in such an action shall be awarded treble damages, as liquidated damages, for lost overtime compensation and shall also be awarded the costs of the litigation and reasonable attorneys' fees. At the request of any employee paid less than such overtime rate of compensation, the attorney general may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court. The attorney general shall not be required to pay a filing fee in connection with any such action.

In any action or administrative proceeding by an employee or the commissioner instituted upon such a wage claim in which the employee prevails and the commissioner thereafter in possession of the resulting award is unable after a reasonable search to locate the employee or to identify and locate the employee's successor in interest, the commissioner shall, upon expiration of one year from the date of said award, deposit the funds from any such award, less costs and reasonable attorney's fees where applicable, in the General Fund.

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Section DEFINITIONS

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Section 2. The following words and phrases as used in this chapter shall have the following meanings, unless the context clearly requires otherwise:

"A fair wage", a wage fairly and reasonably commensurate with the value of the service or class of service rendered. In establishing a minimum fair wage for any service or class of service under this chapter the commissioner without being bound by any technical rules of evidence or procedure (1) may take into account the cost of living and all other relevant circumstances affecting the value of the service or class of service rendered, (2) may be guided by like considerations as would guide a court in a suit for the reasonable value of services rendered where services are rendered at the request of an employer in the absence of an express

contract as to the amount of the wage to be paid, and (3) may consider the wages paid in the commonwealth for work of like or comparable character by employers who voluntarily maintain minimum fair wage standards.

"A mandatory order", an order the violation of which is subject to the penalties prescribed in subsection (2) of section nineteen.

"An oppressive and unreasonable wage", a wage which is both less than the fair and reasonable value of the services rendered and less than sufficient to meet the minimum cost of living necessary for health.

"Commissioner", the director of the department of labor standards.

"Department", the department of labor standards.

"Occupation", an industry, trade or business or branch thereof or class of work therein, whether operated for profit or otherwise, and any other class of work in which persons are gainfully employed, but shall not include professional service, agricultural and farm work, work by persons being rehabilitated or trained under rehabilitation or training programs in charitable, educational or religious institutions, work by seasonal camp counselors and counselor trainees or work by members of religious orders. Occupation shall also not include outside sales work regularly performed by outside salesmen who regularly sell a product or products away from their employer's place of business and who do not make daily reports or visits to the office or plant of their employer.

"Agricultural and farm work", labor on a farm and the growing and harvesting of agricultural, floricultural and horticultural commodities.

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Section POWERS OF COMMISSIONER AND
3 ATTORNEY GENERAL

Section 3. The commissioner or the attorney general, or their authorized representatives, shall have full power and authority:

1. To investigate and ascertain the wages of persons employed in any occupation in the commonwealth;
2. To enter the place of business or employment of any employer of persons in any occupation, other than domestic service in the home of the employer, for the purpose of examining, inspecting and making a transcript of any and all books, registers, pay-rolls, and other records of any employer of persons that in any way appertain to or have a bearing upon the question of wages of any such persons and for the purpose of ascertaining whether the orders of the commissioner or the attorney general have been and are being complied with; and

3. To require from such employer full and correct statements in writing when the commissioner or the attorney general, or their authorized representatives, deem necessary, of the wages paid to all persons in his employ, such statements to be under oath or accompanied by a written declaration that they are made under the penalties of perjury.
4. To carry out the provisions of this chapter.

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Section CERTIFICATE AUTHORIZING
9 EMPLOYMENT AT LESS THAN
MINIMUM FAIR WAGE RATES

Section 9. For any occupation within the scope of the minimum fair wage law, the commissioner may cause to be issued to an employer of any learner, or of an employee under an approved apprentice training program, or of an employee whose earning capacity is impaired by age or physical or mental deficiency or injury, or of an employee who is certified by the secretary of health and human services or his designee as a handicapped person, a special certificate authorizing employment at such wages, less than the established minimum fair wage rates, and for such period of time, as shall be fixed by the commissioner and stated in the certificate.

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Section WAGE RATE LESS THAN FAIR
10 WAGE; MAILING AND POSTING
WAGE RATE AND REGULATIONS

Section 10. After the commissioner has established a fair wage in any occupation in accordance with sections seven and nine, it shall be unlawful for any employer in such occupation to employ persons for less than such rate of wages. The commissioner shall send by mail so far as is practicable to each employer in the occupation in question a copy of the wage rate and related regulations and each employer shall be required to post a copy of said wages and regulations in each room in which persons affected by such wages and regulations are employed.

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Section FAILURE TO OBSERVE FAIR WAGE
11 OR REGULATIONS; SUMMONS;
HEARING; PUBLICATION OF
NAMES, LIABILITY

Section 11. If the commissioner has reason to believe that any employer is not paying a fair wage or not observing other minimum wage regulations, the commissioner may, on fifteen days notice, summon such employer to show cause why the name of such employer should not be published as having committed such violation. After a hearing and a finding of nonobservance, the commissioner may cause to be published in such newspaper or newspapers within this commonwealth or in such other manner as he may deem appropriate, the name of such employer or employers. Neither the commissioner nor any authorized representative of the commissioner nor any newspaper publisher, proprietor, editor or

employee thereof shall be liable to an action for damages for publishing the name of any employer as provided herein unless guilty of wilful misrepresentation.

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Section EMPLOYER'S RECORDS;
15 STATEMENT FURNISHED TO
COMMISSIONER OR ATTORNEY
GENERAL; INSPECTION OF
RECORDS BY EMPLOYEE

Section 15. Every employer shall keep a true and accurate record of the name, address and occupation of each employee, of the amount paid each pay period to each employee, of the hours worked each day and each week by each employee, and such other information as the commissioner or the attorney general in their discretion shall deem material and necessary. Such records shall be kept on file for at least 3 years after the entry date of the record. Such records shall be maintained at the place of employment, at an office of the employer, or with a bank, accountant or other central location and shall be open to the inspection of the commissioner or the attorney general, or their authorized representatives at any reasonable time, and the employer shall furnish immediately to the attorney general,

commissioner or representative, upon request, a copy of any of these records. Every employer shall furnish to the commissioner, or the attorney general, or their authorized representative, on demand, a sworn statement of such record, and, if the commissioner or the attorney general shall so require, upon forms prescribed or approved by him. An employer shall allow an employee at reasonable times and places to inspect the records kept under this section and pertaining to that employee.

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Section POSTING ORDERS AND RULES

16

Section 16. Every employer, except employers of persons engaged in domestic service in the employer's home, subject to a minimum fair wage order shall keep a copy of such order posted in a conspicuous place in every room in which persons are employed. Employers shall be furnished copies of orders or notices on request without charge. The commissioner may require each employer in any occupation subject to this chapter to post rules which apply to such employer's employees, in such reasonable way or ways and for such length of time as he may direct.

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Section DEPARTMENT OR ATTORNEY

17 GENERAL QUESTIONING

EMPLOYEES

Section 17. Each employer shall permit any duly authorized officer or employee of the department or of the attorney general to question any employee of such employer in the place of employment, other than places of employment of persons engaged in domestic service in the home of the employer, and during work hours in respect to the wages paid to and the hours worked by employees.

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Section PUNISHMENTS FOR STATED ACTS

19

Section 19. (1) Any employer and his agent, or the officer or agent of any corporation who discharges or in any other manner discriminates against any employee, including any employee in the domestic service of any family or person at his home, because such employee has complained of a violation of the provisions of this chapter, or has testified or is about to testify in any investigation or proceeding under or related to this chapter, or because such employer believes that said employee or individual may complain of a violation of the provisions of this chapter, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149, and shall be

liable for damages which shall not be less than one month's wages nor more than two month's wages of such individual, and the costs of the suit, including a reasonable attorney's fee.

(2) Any employer or the officer or agent of any corporation who knowingly pays or agrees to pay to any employee less than the rates applicable to such employee under a regulation minimum fair wage established by the commissioner, or who pays or agrees to pay to any employee less than one dollar and eighty-five cents per hour in any occupation not covered by a minimum wage regulation shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149, and each week in any day of which such employee is paid less than the rate applicable to him under a minimum fair wage regulation and each employee so paid less, shall constitute a separate offense.

(2A) Any employer or the officer or agent of any corporation who knowingly pays or agrees to pay to any employee in agriculture and farming less than one dollar and sixty cents per hour shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149, and each week in any day in which such employee is paid less shall constitute a separate offense.

(3) An employer or the officer or agent of a corporation who fails to keep the true and accurate records required under this chapter or to furnish a record to the attorney general, the commissioner, or an authorized representative of the attorney general or commissioner upon request, or who falsifies a record, or who fails to allow an employee to inspect a

record under section 15, or who fails to comply with a requirement of the commissioner under the last sentence of section 16, or who hinders or delays the attorney general, commissioner or representative in the performance of his duties, or who refuses to admit, or locks out, the attorney general, commissioner, or representative from a place of employment, other than a place of employment of a person engaged in domestic service in the home of the employer, which he is authorized to inspect, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149, and each day of the failure to keep a record or to furnish to the attorney general, commissioner or representative a record or other information required for the proper enforcement of this chapter shall constitute a separate offense.

(4) No person shall, for the purpose of evading this chapter, establish any arrangement or organization in his business, by contract, lease or agreement, whether written or oral, whereby a person who would otherwise be his employee does not have the status of such an employee. If the commissioner is of the opinion that any person has established an arrangement or organization in violation of this paragraph, after a public hearing, due notice whereof shall have been given, and at which a reasonable opportunity to be heard has been afforded to such person, he may order such person to cease and desist from such violation; and such an order shall be subject to review under section fourteen in the same manner and to the same extent as any decision of the commissioner under this chapter. Any person so ordered to cease and desist who fails to

comply therewith for thirty days after such order has been served upon him shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149.

(5) Whoever directly or indirectly solicits, demands, requests or accepts from any employee any return of a portion of his wages, which would result in such employee retaining less than the rate of wages required by this chapter, or whoever threatens, coerces or intimidates any employee who has wages due under this chapter, for the purpose of causing such person to accept as payment in full a lesser sum than the full amount of the wages so due, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C of chapter 149, and each employee so solicited or threatened shall constitute a separate offense. An employer who discharges or in any other manner penalizes or discriminates against an employee because the employee has made a complaint to the attorney general or any other person, or assists the attorney general in an investigation under this chapter, or has instituted, or caused to be instituted a proceeding under or related to this chapter, or has testified or is about to testify in the proceeding, or has taken any other action to seek rights under this chapter, shall have violated this section and shall be punished or shall be subject to a civil citation or order as provided in section 27C.

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Section PAYMENT OF LESS THAN
20 MINIMUM FAIR WAGE; RECOVERY
OF DEFICIENCY; UNCLAIMED
AWARD; DEPOSIT OF FUNDS

Section 20. If a person is paid by an employer less than the minimum fair wage to which the person is entitled under or by virtue of a minimum fair wage regulation, or less than \$1.85 per hour in a manufacturing occupation or in any other occupation not covered by a minimum fair wage regulation, the person may institute and prosecute in his own name and on his own behalf, or for himself and for others similarly situated, a civil action for injunctive relief, for any damages incurred and for the full amount of the minimum wages less any amount actually paid to him by the employer. An agreement between the person and the employer to work for less than the minimum wage shall not be a defense to such action. An employee so aggrieved who prevails in such an action shall be awarded

treble damages, as liquidated damages, for any loss of minimum wage and shall also be awarded the costs of the litigation and reasonable attorneys' fees. At the request of any employee paid less than the minimum wage to which he or she is entitled the attorney general may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court. The attorney general shall not be required to pay a filing fee in connection with any such action.

In any action or administrative proceeding by an employee or the commissioner instituted upon such a wage claim in which the employee prevails and the commissioner thereafter in possession of the resulting award is unable after a reasonable search to locate the employee or to identify and locate the employee's successor in interest, the commissioner shall, upon expiration of one year from the date of said award, deposit the funds from any such award, less costs and reasonable attorney's fees where applicable, in the General Fund.

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Section LIMITATION PERIOD FOR
20A CRIMINAL OR CIVIL ACTION

Section 20A. The provisions of this chapter shall not be applicable to any cause of action accruing more than 3 years prior to the date of filing in court of a criminal or civil action; provided, however, that the limitation period shall be tolled from the date that the employee or a similarly situated employee files a complaint with the attorney general alleging a violation of this chapter until the date that the attorney general issues a letter authorizing a private right of action or the date that an enforcement action by the attorney general becomes final.

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Section COPY OF ORDER AND
21 CERTIFICATE EVIDENCE OF
COMPLIANCE WITH STATUTE
AND EFFECTIVENESS OF ORDER

Section 21. In any prosecution under section nineteen or in any action or suit under section twenty, a copy of a mandatory order covering any occupation, together with a certificate attesting the correctness of the copy and setting forth that on the date of such certificate such order is in force, bearing the signature of the commissioner attested by the state secretary in accordance with section seventy-six of chapter two hundred and thirty-three, shall be competent evidence equally with the original order, and shall be prima facie evidence that the provisions of this chapter relative to the establishment of minimum fair wage rates in such occupation were complied with prior to the making of such order, and that such order has continued in full force and effect up to the date of such certificate.

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WORKERS' COMPENSATION

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GOVERNMENT

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Chapter WORKERS' COMPENSATION

152

Section NOTICE OF INJURIES; FORMS;
6 ADDITIONAL REPORTS;
STATISTICAL SUMMARIES

Section 6. Within seven calendar days, not including Sundays and legal holidays, of receipt of notice of any injury alleged to have arisen out of and in the course of employment which incapacitates an employee from earning full wages for a period of five or more calendar days, the employer shall furnish notice of the injury to the division of administration, the employee and insurer. The notice shall be submitted on a form prescribed by the division and shall contain the name and nature of the business of the employer, the name, age, sex, and occupation of the injured employee, and the date, nature, circumstances and cause of the injury and such additional information as the division shall prescribe.

The commissioner may require employers with those standard industry codes with the highest number of injuries or claims to provide proof of insurance coverage as required by this chapter. The commissioner may utilize information provided by the department of unemployment assistance and the department of revenue to ascertain the addresses of the employers with such industry codes.

Additional reports may be required from employers, insurers and medical services providers with respect to such injury and of the condition of such employee, including copies of medical, hospital, and rehabilitation reports and records, and the payments made or to be made for compensation shall be filed with the division of administration at such times and in such manner as the division may prescribe.

The division of administration shall prepare statistical summaries of reports filed under this section.

The provisions of this section shall apply also to the head of each employing board, commission and department of the commonwealth and of the several counties, cities, towns and districts subject to the provisions of section sixty-nine and copies of the report hereby required shall be furnished to the appropriate retirement board, if any, and to the agent set forth in section seventy-five or the insurer, if any.

Any person who violates the provision of this section three or more times in any year shall be punished by a fine of one hundred dollars for each such violation. Each failure to pay a fine within thirty days of receipt of a bill from the department shall be considered a separate violation.

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Section NOTICE BY INSURED TO

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EMPLOYEES

Section 21. Every insured person shall, as soon as he secures a policy, give written or printed notice to all persons under contract of hire with him that he has provided for payment to injured employees by the insurer, or by self-insurance, as provided by this chapter.

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Section NOTICE BY INSURED TO NEW
22 EMPLOYEES; NOTICE OF
CESSATION OF INSURANCE;
FILING COPY

Section 22. Every insured person shall give written or printed notice to every person with whom he is about to enter into a contract of hire that he has provided for payment to injured employees by the insurer or by means of self-insurance as provided in this chapter. An employer ceasing to be insured by an insurance company shall, on or before the day on which his policy expires, give written or printed notice thereof to all persons under contract with him. In case of the renewal of the policy no notice shall be required. He shall file a copy of said notice with the department. The notices required by this and the preceding section may be given in the manner therein provided or in such other manner as may be approved by the department.

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Section PURCHASE OF INSURANCE; SELF-
25A INSURANCE; REINSURANCE;
DEDUCTIBLES

Section 25A. In order to promote the health, safety and welfare of employees, every employer shall provide for the payment to his employees of the compensation provided for by this chapter in the following manner:

- (1) By insurance with an insurer or by membership in a workers' compensation self-insurance group, established pursuant to the provisions of sections twenty-five E to twenty-five U, inclusive, or
- (2) Subject to the rules of the department, by obtaining from the department annually a license as a self-insurer by conforming to the provisions of one of the two following subparagraphs and also to the provisions of subparagraph (c) if required. Every employer desiring to be licensed as a self-insurer shall make application for such license on a form

provided by the department. The application shall contain: (1) a sworn itemized statement of the assets and liabilities of the applicant; (2) a payroll report for the preceding fiscal year of the applicant; (3) a detailed description of the nature and kind of business carried on.

(a) By keeping on deposit with the state treasurer in trust for the benefit and security of employees such amount of securities, not less in market value than twenty thousand dollars, as may be required by the department, said securities to be in the form of cash, bonds, stocks or other evidences of indebtedness as the department may require, and to be used, liquidated and disbursed only upon order of the department for the purposes of paying the benefits provided for by this chapter. The department shall, at least semiannually, determine the liabilities of a self-insurer both incurred or to be incurred because of personal injuries to employees under this chapter. The department shall require an additional deposit or further security when the sum of the self-insurer's liability both incurred or to be incurred exceeds the deposit or any required reinsurance, or permit a decrease of said deposit provided the value of said deposit in no case shall be less than twenty thousand dollars. The department may permit a substitution of securities in place of those deposited. Interest, dividends and other income from said deposit or deposits shall be payable to the employer who deposited them, unless and until the department shall direct otherwise. The deposit or deposits may be returned to the employer if the employer shall insure with an insurer under paragraph (1) of this section, or qualify as a self-insurer under subparagraph (b) of this section, or if he shall cease to transact business in the commonwealth; provided, that in

any case he satisfies the department that he is not under any obligation to pay compensation under this chapter, or, if the department so requires, he furnishes the department with a single premium non-cancellable policy, insuring him against any liability that may have arisen under this chapter or with a bond executed as surety by some company authorized to transact the business of workers' compensation insurance in this commonwealth, in an amount and form approved by the department, guaranteeing the payment of any liability on his part that may have arisen under this chapter. No deposit so deposited shall be assignable or subject to attachment or be liable in any way for the debt of the self-insurer. If an employer engaged in interstate or foreign commerce certifies that the laws of the United States provide for liability for injury to or death of its employees, the deposit shall be returned to the employer less such amount as determined by the department as necessary to satisfy against liability that may already have arisen under this chapter; and provided that such determination by the department shall be reviewable by the superior court for the county in which the employer resides, or, in the case of a corporation, where said corporation has a usual place of business.

(b) By furnishing annually a bond running to the commonwealth, with some surety company authorized to transact business in the commonwealth as surety, in such form as may be approved by the department and in such amount not less than twenty thousand dollars as may be required by the department, said bond, however, to be upon the condition that if the license of the principal shall be revoked or if the principal shall cease to transact business in the commonwealth or if the

department shall refuse to renew the license or if the principal shall insure with an insurer, the principal shall upon demand deposit with the state treasurer an amount of securities equal to the penal sum of the bond or a single premium non-cancellable policy issued by some insurance company authorized to transact the business of workers' compensation insurance in this commonwealth, insuring him against any liability that may have arisen under this chapter or a bond executed as surety by some company authorized to transact the business aforesaid in this commonwealth, in an amount and form approved by the department, guaranteeing the payment of any liability on his part that may have arisen under this chapter. The department shall, at least semiannually, determine the liabilities of a self-insurer both incurred or to be incurred because of personal injuries to employees under this chapter. The department may at any time require an additional bond, similarly conditioned, or further security or permit a decrease in the amount of said bond provided the amount of the bond or the bonds in no case shall be less than twenty thousand dollars. The liability of the surety shall not exceed in the aggregate the penal sum or sums stated in any such annual bond or bonds or in any endorsements giving effect to any such increase or reduction. The department may permit a substitution of a new bond or bonds for the bond or bonds which have been furnished and shall return the old bond or bonds to the self-insurer as soon as a new annual bond has been obtained.

(c) As a further guarantee of a self-insurer's ability to pay the benefits provided for by this chapter to injured employees, every self-insurer shall make arrangements satisfactory to the department, by reinsurance, to

protect it from extraordinary losses or losses caused by one disaster.

Such reinsurance shall be in such amounts and form as the department may approve and shall be effected with a company as provided in section twenty of chapter one hundred and seventy-five, provided, the minimum amount shall be not less than five hundred thousand dollars. Such reinsurance shall provide that the use or disposition of any money received by a self-insurer or former self-insurer under any such reinsurance shall be subject to the approval of the department, and no such money shall be assignable or subject to attachment or be liable in any way for the debt of the self-insurer unless incurred under this chapter. The provisions of this paragraph shall not apply to common carriers by railroad which are subject to the provisions of the Federal Employers Liability Act.

(3) The department may make rules governing self-insurers, and may revoke or refuse to renew the license of a self-insurer because of the failure of such self-insurer promptly to make payments of compensation provided for by this chapter, or for any other reasonable cause. Any person aggrieved by the action of the department in refusing to grant a license or in revoking, or refusing to renew, a license of a self-insurer under this section or by the action of the department in requiring an additional deposit or further security under subparagraph (a) of this section, or in requiring a further bond or security for an additional sum under subparagraph (b) of this section may demand a hearing before the department, and if, after said hearing, the department denies his petition, he may within ten days after receipt of a notice stating reasons for such denial, file a petition in the superior court for Suffolk county for a review

thereof; but the filing of such a petition shall not suspend the action of the department unless a stay thereof shall be allowed by the justice pending a final determination by the court. The court shall summarily hear the petition and may make any appropriate order or decree.

(4)(a) The commissioner of insurance shall require each insurer issuing a policy under this chapter to offer, as a part of the policy or as an optional endorsement to the policy, deductibles, including reasonable small deductibles optional to the policyholder for benefits payable under this chapter. Deductible amounts offered shall be fully disclosed to the prospective policyholders in writing in amounts determined by the commissioner. The policyholder exercising the deductible option shall choose only one deductible amount.

(b) If the policyholder exercises the option and chooses a deductible, the insured employer shall be liable for the amount of the deductible for benefits paid for each compensable claim of work injury suffered by an employee or, at the option of the policyholder, an aggregate deductible as determined by the commissioner. The insurer shall pay all or part of the deductible amount, whichever is applicable, to a compensable claim, to the person or medical provider entitled to the benefits conferred by this chapter and then seek reimbursement from the insured employer for the applicable deductible amount. The payment or nonpayment of deductible amounts by the insured employer to the insurer shall be treated under the policy insuring the liability for workers' compensation in the same manner as payment or nonpayment of premiums.

(c) Optional deductibles shall be offered in each policy insuring liability for workers' compensation that is issued, delivered, issued for delivery, or renewed under this chapter on or after a date to be determined by the commissioner, unless an insured employer and insurer agree to renegotiate a workers' compensation policy in effect, so as to include a provision allowing for a deductible.

(d) Premium reductions for deductibles shall be determined by the commissioner of insurance.

(e) This subsection shall not apply to employers who are approved to self-insure against liability for workers' compensation or group self-insurance funds for workers' compensation established pursuant to the provisions of this chapter.

(f) The commissioner of insurance may promulgate regulations to enforce the provisions of this section.

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Section FAILURE TO PROVIDE FOR
25C PAYMENT OF COMPENSATION;
STOP WORK ORDERS; PENALTIES;
LIENS; ACTIONS BROUGHT BY
LOSING BIDDERS; CIVIL ACTIONS
FOR VIOLATIONS OF CHAPTER

Section 25C. (1) Whenever the commissioner or his designee determines that an employer who is required to provide for the payment to his employees of the compensation provided for by the chapter has failed to do so, a stop work order shall be served on said employer, requiring the cessation of all business operations at the place of employment or job site. Such order shall take effect immediately upon its service upon said employer, unless such employer provides evidence, satisfactory to the commissioner or his designee, of having secured any necessary insurance or self-insurance and pays a civil penalty into the private employer trust fund in the amount of one hundred dollars per day for each day such

employer was not in compliance with this chapter, counting the date of service of the stop work order as the first day and date of payment of the penalty herein provided and of production of evidence of insurance or self-insurance as the final day.

(2) Any employer who is aggrieved by the imposition of a stop work order shall have ten days from the date of its service to appeal such order. Any employer who timely files such appeal shall be granted a hearing by the commissioner or his designee within fourteen days of receipt of appeal. The stop work order shall not be in effect during the pendency of any timely filed appeal. Any stop work order and monetary penalty shall be rescinded if the commissioner or his designee finds at the hearing that the employer has at all times been in compliance with this chapter. If the commissioner or his designee finds at the hearing that the employer did or has not provided for all insurance or self-insurance required by this chapter, the stop work order shall be effective immediately on the conclusion of the hearing and shall remain in effect until such time as the employer provides evidence, satisfactory to the commissioner or his designees, of having secured any necessary insurance or self-insurance and pays a civil penalty into the private employer trust fund in the amount of two hundred and fifty dollars per day for each day such employer was not in compliance with this chapter, counting the date of service of the stop work order as the first day and the date of payment of the penalty herein provided and of production of evidence of insurance or self-insurance as the final day.

A stop work order and any monetary penalties assessed by the commissioner after a hearing as authorized in this section shall be final at the expiration of thirty days if no action for judicial review of such decision is commenced pursuant to chapter thirty A. Any person who institutes proceedings for judicial review of the final assessment of a penalty by the commissioner pursuant to this section, shall place the final amount of the assessment in an interest-bearing escrow account in the custody of the clerk/magistrate of the reviewing court. The establishment of such interest-bearing account shall be a condition precedent to the jurisdiction of the reviewing court unless the party demonstrates in a preliminary hearing held within twenty days of the filing of the complaint either the presence of a substantial question for review by the court or an inability to pay. Upon such a demonstration, the court may grant an extension or waiver of the interest-bearing escrow account or may require, in lieu of such account, the posting of a bond payable directly to the Private Employer Trust Fund in the amount of one hundred and twenty-five per cent of the assessed penalty. If, after judicial review, in the case where the requirement for an escrow account has been waived, and in the case where a bond has been posted, the court affirms the penalty in whole or in part, the penalty assessed by the commissioner shall be paid with interest at the rate set forth in section six C of chapter two hundred and thirty-one. If, after such review in a case where an interest-bearing escrow account has been established, the court affirms the penalty in whole or in part, the penalty shall be paid with accumulated interest from such

account. If the court sets aside the penalty the amount placed in such account or the amount posted for such bond shall be repaid together with any interest thereon.

(3) Any law enforcement agency in the commonwealth shall, at the request of the commissioner, render any assistance necessary to carry out the provisions of this section, including but not limited to preventing any employee or other persons from remaining at a place of employment or job site after a stop work order has taken effect.

(4) Any employee affected by a stop work order pursuant to this section shall be paid for the first ten days lost pursuant to such order and any time lost pursuant to this section not exceeding ten days shall be considered time worked under the provisions of chapter one hundred and forty-nine.

(5) In addition to being subject to the civil penalties herein provided, an employer who fails to provide for insurance or self-insurance as required by this chapter shall be punished by a fine of not more than one thousand five hundred dollars or by imprisonment for not more than one year, or both. Failure of an employer, after imposition of such fine or imprisonment, to provide for insurance or self-insurance under this chapter after notice by the department to do so shall, as to each notice, be deemed a further violation in respect thereof, subject to an additional fine and imprisonment. If such employer is a corporation, the president or treasurer or both shall be liable for said punishment. The commissioner or his designee shall have power to bring complaints against employers, including the president and treasurer of a corporation which is an employer, for violations of the provisions of this subsection, and to

prosecute the same, and for such purpose may deputize one or more employees of the department to make and prosecute complaints.

Complaints under this subsection shall be brought in the district court in which the principal place of business of such employer is situated, or in the district court in whose district such president or treasurer of a corporation resides.

(6) Every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business or to construct buildings in the commonwealth for any applicant who has not produced acceptable evidence of compliance with the insurance coverage required by this chapter.

(7) Neither the commonwealth nor any of its political subdivisions shall enter into any contract for the performance of public work until acceptable evidence of compliance with the insurance requirements of this chapter have been presented to the contracting authority.

(8) Any judgments obtained by the department requiring employer reimbursements or other payments into the private employer trust fund, and any penalties due pursuant to the service of a stop work order under this section shall, until collected, constitute a lien upon the entire interest of the employer, legal or equitable, in any property, real or personal, tangible or intangible; provided, however, that such lien shall be subordinate to claims for unpaid wages and any prior recorded liens; and provided, further, that no lien created by this section shall be valid against a subsequent purchaser or mortgagee in good faith and for value of real or personal property from or of such employer, or against a subsequent

attaching creditor, unless, with respect to real estate of the employer, a notice of such lien is recorded in the registry of deeds for the county where such real estate is located, and, with respect to personal property of the employer, said notice is recorded with the clerk of the city or town where such personal property is located.

(9)(a) Any person or firm that loses a competitive bid for a contract including but not limited to construction, repair, remodeling, alteration, conversion, modernization, replacement or renovation of a building, roadway or structure may bring an action for damages against another person who is awarded the contract for which the bid was made, if the other person was awarded the contract because of cost advantages achieved by violating the provisions of section twenty-five A or section twenty-five C of this chapter or by the deliberate misclassification of employees for the purpose of avoiding full payment of workers' compensation insurance premiums.

(b) A person or firm bringing an action under this section must establish a violation of said subsection or chapters by a preponderance of the evidence. Upon establishing that the violation occurred, the person bringing the action shall recover, as liquidated damages, ten percent of the total amount bid on the contract, or fifteen thousand dollars, whichever is lesser.

(c) An action under this subsection shall be commenced within one year from the date when the contract is awarded.

(d) No plaintiff shall be allowed to recover any amounts under this subsection if said plaintiff was in violation of sections twenty-five A or twenty-five C at the time of making the bid on the contract.

(e) In any action under this section, the prevailing party shall be entitled to an award of reasonable attorneys fees.

(10) In addition to being subject to the civil penalties herein provided, an employer who fails to provide for insurance or self insurance as required by this chapter or knowingly misclassifies employees, to avoid higher premium rates, will be immediately debarred from bidding or participating in any state or municipal funded contracts for a period of three years and shall when applicable be subject to penalties provided for in section fourteen.

(11) Whenever facts exist showing that an employer has failed to comply with this chapter, then any 3 persons may bring a civil action and that civil action shall be deemed a private attorney's general action. Before bringing a civil action under this subsection, the 3 persons shall provide notice, by certified mail, return receipt requested, of what might become the substance of a complaint to the employer and any insurer that was or is entitled to collect amounts not paid. The notice shall include a statement of intent to file suit under this subsection. After the expiration of 90 days after delivery of the notice to the employer and the insurer, the 3 persons may file a civil action under this subsection, but they shall not be bound by the notice provided to the employer and the insurer.

Plaintiffs shall prove a violation of this chapter by a preponderance of the evidence. An employer shall be liable for all amounts which should have been paid by the employer. Upon establishing that a violation occurred, plaintiffs shall be collectively entitled to recover 25 per cent of the amount not paid or \$25,000, whichever is less, plus costs and reasonable attorneys' fees, and an additional amount from the employer as compensatory and liquidated damages which shall be equal to 25 per cent of the amount that should have been paid or \$25,000, whichever is less.

After a civil action is commenced under this subsection, any insurer that has failed to file a complaint or seek arbitration to recover or collect all of the amounts which would have been due to the insurer from an employer in the action shall be barred from recovering, attempting to recover or collect any amounts sought in the action unless the insurer obtains the voluntary, written consent of the plaintiffs. When such written consent is provided, a court may substitute the insurer as the plaintiff and, upon substitution, the case shall proceed without further regard to this subsection or to the Workers' Compensation Trust Fund.

No settlement between an insured and an insurer shall prohibit or limit an action under this subsection to recover other amounts that should have been paid under this chapter. The insurer shall, upon demand, provide a copy of any settlement to the 3 persons who sent notice under this subsection. Except as provided herein and unless the insurer has been substituted in the action, any amounts recovered by the plaintiffs under this subsection shall be deposited into the Workers' Compensation Trust Fund established in section 65, except those amounts payable to those

plaintiffs in accordance with this subsection. An insurer who has been served with notice under this subsection and who pays a claim may recover from the amounts that are deposited into the trust fund any premium that should have been paid to that insurer which would have provided coverage for that specific claimant and claim.

Nothing in this subsection shall limit or prohibit a political subdivision, public entity or office, division, commission, commissioner, director, attorney general or a law enforcement agency or office entitled to bring a civil or criminal action against a defendant to an action under this subsection from proceeding against such defendant in an appropriate forum. The judge or other hearing officer in that forum may consider and offset the amounts recovered, or likely recoverable, by an action pursuant to this subsection in imposing a verdict or judgment or against imposing a fine or other penalty.

Any action filed under this subsection shall be filed only after 90 days following the expiration of a workers' compensation policy affected by the action, if such policy existed.

Actions under this subsection shall be commenced within 6 years after the cause of action accrues.

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Section INJURIES ARISING OUT OF AND IN
26 COURSE OF EMPLOYMENT

Section 26. If an employee who has not given notice of his claim of common law rights of action under section twenty-four, or who has given such notice and has waived the same, receives a personal injury arising out of and in the course of his employment, or arising out of an ordinary risk of the street while actually engaged, with his employer's authorization, in the business affairs or undertakings of his employer, and whether within or without the commonwealth, he shall be paid compensation by the insurer or self-insurer, as hereinafter provided; provided, that as to an injury occurring without the commonwealth he has not given notice of his claim of rights of action under the laws of the jurisdiction wherein such injury occurs or has given such notice and has waived it. For the purposes of this section any person, while operating or using a motor or other vehicle,

whether or not belonging to his employer, with his employer's general authorization or approval, in the performance of work in connection with the business affairs or undertakings of his employer, and whether within or without the commonwealth, and any person who, while engaged in the usual course of his trade, business, profession or occupation, is ordered by an employer, or by a person exercising superintendence on behalf of such employer, to perform work which is not in the usual course of such work, trade, business, profession or occupation, and while so performing such work, receives a personal injury, shall be conclusively presumed to be an employee, and if an employee while acting in the course of his employment receives injury resulting from frost bite, heat exhaustion or sunstroke, without having voluntarily assumed increased peril not contemplated by his contract of employment, or is injured by reason of the physical activities of fellow employees in which he does not participate, whether or not such activities are associated with the employment, such injury shall be conclusively presumed to have arisen out of the employment.

If an employee is injured by reason of such physical activities of fellow employees and the department finds that such activities are traceable solely and directly to a physical or mental condition resulting from the service of any of such fellow employees in the armed forces of the United States, the entire amount of compensation that may be found due shall be paid by the insurer, self-insurer or self-insurance group; provided, however, that upon an order or pursuant to an approved agreement of the

department, the insurer, self-insurer or self-insurance group shall be reimbursed by the state treasurer from the trust fund established by section sixty-five for all amounts of compensation paid under this section.

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Section WILLFUL MISCONDUCT OF
27 EMPLOYEE

Section 27. If the employee is injured by reason of his serious and wilful misconduct, he shall not receive compensation; but this provision shall not bar compensation to his dependents if the injury results in death.

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Section FALSE REPRESENTATION OF
27A PHYSICAL CONDITION BY
EMPLOYEE; RIGHT TO BENEFITS

Section 27A. In any claim for compensation where it is found that at the time of hire the employee knowingly and willfully made a false representation as to his physical condition and the employer relied upon the false representation in hiring such employee, when such employee knew or should have known that it was unlikely he could fulfill the duties of the job without incurring a serious injury, then the employee shall, if an injury related to the condition misrepresented occurs, not be entitled to benefits under this chapter. Retention of an employee who rectifies any misrepresentation made to his employer regarding his physical condition subsequent to the hire but prior to the injury shall restore any right to compensation under this chapter.

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Section WILFUL MISCONDUCT OF
28 EMPLOYER; DEFENSE;
REIMBURSEMENT OF INSURER;
EMPLOYMENT OF MINOR;
MENTALLY RETARDED PERSONS;
INJURIES AT SHELTERED
WORKSHOPS

Section 28. If the employee is injured by reason of the serious and wilful misconduct of an employer or of any person regularly intrusted with and exercising the powers of superintendence, the amounts of compensation hereinafter provided shall be doubled. In case the employer is insured, he shall repay to the insurer the extra compensation paid to the employee. If a claim is made under this section, and the employer is insured, the employer may appear and defend against such claim only. The employment of any minor, known to be such, in violation of any provision

of sections sixty to seventy-four, inclusive, or of section one hundred and four of chapter one hundred and forty-nine shall constitute serious and wilful misconduct under this section.

As used in this section the term "minor" shall include mentally retarded persons eighteen years of age or older unless:

- (1) the employment takes place in a sheltered workshop which holds either a license from the department of developmental services or accreditation from the commission on accreditation of rehabilitation facilities; and
- (2) a professional vocational specialist evaluates the employee at the employment site, for the specific job performed and such evaluation determines in writing that the employee is appropriate for and capable of such employment; and
- (3) the employee has agreed in writing to the written rehabilitation plan or to an accurate verbal description of such written plan.

The division of administration shall keep statistical records on injuries that occur at sheltered workshops. If there appears to be a pattern of such injuries at a particular sheltered workshop, the office of claims administration shall notify the department of developmental services and such department shall take whatever action it deems appropriate.

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Section ACTIONS FOR INJURIES
66 SUSTAINED BY EMPLOYEES;
LIMITATIONS; DEFENSES

Section 66. Actions brought against employers to recover damages for personal injuries or consequential damages sustained within or without the commonwealth by an employee in the course of his employment or for death resulting from personal injury so sustained shall be commenced within twenty years from the date the employee first became aware of the causal relationship between the disability and his employment. In such actions brought by said employees or by the Workers' Compensation Trust Fund pursuant to the provisions of subsection (8) of section sixty-five, it shall not be a defense:

1. That the employee was negligent;
2. That the injury was caused by the negligence of a fellow employee;

3. That the employee had assumed voluntarily or contractually the risk of the injury;
4. That the employee's injury did not result from negligence or other fault of the employer, if such injury arose out of and in the course of employment.

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Section APPLICATION TO INSUREDS AND
67 EMPLOYERS HAVING RIGHT OF
ELECTION, OF STATUTES
RELATING TO DEFENSES TO
ACTIONS

Section 67. Section sixty-six shall not apply to actions to recover damages for personal injuries received by employees of an insured person or a self-insurer.

Paragraph 4 of said section sixty-six shall not apply to actions to recover damages for personal injuries sustained by any person, whose employer has a right of election as provided in paragraph 4 of section one.

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Section PREFERENCES FOR HIRING

75A

Section 75A. Any person who has lost a job as a result of an injury compensable under this chapter shall be given preference in hiring by the employer for whom he worked at the time of compensable injury over any persons not at the time of application for reemployment employed by such employer; provided, however, that a suitable job is available. Actions may be filed under this section with the superior court department of the trial court for the county in which the alleged violation occurred. An employer found to have violated this section shall be exclusively liable to pay to the employee lost wages, shall grant the employee a suitable job, and shall reimburse such reasonable attorney fees incurred in the protection of rights granted by this section as shall be determined by the court.

In the event that any right set forth in this section is inconsistent with an applicable collective bargaining agreement or chapter thirty-one, the collective bargaining agreement or said chapter thirty-one shall prevail.

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Section QUALIFIED HANDICAPPED
75B PERSONS; DISCRIMINATION
AGAINST EMPLOYEES
EXERCISING RIGHTS UNDER THIS
CHAPTER; DISCLOSURE OF DATA

Section 75B. (1) Any employee who has sustained a work-related injury and is capable of performing the essential functions of a particular job, or who would be capable of performing the essential functions of such job with reasonable accommodations, shall be deemed to be a qualified handicapped person under the provisions of chapter one hundred and fifty-one B.

(2) No employer or duly authorized agent of an employer shall discharge, refuse to hire or in any other manner discriminate against an employee because the employee has exercised a right afforded by this chapter, or who has testified or in any manner cooperated with an inquiry or

proceeding pursuant to this chapter, unless the employee knowingly participated in a fraudulent proceeding. Any person claiming to be aggrieved by a violation of this section may initiate proceedings in the superior court department of the trial court for the county in which the alleged violation occurred. An employer found to have violated this paragraph shall be exclusively liable to pay to the employee lost wages, shall grant the employee suitable employment, and shall reimburse such reasonable attorney fees incurred in the protection of rights granted as shall be determined by the court. The court may grant whatever equitable relief it deems necessary to protect rights granted by this section.

(3) In the event that any right set forth in this section is inconsistent with an applicable collective bargaining agreement, such agreement shall prevail. An employee may not otherwise waive rights granted by this section.

(4) Upon a determination by the commissioner that a request for data maintained by the department is intended to be used in such a manner as to violate the purposes of this section, the commissioner may find that the disclosure of such data constitutes an unwarranted invasion of personal privacy pursuant to chapter four and deny said request. Nothing in this section shall be construed to prohibit an insurer's right to obtain any information held by the department regarding any employee who has filed a claim against such insurer.

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**LIENS ON BUILDINGS
AND LAND**

Part III COURTS, JUDICIAL OFFICERS AND
PROCEEDINGS IN CIVIL CASES

Title IV CERTAIN WRITS AND
PROCEEDINGS IN SPECIAL CASES

Chapter LIENS ON BUILDINGS AND LAND
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Section LABOR PERFORMED; LIMITATION
1 ON LIEN; FILING

Section 1. A person to whom a debt is due for personal labor performed in the erection, alteration, repair or removal of a building or structure upon land or improvement or alteration to real property, by virtue of an agreement with, or by consent of, the owner of such building or structure, or of a person having authority from or rightfully acting for such owner in procuring or furnishing such labor, shall, under the provisions of this chapter, other than section four, have a lien upon such building or structure and upon such interest in such real property, land, building, structure, or improvement owned by the party authorizing or consenting to said work, for not more than thirty days' work actually performed for the ninety days next prior to his filing a statement as provided in section eight.

A person or his assignee, agent, authorized representative or third party beneficiary, to whom amounts are due or for whose benefit amounts are computed and due for, or on the basis of, the personal labor of such person, may file a lien to secure the payment of such unpaid amounts including interest and agreed penalties for failure to pay the same.

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Chapter LIENS ON BUILDINGS AND LAND
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Section WRITTEN CONTRACT; NOTICE;
2 TIME FOR FILING; FORM

Section 2. A person entering into a written contract with the owner of any interest in real property, or with any person acting for, on behalf of, or with the consent of such owner for the whole or part of the erection, alteration, repair or removal of a building, structure, or other improvement to real property, or for furnishing material or rental equipment, appliances, or tools therefor, shall have a lien upon such real property, land, building, structure or improvement owned by the party with whom or on behalf of whom the contract was entered into, as appears of record on the date when notice of said contract is filed or recorded in the registry of deeds for the county or district where such land lies, to secure the payment of all labor, including construction management and general contractor services, and material or rental equipment, appliances, or tools which shall be furnished by virtue of said contract. Said notice may be filed or recorded in the

registry of deeds in the county or registry district where the land lies by any person entitled under this section to enforce a lien, and shall be in substantially the following form:

Notice is hereby given that by virtue of a written contract dated ,between ,owner,and ,contractor, said contractor is to furnish or has furnished labor and material or rental equipment, appliances or tools for the erection, alteration, repair or removal of a building, structure, or other improvement on a lot of land or other interest in real property described as follows:

(INSERT DESCRIPTION)

Such person may file or record the notice of contract at any time after execution of the written contract whether or not the date for performance stated in such written contract has passed and whether or not the work under such written contract has been performed, but not later than the earliest of: (i) sixty days after filing or recording of the notice of substantial completion under section two A; or (ii) ninety days after filing or recording of the notice of termination under section two B; or (iii) ninety days after such person or any person by, through or under him last performed or furnished labor or materials or both labor and materials.

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Section WRITTEN CONTRACT;
2A SUBSTANTIAL COMPLETION;
DEFINITIONS; NOTICE; FILING;
FORM; CERTIFIED MAIL

Section 2A. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meaning:—

"Design professional", an architect, landscape architect, professional engineer, licensed site professional or land surveyor who is licensed or registered as such in the commonwealth, and any corporation, partnership, limited liability company, or other legal entity that is authorized under the laws of the commonwealth to practice or hold itself out as practicing any of the foregoing professions.

"Professional services", services that are customarily and legally performed by or under the supervision or responsible control of design professionals in the course of their professional practice, including without

limitation, programming, planning, surveying, site investigation, analysis, assessment, design, preparation of drawings and specifications and construction administration services.

"Substantial completion", that work under the written contract is sufficiently complete so that it can be occupied or utilized for its intended use.

"Written contract", any written contract enforceable under the laws of the commonwealth.

Upon or after substantial completion of any contract subject to the provisions of section two, the owner and contractor shall execute and file or record in the appropriate registry of deeds a notice of substantial completion in substantially the following form:

Notice of Substantial Completion

Notice is hereby given that the work performed by virtue of a written contract dated ___ between ___ as owner, and ___ as contractor, for the erection, alteration, repair or removal of a building, structure, or other improvement of real property described below, has been substantially completed as of the date of filing or recording of this notice. The lot of land or other interest in real property which is the subject of such contract is described as follows:

(Insert description)

The undersigned owner hereby states that he has served written notice of the recording or filing of this notice of substantial completion upon every person who has filed or recorded prior to the date this notice is filed or

recorded notice of contract under section four of chapter two hundred and fifty-four of the General Laws.

The undersigned contractor hereby states that he has served written notice of the recording or filing of this notice of substantial completion upon every person who has entered into a written contract directly with the contractor or who has given written notice of identification to the contractor prior to the date this notice is filed or recorded as provided in said section four of said chapter two hundred and fifty-four of the General Laws.

A copy of such notice, indicating the date of filing or recording, shall be mailed by certified mail return receipt requested by the owner to every person who has filed a notice of contract under section four and by the contractor to every person who has entered into a written contract directly with the contractor and every person who has given written notice of identification to the contractor claiming by, through, or under him as provided in section four.

The failure of the owner or contractor to give notice of the filing or recording of the notice of substantial completion to those persons so entitled shall not prejudice the rights of third parties who rely upon said notice of substantial completion in good faith and without actual knowledge of such failure of notice.

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Section TERMINATION OF WRITTEN
2B CONTRACT; NOTICE; FILING;
FORM; CERTIFIED MAIL

Section 2B. If, prior to the filing or recording in the registry of deeds and delivery of the copies of the notice of substantial completion described in section two A, any contract subject to the provisions of section two shall have been terminated, the owner shall execute and file or record in the appropriate registry of deeds a notice of termination in substantially the following form:

Notice of Termination

Notice is hereby given that a written contract dated ___ between ___ as Owner and ___ as Contractor for the erection, alteration, repair or removal of a building, structure or other improvement of real property described below, has been terminated. The lot of land or other interest in real property which is the subject of such contract is described as follows:

(Insert description)

The undersigned owner hereby states that he has served written notice of the recording or filing of this notice of termination upon the contractor and every person who has filed or recorded prior to this date a notice of contract under section four of chapter two hundred and fifty-four of the General Laws.

A copy of such notice, indicating the date of filing or recording, shall be mailed by certified mail return receipt requested by the owner to every person who has filed or recorded a notice of contract under section four and to the contractor. Upon receipt of such notice from the owner, the contractor shall deliver a copy of such notice to every person who has entered into a written contract directly with the contractor or who has given to the contractor written notice of identification in accordance with said section four.

The failure of the owner or contractor to give notice of the filing or recording of the notice of termination to those persons so entitled shall not prejudice the rights of third parties who rely upon said notice of termination in good faith and without actual knowledge of such failure of notice.

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Section SUBCONTRACTORS; WRITTEN
4 CONTRACT; NOTICE; FILING;
FORM; INDIRECT CONTRACTUAL
RELATIONSHIP; NOTICE OF
IDENTIFICATION

Section 4. Whoever furnishes labor, including subcontractor construction management services, or who furnishes material, or both labor and material, or furnishes rental equipment, appliances or tools, or who performs professional services, under a written contract with a contractor, or with a subcontractor of such contractor, may file or record in the registry of deeds for the county or district where such land lies a notice of his contract substantially in the following form:

Notice is hereby given that by virtue of a written contract dated , between ____ contractor (or subcontractor) and ____ said ____ is to furnish or has furnished labor or material, or both labor and material, or is to furnish or has furnished rental equipment, appliances or tools, or is to

perform or has performed professional services, in the erection, alteration, repair or removal of a building, structure or other improvement of real property by , contractor, for , owner, on a lot of land or other interest in real property described as follows:

(Insert description)

As of the date of this notice, an account of said contract is as follows:

1. contract price \$ _____
2. agreed change orders \$ _____
(indicate whether addition or subtraction)
3. pending change orders: \$ _____
(indicate whether addition or subtraction)
4. disputed claims \$ _____
(indicate whether addition or subtraction)
5. payments received \$ _____

The regular mailing address of the party recording or filing this notice is as follows: .

Such person may file or record the notice of contract at any time after execution of the written contract whether or not the date for performance stated in such written contract has passed and whether or not the work under such contract has been performed, but not later than the earliest of: (i) sixty days after filing or recording the notice of substantial completion under section two A; or (ii) ninety days after filing or recording of the notice of termination under section two B; or (iii) ninety days after the last day a person entitled to enforce a lien under section two or anyone

claiming by, through or under him performed or furnished labor or materials or both labor and materials to the project or furnished rental equipment, appliances or tools, or performed professional services.

Such notice may also be filed by a person or his assignee, agent, authorized representative or third party beneficiary to whom amounts are due or for whose benefit amounts are computed and due for or on the basis of the labor of that person performing labor under a written contract with a contractor, or with a subcontractor of such contractor and the person filing such notice shall not be required to itemize the amount of the contract, the amount of pending changes in the contract, the amount of outstanding claims or the amount paid in such notice.

Upon filing or recording a notice, as hereinbefore provided, and giving actual notice to the owner of such filing, the subcontractor shall have a lien upon such real property, land, building, structure or improvement owned by the party who entered into the original contract as appears of record at the time of such filing, to secure the payment of all labor and material and rental equipment, appliances or tools or professional services which he is to furnish or has furnished for the building or structure or other improvement, regardless of the amount stated in the notice of contract. Such lien shall not exceed the amount due or to become due under the original contract as of the date notice of the filing of the subcontract is given by the subcontractor to the owner.

If the person claiming a lien under this section has no direct contractual relationship with the original contractor, except for liens for labor by persons defined in section one of this chapter, the amount of such lien

shall not exceed the amount due or to become due under the subcontract between the original contractor and the subcontractor whose work includes the work of the person claiming the lien as of the date such person files his notice of contract, unless the person claiming such lien has, within thirty days of commencement of his performance, given written notice of identification by certified mail return receipt requested to the original contractor in substantially the following form:

Notice of Identification

Notice is hereby given to , as contractor, that , as subcontractor/vendor/design professional, has entered into a written contract with ___ to furnish labor or materials, or labor and materials, or rental equipment, appliances or tools to, or to perform professional services for a certain construction project located at ___ (Street Address), ___ (Town or City), Massachusetts. The amount or estimated amount of said contract is \$. (No amount need be stated for contracts for the rental of equipment, appliances or tools).

The amount stated in any such notice of identification shall not limit the amount of the lien. Any inaccuracy in the naming of the contractor or other information in such notice shall not affect its validity provided there shall be actual notice.

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Section ENFORCEMENT OF LIEN;
5 PROCEDURE

Section 5. A lien upon land for the erection, alteration, repair or removal of a building or other structure or other improvement of real property or for professional services relating thereto or a lien established under section seventy-six of chapter sixty-three, or section 6 of chapter 183A shall be enforced by a civil action brought in the superior court for the county where such land lies or in the district court in the judicial district where such land lies. The plaintiff shall bring his action in his own behalf and in behalf of all other persons in interest who shall become parties. An attested copy of the complaint, which shall contain a brief description of the property sufficient to identify it, and a statement of the amount due, shall be filed in the registry of deeds and recorded as provided in section nine within thirty days of the commencement of the action, or such lien shall be dissolved. All other parties in interest may appear and have their

rights determined in such action, and at any time before entry of final judgment, upon the suggestion of any party in interest that any other person is or may be interested in the action, or of its own motion, the court may summon such person to appear in such cause on or before a day certain or be forever barred from any rights thereunder. The court may in its discretion provide for notice to absent parties in interest. The terms "party in interest" and "person in interest", as used in this chapter, shall include mortgages and attaching creditors.

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Section STATEMENT OF AMOUNT DUE;
8 TIME FOR FILING; DISSOLUTION
OF LIEN

Section 8. Liens under sections two and four shall be dissolved unless the contractor, subcontractor, or some person claiming by, through or under them, shall, not later than the earliest of: (i) ninety days after the filing or recording of the notice of substantial completion under section two A; (ii) one hundred and twenty days after the filing or recording of the notice of termination under section two B; or (iii) one hundred and twenty days after the last day a person, entitled to enforce a lien under section two or anyone claiming by, through or under him, performed or furnished labor or material or both labor and materials or furnished rental equipment, appliances or tools, file or record in the registry of deeds in the county or district where the land lies a statement, giving a just and true account of the amount due or to become due him, with all just credits, a brief description of the property, and the names of the owners set forth in the

notice of contract. Liens under sections 2C and 2D shall be dissolved unless a like statement is filed or recorded at the appropriate registry of deeds within 30 days after the last day that a notice of contract may be filed or recorded under the applicable section. A lien under section one shall be dissolved unless a like statement, giving the names of the owner of record at the time the work was performed or at the time of filing the statement, is filed or recorded in the appropriate registry of deeds within the ninety days provided in said section. Nothing in this section shall prohibit the filing or recording of a statement under this section prior to the filing or recording of the notices under section two A or two B.

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Section ACTION TO ENFORCE LIEN; TIME
11 TO COMMENCE; VALIDITY OF
LIEN

Section 11. The lien shall be dissolved unless a civil action to enforce it is commenced within ninety days after the filing of the statement required by section eight. The validity of the lien shall not be affected by an inaccuracy in the description of the property to which it attaches, if the description is sufficient to identify the property, or by an inaccuracy in stating the amount due for labor or material or professional services unless it is shown that the person filing the statement has wilfully and knowingly claimed more than is due him.

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Section APPLICATION TO COURT FOR
15A ORDER RULING ON OR
DISCHARGING LIEN

Section 15A. If any person in interest, including but not limited to an owner, contractor, or mortgage holder, claims (a) that any person who has provided labor or materials or has agreed to provide funding, financing or payment for labor or materials, refuses to continue to provide such funding, financing or payments of labor or materials solely because of the filing or recording of a notice of contract pursuant to section two or a statement of claim referencing a lien under section one, or (b) it appears from the notice of contract or a statement of account that the claimant has no valid lien by reason of the character of, or the contract for, the labor or materials or professional services or rental equipment, appliances or tools furnished and for which a lien is claimed, or (c) that a notice or other instrument has not been filed or recorded in accordance with the applicable provisions of this chapter, or (d) that for any other reason a

claimed lien is invalid by reason of failure to comply with any provision of this chapter, or (e) that any party's rights are foreclosed by a judgment or release, or (f) that any party wrongfully refuses to execute a notice of completion as required by section two A or improperly files or records a notice of termination under section two B, such person may apply to the superior court for the county where such land lies or in the district court in the judicial district where such land lies, for an order (i) ruling on the matter involved or (ii) summarily discharging of record the alleged lien or notice as the case may be. The holder of any recorded mortgage upon the affected property shall receive notice of and be entitled to appear and be heard in any proceeding brought under this section. An order of notice to appear and show cause why the relief demanded in the complaint should not be granted shall be served upon the necessary parties no later than seven days prior to the date of the scheduled hearing. If the necessary parties cannot be found, such service may be made as the court shall direct. The application shall be made upon a verified complaint accompanied by other written proof of the facts upon which the application is made. Upon granting or denying the application, the court shall enter a final judgment on the matter involved or expeditiously order such further proceedings as are just.

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Section COSTS
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Section 22. Costs shall be in the discretion of the court and shall be paid from the proceeds of the sale or by any of the parties, as it may order.

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Section REMEDIES
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Section 26. This chapter shall not prevent a person entitled to a lien under it from maintaining a civil action as if he had no lien.

The Employer's Guide to Unemployment Insurance

**Massachusetts Executive Office of
Labor and Workforce Development**

Department of Unemployment Assistance

The Employer's Guide to Unemployment Insurance



Message to Massachusetts Employers

Unemployment Insurance (UI) provides Massachusetts workers with a valuable benefit—temporary income protection, training, and professional support during periods of unemployment and uncertainty. Employers like you play an important role in providing these benefits to Massachusetts workers. Employers fund the UI program, and serve as a resource for unemployed workers seeking UI benefits.

Given the vital role that you play in providing UI, the Department of Unemployment Assistance (DUA)—the Massachusetts agency that administers UI—is committed to helping you understand the Massachusetts Unemployment Insurance law. This Employer Handbook is intended as a guide to help you navigate our policies and procedures. Within, you will find information on:

- History and background of UI law
- Determining whether you are required to contribute to the UI Trust Fund
- Determining who is eligible for UI benefits
- Registering your account on UI Online
- Understanding your responsibilities in processing claims and appeals
- Determining your contribution rates
- Understanding DUA correspondences
- Contacting DUA

Through our online system, UI Online, you can view complete and up-to-date account information, update account and demographic data, process wage and employment reports, calculate and pay taxes, view benefit charges and rate notices, and designate third-party administrators to manage activities on your behalf.

If you still have questions after reviewing this guide, we encourage you to visit our website at www.mass.gov/dua or call DUA at (617) 626-5075 for revenue-related questions, or (617) 626-6800 for claimant benefits-related questions.



Richard Jeffers
Director, Massachusetts Department of Unemployment Assistance

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The Employer's guide to Unemployment Insurance law

This guide is published by the Massachusetts Department of Unemployment Assistance to help the Commonwealth's employers understand their rights and responsibilities under the state's Unemployment Insurance Law (Chapter 151A of the Massachusetts General Laws). The information in this guide is general in nature and does not have the effect of law or regulation. You may find information on federal employment laws at malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter151A.

Note: Throughout this booklet, Unemployment Insurance may be referred to as UI and the Department of Unemployment Assistance as DUA.

1

Unemployment Insurance in Massachusetts

This chapter contains information on:

- The legal background and history of UI
- The role of DUA in administering the UI program
- Employer support programs such as WorkShare, Economic Data Program/MassStats, and Employer Medical Assistance Contribution (EMAC)
- DUA's enforcement capacity and fraud detection functions



Unemployment Insurance and the law

The Unemployment Insurance (UI) program is an economic stabilization program designed to provide a safety net for individuals that lose their jobs due to no fault of their own. The program provides benefits to unemployed workers and funds these benefits by contributions based on the experience history of the employer. The experience history refers to the amount of unemployment insurance paid in prior years and the number of employees laid off since the employer started doing business in Massachusetts.

The Social Security Act of 1935 (Public Law 74-271) created the Federal-State Unemployment Insurance program. The United States Department of Labor (USDOL) oversees the system, but each state administers its own program. Federal law defines the District of Columbia, Puerto Rico, Guam, and the Virgin Islands as states for the purposes of UI.

How DUA supports you

DUA offers several programs designed to support business during times of hardship, including:

- **WorkShare** – If you are experiencing a temporary slowdown in your business, WorkShare helps you reduce your payroll costs while maintaining your valued workforce.
- **Rapid Response** – A resource to help you develop strategies for maintaining a skilled workforce during periods of transition.
- **Recruiting and hiring** – If you need to hire workers, we can help you through the One-Stop Career Centers administered by the Department of Career Services (DCS). Business service representatives work with local employers to post jobs, recruit qualified candidates, and job fairs.
- **Workforce Training Fund Program** – If you pay into the Workforce Training Fund (WTFP) with your quarterly UI contribution, you can apply for training grants to train incumbent workers. Grants are approved based on eligibility and other factors. UI recipients participating in DUA-approved training programs may have their benefits extended up to 26 weeks while still in training.
- **Labor Market Information (LMI)** – Information on current economic trends such as population, employment, wages, economic indicators, and industry projections are published regularly. MassStats is an interactive web-based tool available 24x7 to access this information.

Maintaining the integrity of the UI program

Protecting the integrity of the UI program is a responsibility DUA takes seriously. Through our Program Integrity Department, DUA focuses on the prevention, detection, investigation, and prosecution of those who defraud or attempt to defraud the UI program. We achieve this through the following:

- **Wage and payment comparisons:** We regularly compare wage records reported for income tax purposes with the payment records of UI recipients. This helps prevent those who are working full-time from receiving UI benefits. In addition, this encourages those who work part-time while receiving UI benefits to report their wages accurately to DUA.
- **New hire report reviews:** Our office reviews the Department of Revenue's (DOR) report of workers added to employers' payrolls. This new hire report is used to verify that claimants who return to work do not continue to receive benefits. Workers and employers must be aware that eligibility for UI benefits ends when an individual resumes full-time work.
- **Inter-agency record reviews:** We frequently match our records with those of other state and federal agencies including the Social Security Administration, the Department of Homeland Security, the Department of Corrections, and others.
- **Benefits recovery:** Our program makes every effort to recover overpayment of benefits through the interception of Federal and Massachusetts state income tax refunds, the offsetting of any future UI benefits that might be claimed, and monthly billing.
- **Prosecution:** We engage in criminal and civil prosecutions.
- **Financial charges:** DUA levies a 12% annual interest charge against any outstanding overpayment balance if the claimant was determined to be at fault for the overpayment.

You can help prevent fraud

Contact DUA if you have information about possible UI fraud.

Email	Phone
uifraud@MassMail.State.MA.US	(800) 354-9927

A. Claimants

With some exceptions, the unemployment insurance program covers most workers in public, private, and non-profit (organizations holding 501(c)3 status) sectors.

The following workers are not covered under UI:

Workers who provide services performed for churches and certain religious organizations

- Workers under 18 who work for their mother or father; or by an individual for his or her daughter, son, or spouse
- Students participating in work-training programs administered by a non-profit or public educational institution
- Workers who are notified at the time of employment that unemployment insurance is not provided because they are part of a student financial aid assistance program provided by a school, college, or university where the student/employee attends classes, or similar employment for the student's spouse
- Real estate brokers or salespeople licensed by the state and paid solely by commission
- Insurance agents or solicitors paid solely by commission (except industrial life insurance agents)
- Sole proprietors and members of partnerships, including single-member LLC's or LLP's
- Independent contractors (DUA determines the potential eligibility of workers treated as independent contractors)
- Self-employed individuals working independent of the direction and control of an employer
- Certain employees of state and local governments, such as elected officials; members of a legislative body or of the judiciary, emergency employees hired during a disaster, inmates in custodial or penal institutions, and members of the Massachusetts National Guard or Air National Guard

B. DUA

DUA administers the Unemployment Insurance program, providing temporary assistance to unemployed Massachusetts workers. As part of our mandate we provide services and programs to unemployed workers in the form of unemployment benefits and programs to assist with reentry to work. In addition, we provide services and support programs for you.

Our mission includes:

- Paying all UI and related claims timely and accurately
- Protecting the integrity of the UI trust fund through advanced integrity efforts
- Promoting safeguards and practices to ensure privacy of customer satisfaction
- Improving re-employment efforts
- Calculating UI rates and deposit contributions timely and accurately
- Employing advanced methods and systems for collecting and reporting data

C. Employers

All unemployment benefits paid through the regular UI program are funded through employer contributions (extended unemployment compensation is funded by the Federal government). Generally, if you are a private, for-profit employer, the Massachusetts Unemployment Insurance law requires you to contribute to the UI Trust Fund if your business meets the following conditions:

- You have employees working one or more days in 13 weeks during a calendar year. The weeks of employment need not be consecutive nor must the employees remain the same
- You pay wages of \$1,500 or more in any calendar quarter

For certain types of employers, different thresholds must be met before they are required to make UI contributions. These include agricultural employers, domestic workers, and out-of-state employers. Please review the next table for more information on thresholds related to your business (if applicable).

Special threshold categories

Agricultural	Domestic Workers	Out-of-State Employers
An agricultural employer becomes liable for UI contributions once either of the following conditions have occurred: total cash wages of \$40,000 or more in any calendar quarter have been paid or 10 or more individuals were employed on any day in each of 20 weeks in a calendar year.	An employer of domestic workers, including nurses and personal care attendants, becomes liable for UI once \$1,000 or more has been paid in any calendar quarter. This category also includes private homeowners, clubs, college fraternities, and sororities.	Out-of-state employers are subject to the law once a Massachusetts payroll amount of \$200 or more has been reached in a calendar quarter.

In addition to the factors on the previous page, DUA considers such factors as the type of legal entity of the business, the type of management structure, and the location of where the work was performed in determining whether an organization is required to contribute to UI, such as:

For a sole proprietor	For a partnership
<ul style="list-style-type: none"> ▪ Wages paid to the owner of a sole proprietorship are exempt from contributions ▪ The spouse of a sole proprietor is exempt from contributions ▪ Children of a sole proprietor under age 18 are exempt from contributions 	<ul style="list-style-type: none"> ▪ Wages paid to the partners of a partnership are exempt from contributions ▪ Children under 18 of the partners must be of equal relationship to each partners to be exempt from contributions ▪ Parents of partners must be of equal relationship to each partner to be exempt from contributions

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Determining eligibility and benefits

This chapter contains information on:

- Determining who may be eligible for benefits
- DUA’s framework for calculating monetary benefits
- Describing the impact of separation and severance pay on employee eligibility and benefit amounts
- Outlining the typical duration of benefits



Determining eligibility for benefits under the UI program

Eligibility for UI benefits is based upon three sets of criteria: wages, reason for employment separation, and intent to work.

UI Benefits eligibility requirements

Wages	Reason for separation	Intent to work
<ul style="list-style-type: none"> ▪ Wages of at least 30 times the claimant’s weekly benefit amount (generally about 15 weeks of employment) and no less than \$5,700 during the Primary Base Period (last four completed calendar quarters preceding the effective date of a claim) <p>OR</p> <ul style="list-style-type: none"> ▪ Wages of at least 30 times the weekly benefit amount and no less than \$5,700 during the last three completed calendar quarters and the partial calendar quarter (Alternate Base Period) in which the claim was filed 	<ul style="list-style-type: none"> ▪ Totally or partially unemployed through no fault of their own ▪ Discharged for reasons not related to deliberate misconduct or violation of an employer rule or policy ▪ Quit involuntarily, or for an urgent and compelling reason 	<ul style="list-style-type: none"> ▪ Capable of work ▪ Available for work ▪ Engaged in an active search for work during each week for which benefits are claimed

Factors that can lead to ineligibility for UI benefits

Claimants may be denied Unemployment Insurance benefits if they are unemployed for the following reasons:

UI ineligibility factors

- Quitting a job voluntarily without good cause attributable to the employer
- Being discharged by the employer for deliberate misconduct or a knowing violation of a reasonable and uniformly enforced rule or policy of the employer
- Losing a job due to conviction of a felony or misdemeanor
- School employees and professional athletes who have a reasonable assurance of work in the next academic year, term or season cannot receive benefits between school years or athletic seasons
- Taking a seasonal break. A worker that files a claim against a Certified Seasonal employer may not be able to use the wages earned from that employer to establish a claim. Seasonal workers employed by employers who have applied for and received certification from DUA may be ineligible for benefits unless they become unemployed during the season for which they are hired. To qualify for certification a seasonal business must be in operation fewer than 20 weeks or a non-seasonal business must employ workers in one or more functionally distinct job titles for fewer than 20 weeks. To apply for seasonal employer certification, call (617) 626-6350.
- Individuals may be ineligible for benefits for any period covered by the receipt of vacation pay, pay in lieu of dismissal notice, continuation pay, severance pay, termination pay, or Workers Compensation for total temporary disability. Vacation pay without a definite or tentative date to return to work and severance payments made contingent on the signing of a release of claims or following a plant closing are not disqualifying
- Individuals who are not capable of working, not available for work, or not actively seeking work are not eligible to receive Unemployment Insurance benefits. The law provides for the payment of benefits for not more than three weeks per year during which the claimant is unable to work due to illness
- Individuals may be disqualified for failing, without good cause, to accept an offer of suitable work or failing to respond to an employer's callback
- Employees participating in a labor dispute (i.e., strike) that results in a substantial curtailment of the employer's business do not qualify for benefits
- Individuals who are working in self-employment on a full-time basis do not qualify for benefits

Calculating a claimant's weekly benefit amount

DUA determines a worker's weekly payment based primarily on several factors:

1. Worker's wages
2. Pension benefits
3. Part-time or reduced wages

1. Worker's wages

A worker's weekly benefit amount is calculated according to the following:

- Wages from all employers who are subject to UI law for whom the claimant worked during the base period (last four completed calendar quarters preceding the start date of a claim) are used to determine the amount of the weekly benefit and the duration of benefits
- The two base period quarters during which the claimant earned the most wages are used to calculate an average weekly wage. To do this, the two high quarters are added together and the total amount is divided by 26 (the number of weeks in two quarters), to arrive at an average weekly wage
- If the claimant only worked in one or two quarters in the base period, the highest quarter of wages is divided by 13 (the number of weeks in one quarter) to establish the average weekly wage
- The maximum benefit rate is then divided in half to derive the weekly benefit amount. This amount cannot exceed the maximum weekly benefit amount set annually by DUA

In most cases, there are enough wages paid in the primary base period to determine a claimant's eligibility for benefits. However, when a claimant is ineligible using the primary base period, the alternate base period will be used. The alternate base period is the same formula that is used to determine the benefit amount regardless of the base period.

To be eligible, the claimant must have total base period wages of at least 30 times the potential weekly benefit (approximately 15 weeks of employment) and \$5,400 in the base period.

The total amount of benefits available to the claimant is the lesser of 30 times the weekly benefit amount, or 36% of total base period wages.

Once filed, a claim is effective for up to one year. This is called the benefit year. A worker can become unemployed, establish a claim and receive benefits for several weeks before returning to work. If the worker becomes unemployed again during the benefit year, the existing claim must be reopened to resume receiving benefits. The claimant must have become unemployed under non-disqualifying circumstances. Once a claimant has received the maximum benefits in a benefit year, a new claim may not be filed until the benefit year has ended, even if the worker has additional wages.

2. Pension benefits

The receipt of some pensions may require a reduction in the weekly benefit payable to the recipient. The reduction can range from nothing at all to an amount exceeding the actual benefit amount.

- No reduction is made based on the receipt of a Social Security retirement benefit. Similarly IRA, Keogh, Railroad Retirement Annuities, lump sum pension payments made prior to the base period, or lump sum distributions that are rolled over into a retirement account within 60 days of receipt have no effect on benefit entitlement
- If both the employee and employer contributed to the retirement fund, the reduction in the benefit amount will be based on 50% of the retirement benefit received
- If only the employer contributed to the retirement fund, the reduction in the benefit amount will be based on 100% of the retirement benefit received

3. Part-time or reduced wages

An employee whose work schedule has been reduced or who has obtained part-time work while receiving UI benefits may claim partial benefit payments. The claimant must report any wages from part-time work to DUA. Such wages are subject to verification through the matching of UI benefit records with wage records provided by employers.

A claimant may earn up to one-third of his or her weekly benefit amount and still receive the full UI benefit. This is called the “Earnings Disregard”. Wages in excess of the one-third limit result in a dollar-for-dollar reduction in the weekly UI benefit payment.

The impact of severance or separation pay

During a period of downsizing, some employers provide severance or separation pay to affected workers. Different types of payments can affect a worker's eligibility for UI benefits. Workers receiving separation payments are usually not eligible to receive UI benefits for the period covered by the separation pay. Whenever a worker's eligibility is delayed for one or more weeks due to the receipt of separation pay, the benefit year is extended by the same number of weeks so that the worker has a full 52-week benefit year to collect available benefits.

Severance pay, separation pay, or pay in lieu of dismissal notice are all generally disqualifying under the law, however there are exceptions. The following table describes different types of severance or separation pay and their impact on eligibility and benefits.

Severance and Separation Pay Information

Type of pay	Impact on benefits
<p>1. Payment for a release of claims</p>	<p>A payment for a release of claims is a payment made by the employer to the employee that is conditioned on the employee signing a document releasing the employer from liability for any legal claims that the employee might have against the employer. These payments differ from separation payments even if the amount of the payment is based on the length of the employee's service. The primary purpose of a payment contingent on the signing of a release is to obtain the signed release and not as compensation to the employee for services rendered.</p> <p>A release may be limited to one or more specific claims, for example an age discrimination or sexual harassment claim, or it may be broadly written to cover any or all such claims whether known or unknown at the time.</p>
<p>2. Severance or separation payments made pursuant to a plant closing</p>	<p>Severance or separation pay may not be disqualifying if it is paid in a lump sum in connection with a DUA-certified plant closing. To determine whether such a payment is disqualifying, the standards applied to certify a plant closing are:</p> <ul style="list-style-type: none"> ▪ The facility at which the claimant worked must have employed at least 50 workers within the 6 months prior to the claimant's separation ▪ The layoff or closing must result in the permanent separation of at least 50% of the employees at the facility <p>DUA is responsible for certifying plant closings to determine UI benefit eligibility. If you believe your business will experience a downsizing of 50% or more of your workforce, you may contact the DUA's UI Performance Department at (617) 626-6422.</p>
<p>3. Accrued sick leave</p>	<p>Accrued sick leave paid to a separating employee is not disqualifying and will not impact receipt of UI benefits.</p>
<p>4. Vacation pay</p>	<p>Accrued vacation pay issued to an employee at the time of a permanent or indefinite separation will not impact the employee's receipt of UI benefits. Vacation pay issued to an employee during a temporary layoff with a definite or approximate date of recall is disqualifying for the period to which the vacation and/or holiday pay can reasonably be applied.</p>
<p>5. Stay bonus</p>	<p>A stay bonus or incentive bonus is a payment made to employees who agree to remain employed until a specified date and is not disqualifying provided that such bonus is not based on past years of service. A stay bonus based on previous service years is disqualifying.</p>

Claiming dependents

A dependency allowance of \$25 per week is added to the basic benefit amount for each dependent child who is:

- Up to 18 years of age, unless the child is a student
- Up to 24 years of age if the dependent is a full-time student
- Of any age if incapable of earning wages because of physical or mental disability

There are additional eligibility criteria and verification requirements for dependency allowances in order to ensure that they are properly paid. The total weekly amount of dependency allowances cannot exceed 50% of a claimant's weekly benefit amount. To qualify for the allowance, the dependent child must be wholly or mainly supported by the claimant.

The duration of benefits

Regular UI benefits can last up to 30 weeks. When a reduced benefit is paid to a claimant who works part-time, the period of eligibility can be extended beyond 30 weeks until all available benefits are exhausted or the benefit year expires.

Extended Unemployment compensation

During periods of high unemployment, additional programs may provide for extended benefits. Extended benefit programs are either fully or partially funded by the federal government. When extended benefits are available, the Unemployment Insurance law requires a reduction in the maximum number of weeks from 30 to 26.

4 UI and your business

This chapter contains information on:

- Setting up your UI Online account
- DUA’s policy on using Third-Party Administrators
- Navigating situations involving employee leasing companies and business transfers
- Specific business requirements for DUA



Getting started

Registering your business with DUA and setting up an account for UI Online is an important part of managing your UI obligations. You will use UI Online to conduct most, if not all, UI-related transactions with DUA. The following section describes how to get started if you are a registered business but do not have an online account and if you are a new employer that is registering and setting up an account for the first time.

How to Get Started

I AM registered with DUA but do not have a UI Online Account	I AM NOT registered with DUA and do not have a UI Online Account
<ul style="list-style-type: none"> ▪ All employers registered with DUA prior to December 7, 2009 must activate their account using existing account information before using UI Online ▪ Activate your account using the following information: <ul style="list-style-type: none"> ○ Activation Password (If you no longer have this information, please call (617) 626-5075) ○ Federal Employer Identification Number (FEIN) ○ Name and contact information ○ Social Security Number (SSN), home address, and phone number of the business owner or chief corporate officers 	<ul style="list-style-type: none"> ▪ Visit our website at www.mass.gov/dua and select Unemployment Insurance (UI) for Employers to register for an employer account number (EAN) ▪ Pay quarterly contributions for your first subject quarter regardless of the date on which you register

Tips for setting up a UI Online account:

- It is recommended to use Mozilla Firefox or Safari as a web browser.
- If you use Microsoft Internet Explorer (IE) 10, turn on your Compatibility View and add our website to trusted sites.
- Clear your browser cache, delete any previous cookies, IE history, and temporary internet files, as these may interfere with your login
- Turn off the pop-up blocker for our site.
- Do not open additional browser windows during your session with our website
- Visit www.mass.gov/dua or call (617) 626-5075, Monday to Friday from 8:30 a.m. to 4:30 p.m. for additional assistance

Managing your UI responsibilities

Once you have registered and set up an account with UI Online, you will be better equipped to manage your UI responsibilities efficiently and effectively. These responsibilities include:

1. Maintain your account
2. File your quarterly Employment and Wage Detail reports
3. Make timely UI payments
4. Participate in benefit determinations
5. Keep accurate payroll and time records
6. Track benefit charge activities
7. Correspond with DUA
8. Correspond with workers

1. Maintain your account

Maintenance of accurate account information, including your address, liability, revival, suspension, and users is your responsibility even if you have assigned a third-party administrator to the account maintenance role. Current contact information helps DUA serve you more efficiently. It is important that you update legal, physical, mailing and electronic address information in order to receive our correspondence in a timely manner. All contact information should be updated using UI Online. Each time you update your address information, remember to click on the link *Correspondence Preferences* located at the bottom of the address page to verify this information.

2. File your quarterly Employment and Wage Detail reports

All employers required to participate in the UI system (also referred to as a subject employer) must file an Employment and Wage Detail report online at www.mass.gov/uima each calendar quarter. Employers must file the Employment and Wage Detail report and pay contributions in full by the quarter due date to avoid interest and penalties. When a quarterly Employment and Wage Detail report is not submitted to DUA as required, the amount of liability will be assessed at 150% of the highest filed quarter.

Interest will accrue on unpaid principal at the rate of 12% per year from the quarter due date until fully paid. Employer records will be periodically subject to an audit performed by a DUA representative. If necessary, collection activities may include estimation of liability and interest, property liens, intercept and levies upon bank accounts.

3. Make timely UI payments

Massachusetts UI payments are due within one calendar month from the end of each calendar quarter. These due dates are:

Quarter	Due Dates
Quarter 1	April 30
Quarter 2	July 31
Quarter 3	October 31
Quarter 4	January 31

For governmental or non-profit employers using the reimbursable method, benefit charges are billed monthly and are due within 30 days.

4. Participate In benefit determinations

When an unemployed worker files for benefits, employer participation is required in order for DUA to make accurate and timely UI benefit determinations. Quarterly wage information reported to DUA is the primary source for determining monetary eligibility. Individual requests for wage data are required if a claimant is determined ineligible using quarterly wage information or if that wage information is incomplete for the base period. In addition, employers must furnish DUA with the cause of the former employee's separation and any other information, such as pensions and severance, which might affect eligibility.

Keep accurate payroll and time records

You must make and keep copies of all reports, worksheets and other backup data for a period of four years from the filing date in case of an audit. The information you supply is confidential and for the exclusive use of DUA in the administration of UI law. Upon request, a worker or their authorized representative may obtain information concerning his or her claim records. Be sure to keep payroll and time records in a format that enables you to provide them to DUA in order to determine the wages paid to each employee on a calendar week basis (Sunday through Saturday) and whether a week's wages were for less than full-time employment.

5. Track benefit charge activities

You are responsible for monitoring benefit charges. You can do this by:

- Downloading and viewing monthly Benefit Charge Statements directly online
- Viewing historical unemployment benefit charges and adjustments by calendar year online from January 1 to December 31, and rated year from October 1 to September 30 (contributory employers only)
- Protesting benefit charges that you believe are not accurate if you have responded to all requests for information timely

6. Correspond with DUA

You are responsible for notifying the DUA TeleClaim Center when:

- A work stoppage due to a labor dispute has occurred. Notice must be given within 48 hours after the beginning of the stoppage you must supply the details and the number of employees involved
- A worker is recalled to work after a layoff but fails to report

Please contact the DUA TeleClaim Center at:

- (877) 626-6800 from area codes 351, 413, 508, 774, and 978
- (617) 626-6800 from any other area code

7. Correspond with workers

You must provide employees with the following information on UI by:

- Posting a copy of the DUA form 2553-A “Information on Employees’ Unemployment Insurance Coverage” which informs employees of their right to apply for benefits and of their coverage under UI Law
- Distributing to separated employees a copy of the DUA Form 0590-“A How to File for Unemployment Insurance Benefits”. This pamphlet helps expedite the filing of claims by providing DUA with accurate information regarding your legal name, address, account number, and records location. Both the poster and the pamphlet are available in English, Spanish, Portuguese, Chinese, Vietnamese, Haitian-Creole, Laotian, Khmer, Russian, and Italian
- Visiting: www.mass.gov/lwd/unemployment-insur/forms-and-publications/workplace-posters/ to download copies of DUA forms. The web versions are PDF files with text boxes that you can customize with your business information before printing and distributing

If you use a Third Party Administrator, have acquired a business, changed your legal entity type, or use an employee leasing company there are additional responsibilities that you must consider.

Additional Responsibilities		
Third Party Administrators	Employee Leasing Company	Acquisition or sale of a business
<ul style="list-style-type: none"> ▪ In order to establish access for your TPA you will need to login to your account and enter your TPA’s ID and assign TPA roles within your account 	<ul style="list-style-type: none"> ▪ DUA considers the client company to be the employer of record and ultimately liable for all payments ▪ File all quarterly Employment and Wage Detail reports under each unique employer name and FEIN and at the contribution rate assigned to that business 	<ul style="list-style-type: none"> ▪ You are required to notify DUA of a change in your business, such as a purchase, sale, acquisition, merger, or change of legal entity type. ▪ A newly registering business satisfies this requirement by answering the questions at the time of registration. This information will ensure the proper contribution rate is assigned to your company ▪ An existing business should provide information on the purchase or sale of a business in the account maintenance section of UI Online.

Be consistent and be prepared

Understanding the Unemployment Insurance law and its application in practice can help you control unemployment insurance costs. In many cases, the law requires employers to show that good business and consistent personnel practices have been followed. Well-documented policies and practices protect the interests of your company and the well-being of your workers.

The law requires that policies regarding an employer's expectations of employees be reasonable and uniformly enforced.

All expectations regarding standards of behavior and performance, as well as consequences for the violation of these standards, should be clearly formulated by your business and articulated to all of your employees. Written communications through memoranda or an employee handbook are good practices and preferred methods of notice.

Documentation of disciplinary measures you have taken and the consistent application of those measures with all members of your workforce are paramount. Be sure to record any actions taken prior to a discharge including documentation of events, witnesses to events, dates, and details of oral warnings, written warnings, and formal disciplinary action. Documented details are crucial in the process of determining a claimant's eligibility for UI benefits, particularly if that worker was discharged for deliberate misconduct.

You should be aware that discharge for failure to meet performance standards for reasons not involving deliberate misconduct or violation of company rules does not result in the claimant being determined ineligible to receive UI benefits.

Requesting proof of good standing

You can request a *940 Certification* or a *Certificate of Compliance* by accessing your UI Online account and navigating to the Payment menu.

5 Managing claims and appeals

This chapter contains information on:

- Your role in notifying employees of their rights to UI
- Information required during the claim process
- Managing ongoing claim-related activities
- Your rights and responsibilities to appeal a claim
- The policies and procedures of the hearings process



When an employee is separated from employment there are several options the employer and employee must participate in to ensure that eligibility is determined accurately. Among the most important of these is responding to DUA in a timely manner with regard to any claims filed and appealing benefits determinations in accordance with DUA timelines.

Employer responsibilities during the claim process

What you can do to promote an effective claims process:

1. Notify employees of their options upon separation of employment
2. Respond to DUA with information in a timely manner
3. Review and record any claim approvals or disqualifications
4. Comply with ongoing claim activity

1. Notify employees of their options upon separation of employment

When an employee is separated from employment, regardless of the circumstance, be sure to issue the employee a copy of the DUA pamphlet “*How to File for Unemployment Insurance Benefits*”, Form 590-A. The Unemployment Insurance Law requires employers to give a copy of this form to each employee separated from work. The pamphlet should be issued in person whenever possible but can be mailed when an employee is not available. A copy of the form can be downloaded from the DUA website at www.mass.gov/lwd/unemployment-insur/forms-and-publications/workplace-posters/. The form includes space for you to record your DUA employer account number and mailing address to ensure accurate filing of the claim and mailing of the claim notice.

Your employees may file for UI benefits by telephone or by using the UI Online website. To file by telephone, claimants should contact the DUA TeleClaim Center at:

- (877) 626-6800 from area codes 351, 413, 508, 774, and 978
- (617) 626-6800 from any other area code

2. Respond to DUA with information in a timely manner

When an individual files a claim, any employer for whom the claimant worked during the 15-month period prior to the filing of the claim will receive a request to provide information regarding the employee. You will be able to complete these requests online using UI Online. The employer(s) for whom the claimant worked during the last eight weeks of work prior to the filing of the claim is considered an interested party to the claim for benefits and has the right to protest a claimant's eligibility.

If benefit payment is ultimately approved by DUA, protesting employers receive notice of the approved claim and have the right to request a hearing within the 10 days allowed by the law (provided the request for wage and separation information was returned to DUA). A disqualified claimant can also request a hearing.

If you do not respond timely to requests for information, you may:

- Lose your right to be notified of the eligibility determination and your right to appeal that determination
- Lose your right to a hearing. If a disqualified former employee files an appeal, you will be invited to attend the hearing as a witness only, with no right to introduce evidence or testimony, question the former employee, or examine other witnesses
- Lose your right to protest benefit charges to your account (even if circumstances are such that you would ordinarily be relieved of those charges)

3. Review and record the approval or disqualification notices

You will be notified of any approved claims or disqualified claims if:

- You are an interested party employer
- You returned the separation request within the required timeframe

If a claim has been approved for payment, a determination notice will have information on your appeal rights and instructions on how to request a hearing.

If you were a base period employer but the claim arises due to separation from subsequent employment and you returned DUA's request for information in a timely manner, your account should not be charged for benefits paid on that claim provided the former employee was separated under disqualifying circumstances. If charges are assessed to your account, you have the right to protest those benefit charges.

Re-qualifying for benefits

Claimants who are ineligible for benefits may become eligible if they return to work for at least eight weeks, earn at least eight times their weekly benefit amount, and are separated from the new job under non-disqualifying circumstances.

4. Comply with ongoing claim activity

Reopening a claim

In some cases, an individual may stop receiving benefits, but later reapply for benefits. This is called reopening a claim. For example, an individual may stop receiving benefits after finding new employment or returning to a former job and then become unemployed again and reapply to resume receiving benefits.

Any time a claim is reopened, an employer for whom the claimant worked during the last eight weeks of work prior to the filing of the reopened claim is considered an interested party to the claim with protest rights. DUA will contact the employer to obtain information necessary to evaluate the claimant's eligibility to receive benefits.

If you receive a request for information, it is important to respond in a timely manner. Although you may not accrue charges resulting from a claim being reopened, charges may result on a subsequent claim. Providing the requested information promptly will protect your rights should any charges result. In addition, the separation information you provide may have an impact on the claimant's right to continue to receive benefits on the current claim.

The eligibility requirements for a reopened claim are the same as those for a new claim. If a claimant returns to work and then becomes unemployed under disqualifying circumstances, no further benefits will be paid.

Refusing a recall

If an employee is recalled to work but does not return you must notify DUA in writing within five days and include the employee name, Social Security Number, occupation, recall date and how the employee was notified of the recall.

DUA will determine if the individual had good cause for failing to return to work. A disqualification of the individual may result if DUA determines that there was no good cause.

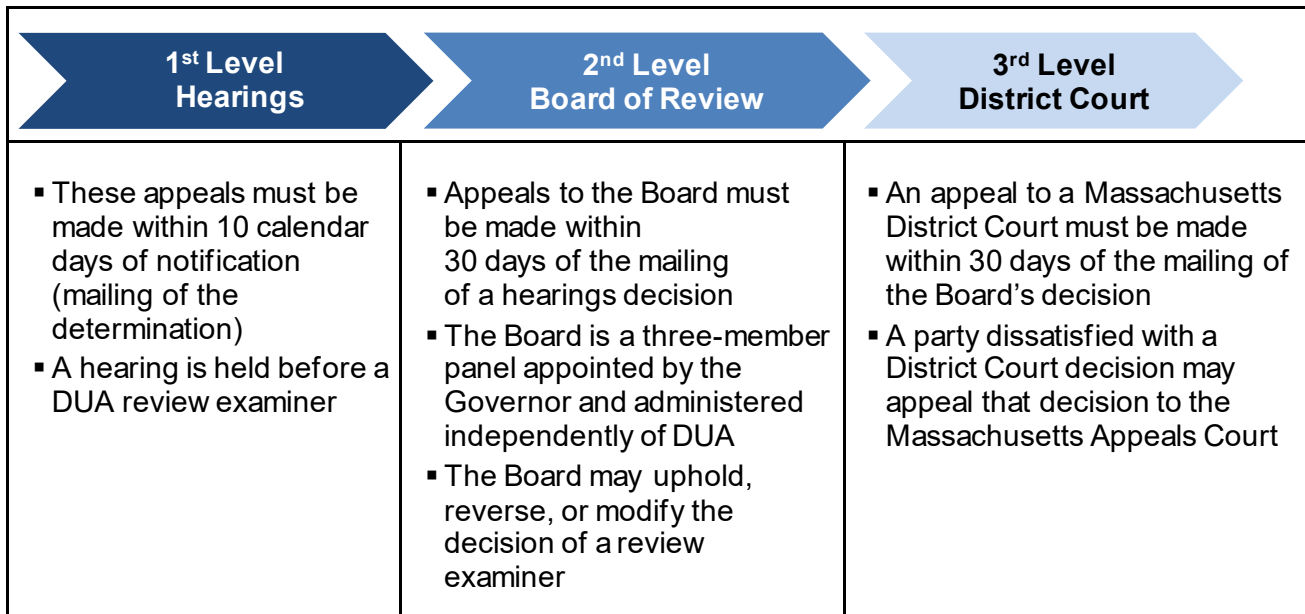
Your role during the Hearings and Appeals process

1. Appeal a determination
2. Review the hearing notice

1. Appeal a determination

Any interested party who disputes a determination on a UI claim may appeal that determination and request a hearing. Interested parties include the claimant and former employers for whom the claimant worked for a period of eight weeks prior to the claim filing date, provided the employer protested the claim in accordance with DUA timelines. Any subjectivity or in employment determination issued by the Employer Liability Department is appealable as well.

There is a three-level appeals process for parties disputing UI claims or Departmental determination. The process is outlined as follows:



You or your representative may request a hearing by completing an appeal request online or by returning the appeal request section of the determination by mail to DUA.

For mailed requests, the United States Postal Service postmark date is considered the filing date. For your protection, you may choose to use certified mail with a return receipt. Appeals filed by other means (including fax, hand-delivery, etc.) are considered to be filed on the date the appeal is received by DUA.

Usually within three days of receiving an appeal request from an employer or employee, DUA issues an appeal acknowledgment to both parties. This notice confirms that the Hearings Department has received the appeal request.

2. Review the hearing notice

Approximately two to three weeks after your request is received, DUA will provide you with a Notice of Hearing. This notice will indicate:

- The date and time of the scheduled hearing
- The type of hearing (telephone or in-person)
- The location (based on the needs and locations of both the claimant and the employer)
- Description of the issues involved
- Your legal rights and responsibilities

A prompt hearing is the right of both parties. In general, the Hearings Department will not grant a request for a change in the date, time, or location unless there are circumstances that prevent you from attending on a scheduled day. Requests should be made to the Hearings Department no later than the postponement deadline date on the notice. Postponement requests made after the deadline date will be granted only for a documented emergency.

All single-party appeals are scheduled for a telephone hearing. If you prefer an in-person hearing, you must contact the Regional Hearings Office listed on your Hearing Notice and request a change in format. In cases where there is more than one party to a hearing, the hearing may be conducted entirely by telephone if all parties are in agreement. Prior to a telephone hearing, DUA will issue to all parties the materials that describe the information to be covered, as well as a Notice of Telephone Hearing and copies of any documents that will be part of the record.

Withdrawing from a hearing

If you decide to withdraw your appeal for any reason, you must submit your request using UI Online or in writing. If you request a withdrawal in writing, please reference your docket/case number.

If you choose not to attend a hearing that a claimant has requested, the examiner will hear and decide the case on the basis of the evidence presented at the hearing. If the claimant is the only party present at the hearing, generally his or her sworn testimony will be the primary evidence on which the decision is based.

Your rights during the appeals process

DUA review examiners conduct hearings in accordance with Massachusetts fair hearing regulations, a copy of which is available at nominal cost from the State Bookstore, State House, Room 116, Boston, MA 02133. Ask for a copy of the "Standard Adjudicatory Rules of Practice and Procedure" [801 CMR 1.01, 1.02, and 1.03].

As an interested party, you have the right to:

- Be represented by an attorney, professional agent, or any person who can assist in presenting an effective case to the examiner.
- Review all DUA files that relate to your case prior to the hearing. The file is generally available for review two to three days before the hearing. You should make arrangements in advance with the Hearings Department to review these documents and the appropriate sections of Massachusetts General Law, Chapter 151A, the Massachusetts UI Law.
- Present evidence to support your statements.
- Present witnesses who can provide first-hand testimony relevant to the issues in the case.
- Cross-examine, rebut, and confront witnesses.
- Obtain a subpoena to compel the attendance of a valuable witness or the production of documents. You should request this from your regional hearings office as soon as you receive your hearing notice, so you will receive the subpoena in sufficient time to have it served (the subpoena should be served no later than four days prior to the hearing). Subpoenas must be requested at least four days prior to a hearing. You must arrange to have a neutral third party (sheriff, constable, or other person) serve the subpoena, and you must pay the server's fee as well as a witness fee and mileage allowance.

Tips for representing your organization at a hearing

- Be prepared with all required documentation (including disciplinary actions, policies, handbooks, etc.).
- Review the case file beforehand.
- Prepare witnesses appropriately; present witnesses who actually saw or heard the events which led to the separation.
- Present both written evidence and direct testimony, especially on company policy-related matters.
- Keep to the facts and information relevant to the case at hand.

DUA Hearings Department procedures

Once a hearing has been scheduled, the DUA review examiner assigned to the appeal is responsible for all procedural matters. In order to determine the facts of the case and make a fair decision, you will be assigned to an impartial review examiner who has no knowledge of the case aside from reading the file documents. This impartiality ensures that all parties have a fair hearing with an adequate opportunity to present relevant testimony and documents.

After the parties have assembled in the hearing room during the pre-hearing, the review examiner may:

- Inquire whether any factual matters are undisputed (i.e., dates of employment)
- Review the case file to identify the exhibits to be introduced as evidence
- Establish the number of witnesses and the order in which the parties will present them

Once the hearing starts, the review examiner will begin to create the hearing record. This is a digital recording of the proceedings for possible later use by a higher appeal body. In a brief introductory statement, the examiner will explain your rights during and after the hearing, the nature and scope of the issues in the case, and the meanings of any terms that may be unclear. Finally, the review examiner will identify and number all written exhibits and will place all parties and witnesses, including you if you are testifying, under oath.

As the hearing progresses, you will be asked to testify and to present your witnesses, if any. The review examiner will direct questions to your witnesses. However, if you have representation at the hearing, the examiner will first establish the witness's identity for the record and then may allow your representative to conduct the initial questioning. When questioning is completed, if the hearing officer feels that some facts are unclear, they may direct additional questions to the witnesses.

When one party completes testimony, the opposing party may then cross-examine to bring out additional facts that bear on the earlier testimony, including the accuracy of that testimony. This allows the review examiner to weigh all testimony accurately in reaching a decision.

Throughout the hearing, you have the right to:

- Object to testimony
- Question supporting and opposing witnesses (including your former employee)
- Explain or rebut testimony
- Present written arguments to help the examiner evaluate the evidence

If one party raises a new issue (i.e., one not contained in the hearing notice) the examiner may order a continuance for the remainder of the hearing. This means that the hearing will be continued on a later date in order to permit the other party to collect and present additional evidence. A continuance may also be ordered if a subpoenaed witness whose testimony is vital to the decision fails to appear. This is to allow the subpoena-issuing party to obtain a court order enforcing the appearance.

When both parties have presented all testimony, the review examiner will officially close the hearing and dismiss the parties, unless the hearing needs to be continued in order to hear all the testimony. In most cases, a written decision will be mailed to you within 14 days after the hearing. Decisions are not given in person or over the telephone. The decision will include a statement of the issues, findings of fact, conclusions of law and the reasoning on which the decision was based. Also included in the decision will be an explanation of how to file an appeal to the Board of Review

The recording of the hearing is confidential and is retained by the regional hearings office in the event of a further appeal. You may order a copy of the recording (at a cost set by the Massachusetts Executive Office of Administration and Finance) by calling your regional hearings office. Hearings are now recorded digitally; a CD of a hearing is available.

Board of Review hearing procedures

If you plan to appeal a Hearings Department decision to the Board of Review, you must do so within 30 calendar days of the mailing date of the review examiner's decision. You may file your appeal online or via mail to the Board of Review. If mailed, the United States Postal Service postmark date will be considered the date of filing.

If you file late, the Board of Review may hear your case to determine if your appeal should be accepted. If the Board rules that the appeal was timely, then the Board will consider the application on its merits to determine if any further action should be taken.

In most cases, the Board relies on the evidence presented at the first level hearing in making a decision whether to support or reverse a previous decision. As part of this step, a review examiner assigned to the Board of Review will review the hearing record and the first examiner's decision and then make recommendations to the Board members. The Board must grant or deny such an application for review within 21 days after your appeal. If the Board does not act within the 21-day time period, the application is deemed to be denied and any further appeal must be made to a Massachusetts District Court. Any appeal must be filed within 30 days from the end of the 21-day consideration period.

If, however, the Board grants your application within the 21-day period, it may take any of the following actions:

- Decide the case based solely on the hearing record
- Return the case to the DUA Hearings Department for additional evidence on specific points raised at the first hearing
- Schedule a new hearing before the Board in order to take additional evidence
- Ask you or the claimant to respond in writing, providing reasons for agreeing or disagreeing with the review examiner hearing decision
- Remand for a de novo hearing. This means that the case will be heard again by a different Review examiner unless a de novo hearing is ordered, the Board will examine all of the evidence and issue its own decision in the case

District Court procedures

If you disagree with the Board's decision, you may appeal to the Massachusetts Trial Court, District Court Department in the district where your operations are located.

You have 30 calendar days after the mailing of the Board's decision or the Board's denial of your application for further review to file a third level appeal in court.

For further guidance on filing a court appeal, refer to Massachusetts General Law, Chapter 151A, Section 42. This section is printed on the reverse side of Board of Review decision notices.

6 Calculating Your Contributions

This chapter contains information on:

- How UI contribution rates are calculated for each employer
- The impact that benefit charge liabilities have on your rate
- Reporting requirements for all employers
- Reimbursable contribution options for government agencies and non-profits



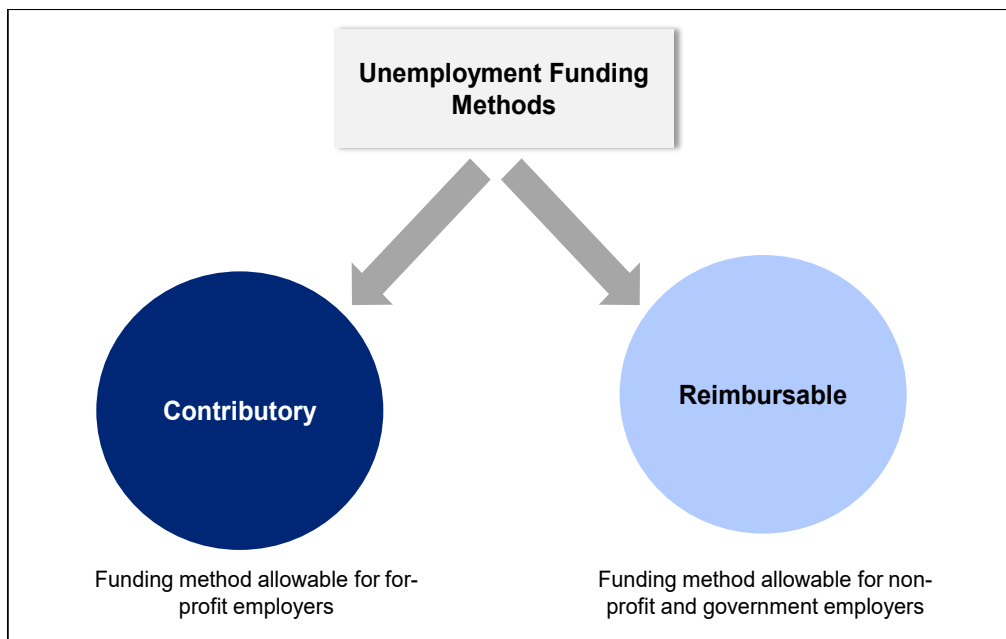
How employers fund UI

The UI program is funded through two separate, but related contributions – Federal Unemployment Tax Act (FUTA) and the State Unemployment Tax Act (SUTA).

UI benefits paid to eligible unemployed individuals in Massachusetts are funded from quarterly contributions paid by the Commonwealth’s employers to DUA. These funds are deposited into the Massachusetts UI Trust Fund. All UI benefits are paid from this fund. DUA administrative costs are paid directly by the federal government through FUTA contributions.

Government and non-profit employers (organizations holding 501(c)(3) status) are exempt from FUTA tax. In addition, governmental and non-profit employers may choose to reimburse DUA dollar-for-dollar for all regular UI benefits paid to their workers via the Reimbursable method instead of paying quarterly contributions. *Note: For 501(c)(3) organizations that wish to be reimbursable an IRS letter 1045 or 4168C must be submitted within 30 days of the initial registration.

Different methods for contributing to the UI Trust Fund



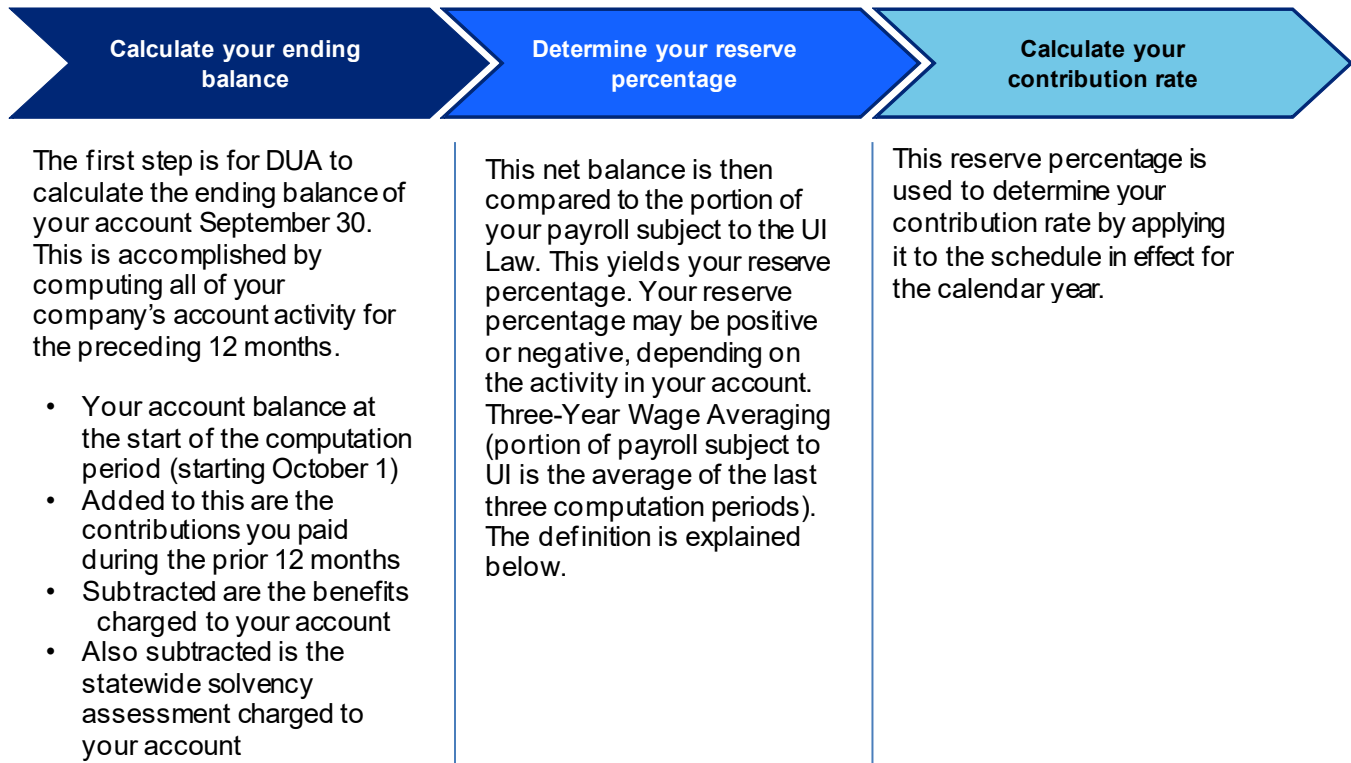
Understanding the Contributory Method of Payment

Under the contributory method, employer contributions are based on whether the employer is a new employer in Massachusetts or an established employer with several years' of experience contributing to the UI system. Each contribution model is described briefly below.

Contribution rates for new employers	Contribution rates for established employers
<ul style="list-style-type: none"> ▪ A new employer that is not in the construction industry pays UI contributions at a rate consistent with an account balance positive reserve percentage of between 10.5% and less than 11% on the rate schedule currently in effect. Therefore, this rate changes any time the rate schedule changes ▪ New employers in the construction industry — North American Industrial Classification System code 23 — pay at a rate consistent with the average rate of employers in this industry ▪ Newly established employers pay at an assigned rate for the first three calendar years 	<ul style="list-style-type: none"> ▪ After the first three years at the new employer rate, DUA calculates experience rates based on the Reserve Ratio Method. The calculation of contributory employer rates is governed by Section 14 of the Massachusetts General Law, Chapter 151A. Once your account is established, a book account is created that tracks credits (all contribution payments) and debits (charges for unemployment claims and solvency assessments, etc.) ▪ This cumulative balance is divided by the three-year average wages subject to UI tax and a reserve percentage is calculated ▪ The reserve percentage is applied to the annual rate schedule that is in effect and the experience rate is determined for the coming year ▪ Contributions are based on wages paid. Once an experience rate is assigned, that rate is applied to the wage base in effect during that year. Currently the wage base is \$15,000 in wages paid to each employee in a calendar year

Determining your contribution rate

Because each employer is different, the factors and method of calculating UI contribution rates may vary. Contribution rates can be calculated using the following steps:



Wage reporting

Wages should be reported when they are paid, not when they are earned. In order for your contribution rate to be calculated accurately, you are required to provide DUA with information about your employees' wages timely and accurate.

The Wages Subject to Contribution (taxable wages) reported on the Annual Rate Notice are the average of the last 3 years' taxable wages reported for the last 3 years' computation periods. For example the three computation periods for the 2020 rate notice are:

(10/01/2016 - 09/30/2017) 2018 Rate Computation Period \$150,000.00

(10/01/2017- 09/30/2018) 2019 Rate Computation Period \$175,000.00

(10/01/2018- 09/30/2019) 2020 Rate Computation Period \$200,000.00

Using the above example, the three year average is the total wages of the three computation periods, $(\$150,000.00 + \$175,000.00 + \$200,000.00 = \$525,000.00)$, divided by three, $\$525,000.00 / 3 = \$175,000.00$. The total Wages Subject to Contribution on the 2020 rate notice will be \$175,000.00.

If your three-year average wage total subject to contributions is \$0.00, DUA will assign a rate based on the account balance – positive or negative – as of the computation date.

All wages subject to contribution that are reported for the computation period, and received prior to November 1 of each year, are used in the rating process. Payments received after October 31 of each year are not used in the rating process.

The term wages refers to every form of remuneration paid directly or indirectly to employees including:

- Salaries
- Commissions
- Tips
- Bonuses
- Separation pay
- Reasonable cash value of board, rent, housing, and lodging
- All payments made in any medium other than cash

Your experience rate account

An experience rate account is maintained for each company or organization that is registered as a contributory employer. For newly subject employers, their contribution rate becomes experienced rated in the fourth year the account is in existence. This account is a record of the contributions paid to DUA and the amount UI benefits paid to an employer's workers or former workers and is maintained for the purpose of determining the annual tax rate for each employer.

DUA uses a system of credits and debits to determine the balance in your account. When you pay your quarterly contributions, that amount is entered as a credit to your account on the actual date paid. Payments for the final quarter of the computation year are credited on September 30 provided they are received by October 31.

When DUA provides benefits to an employee or former employee during the computation year, these benefit charges become debits to your account. As of September 30, employer account payments are closed for rate calculation purposes in order to compute contribution rates for the following calendar year. A beginning account balance is established on October 1 each year.

If you believe a computation error has been made in your contribution rate, you may request a review of the rate determination from the Experience Rating Department. This request must be made in writing, within 60 days of receipt of the rate notice.

The annual statewide contribution schedule

The Table of Contribution Rates and Schedules display seven available schedules. UI law specifies which schedule will be in effect for each calendar year based on the reserve percentage of the Massachusetts UI Trust Fund. Each schedule provides a range of contribution rates that can be assigned to individual employers.

The reserve percentage is the ratio between the trust fund balance as of September 30 and the three-year average of payrolls of all contributing employers.

In some cases, state legislation determining the rate schedule in effect for a specific year may supersede the rate schedule set according to the reserve percentage.

How benefit charge liability impacts your rate

If you are the most recent employer in the claimant's base period, you will receive the first charges for a worker's UI benefits. If you are a base period employer, but not the most recent employer, you may also be charged at some period in the claim. Charges to your account continue as long as the claimant collects benefits or until the total charges equals 36% of the wages paid by you to your employee during the base period. When an employer's 36% limit is reached, DUA begins charging the next most recent employer's account, and so on throughout the base period.

Notification of benefit charges

For each month which charges are posted to your account, you will receive a Statement of Benefit Charges which itemizes all charges, credits, and adjustments made for each week of the month, as well as identify each employee by name and partial Social Security Number.

Check this statement against your records; it is important to verify each benefit charge to protect yourself against fraud, processing errors, or other improper charges. An individual might have returned to work, for example, or have had partial wages during the week in question.

If you believe a charge is incorrect and should be removed from your account, use the last page of the form or go online to file a protest within 30 days of the mailing date shown on the form. Benefit charges will not be removed from your account if you fail to return the DUA request for separation and/or wage information within the 10-day time period or if you fail to protest the initial charge statement within the 30-day limit.

DUA will notify you of any action taken. Credits appearing on the benefit charge statement will be indicated by parentheses and will show the name and partial Social Security number of the employee for whom the original charge was made. For answers to your questions, contact the Employer Charge Department at (617) 626-6350.

Annual Rate Notice

During the first quarter of each year, you will receive a Notice of Employer's Unemployment Insurance Rate. This will include your annual rate and the data used in the rate calculation. You may access your benefit charge statements online. Simply register for DUA's UI Online Services by going to www.mass.gov/uima.

What's included in the Annual Rate Notice

1. Account balance
2. Account balance adjustment
3. Benefit charges
4. Contributions paid
5. Contribution rate
6. Ending account balance
7. Excess reserve transfers
8. Unapplied Credits/Refunds
9. Reserve percentage
10. Solvency assessment
11. EMAC
12. Average Annual Wages Subject to Contributions
13. Wages subject to contribution (UI taxable wages)
14. Workforce Training Fund contribution rate

The following table provides a line-by-line description of each element that appears on the Annual Rate Notice:

Understanding the Annual Rate Notice Calculations	
1. Account balance	The amount shown represents the balance in your account as of the date indicated. Since this account is a book account only, there are no substantive rights to any balance shown.
2. Account balance adjustments	Transfers from subsidiary accounts into the master account are recorded as adjustments. Subsidiary accounts and certain other type of adjustments are not rated. Voluntary contributions payments are also included.
3. Benefit charges	Unemployment benefits paid to a claimant are charged to the account of the employer for whom the claimant worked. Charges are made as of the date the benefits are paid. Credits or other adjustments to the benefit charge account affect the account balance during the computational year in which they occur. Benefit charges can be adjusted only through DUA's Employer Charge Department.
4. Contributions paid	Most payments received during the computation period, regardless of the year and quarter, are applied to your account balance as of the date paid (to be used in the current rating period, the contribution payment must be received by October 31). Any overpaid contributions for the current year that have been credited to a subsequent computational year will not be used in the current computational period.
5. Contribution rate	The rate schedule for all employers is determined by the reserve percentage of the unemployment compensation fund. To arrive at the reserve percentage, the balance of the UI fund as of the computation date is divided by the total payrolls for all contributing employers in the preceding calendar year. This percentage determines which schedule is in effect for the year.
6. Ending account balance	The ending account balance represents the net historical balance of your account after all payments and mandated credits are applied against benefits charges paid to former employees and any other debit adjustments required by law. If an employer reports no wages subject to contribution during the applicable computation period, DUA will assign a rate based on a positive or negative account balance as of the computation date.
7. Excess reserve	Reserve percentage limits for employers are a positive 50% or a negative 25%. Amounts in excess of these limits are transferred either to or from the solvency account.

Understanding the Annual Rate Notice Calculations	
8. Unapplied Credits/Refunds	Refunds that are issued are subtracted from your account balance during the computational year in which refunds are issued, regardless of when the overpayment occurred.
9. Reserve percentage	The result of dividing your account balance by your wages subject to contribution. An account with a positive balance will have a positive reserve percentage. Negative balance accounts will have negative reserve percentages. Your reserve percentage is applied to the contribution schedule in effect for the applicable calendar year to determine your rate for the year. This rate will be used throughout the calendar year on your quarterly reports.
10. Solvency assessment	DUA maintains a general account known as the solvency account which is used to finance benefits that are not chargeable to an individual employer account. Your account balance is adjusted annually with a solvency assessment.
11. Employer's Medical Assistance Contribution (EMAC)	<p>Section 189. (a) Each employer, subject to sections 14, 14A and 14C of Chapter 151A, shall pay, in the same manner and at the same times as the DUA prescribes for the contribution required by said section 14, an employer medical assistance contribution. The purpose of the EMAC shall be to support the provision of subsidized health care services funded by the Commonwealth Care Trust Fund, established under section 20000 of chapter 29, and the Health Safety Net Trust Fund, established under section 66 of chapter 118E.</p> <p>Whenever an average of fewer than six employers are employed during a quarter, wages paid in that quarter are exempt from EMAC. Only those wages based solely upon the average number of employees in a quarter are potentially exempt for EMAC reporting purposes.</p> <p>Please note that all subject employers are assigned an EMAC rate on the annual rate notice regardless of whether an employer reports wages that may be exempt from EMAC.</p>
12. Average Annual Wages Subject to Contributions over the last Three Years (3-Year Wage Averaging)	<p>Three-Year Wage Averaging is used to determine the Wages Subject to Contribution on Rate Notices. Three-year Wage Averaging of Wages Subject to Contributions are calculated using the last three computation periods-for example assume an employer reports the following: 1st Year Wages, (10/1/2016 through 9/30/2017) = \$20,000.00, 2nd Year Wages (10/1/2017 through 9/30/2018) = \$25,000.00 and 3rd Year Wages (10/1/2018 through 9/30/2019) = \$18,000.00. The Three-Year Average is the total of each of the three years' wages, divided by three or $\\$63,000.00/3 = \\$21,000.00$.</p>

Understanding the Annual Rate Notice Calculations	
13. Wages subject to contribution (UI taxable wages)	Wages subject to contributions listed on the rate notice is the cumulative total of the first \$15,000.00 paid to each employee in each of the computational rate years. Amounts earned by each employee over \$15,000.00 are excluded from this field.
14. Workforce Training Fund Program contributions	<p>The Workforce Training Fund Program (WTFP) awards grants to companies to provide workforce training and education programs for incumbent workers. The WTF contribution is a flat rate of 0.056% of taxable wages. This is the same for all contributory employers.</p> <p>This payment is not added to an employer's account balance for experience rating purposes, nor can it be deferred.</p>

Calculating the solvency assessment

The UI Solvency Fund pays for the following:

- Dependency allowances
- Benefits paid to individuals who leave employment for what are considered to be urgent or compelling personal reasons
- Benefits paid and charged to accounts whose reserves have been depleted
- State funded extended benefits
- Additional benefits paid to claimants who are in approved DUA training programs

The solvency assessment distributes these costs proportionally among all employers. The assessment changes from year to year depending on the needs of the fund and has historically ranged from .05% to 2.71%. The assigned annual rate is applied to the UI taxable wages.

A reserve percentage is determined for the solvency account in the same way one is determined for individual employer accounts. For the solvency account, the formula used is the ratio between the closing balance of the account and the three-year wage average of total taxable payrolls of all employers for the prior three computation periods.

Your solvency assessment is the result of multiplying applicable wages subject to contribution by the solvency factor determined for all subject employers in Massachusetts. The result is an actual dollar amount which represents your share for the computation period. This factor changes from year to year, depending on the charges made to the solvency account during that period. The account balance is zeroed at the start of each fiscal year.

Calculating Employer Medical Assistance Contributions (EMAC):

Employers must pay contributions on the first \$15,000 of each employee's wages paid during the calendar year. The amount of contributions due is calculated by multiplying the wages subject to contributions by the health insurance contribution flat rate for all subject employers which is determined each year.

Employers are not liable for payment of health insurance contributions in a quarter when the average employee count is less than six. Also, employers are exempt when they meet the definition of "newly subject".

Massachusetts employers who became subject to the Massachusetts Unemployment Insurance Law **ON** or **AFTER October 1, 2014** are subject to the following Employer Medical Assistance Contributions Rates in 2020.

EMAC Rates Effective January 1, 2020

Calendar Years 0, 1, 2 and 3: New employers subject to unemployment contributions for their first time will be exempt for the first three years.

Calendar Years 4: Employers in their fourth year of previously being subject to EMAC will pay an EMAC rate of 0.12% (.0012).

Calendar Years 5: Employers in their fifth year of previously being subject to EMAC will pay an EMAC rate of 0.24% (.0024).

Calendar Years 6 and over: Employers in their sixth year or over of previously being subject to EMAC will pay an EMAC rate of 0.34% (.0034).

Massachusetts employers who became subject to the Massachusetts Unemployment Insurance Law **BEFORE October 1, 2014** are subject to the following Employer Medical Assistance Contributions Rates in 2020.

EMAC Rates Effective January 1, 2020

Calendar Years 0, 1 and 2: New employers subject to unemployment contributions for the first time will continue to be exempt for the first two years.

Calendar Years 3: Employers in their third year of previously being subject to EMAC will pay an EMAC rate of .12% (.0012).

Calendar Years 4: Employers in their fourth year of previously being subject to EMAC will pay an EMAC rate of .24% (.0024).

Calendar Years 5 and over: Employers in their fifth year or more of previously being subject to EMAC will pay an EMAC rate of .34% (.0034).

The liability exemptions and reductions are intended to ease burdens on newly formed businesses and organizations.

Voluntary contributions

Massachusetts employers may choose to pay voluntary UI contributions. This program allows the state's businesses to manage their UI costs by paying additional contributions in order to increase account reserves and reduce their UI rate and contributions for the forthcoming calendar year. This process must be completed within 30 days from the date of the Annual Rate Notice. Any outstanding debt must be paid separately and cannot be included with a voluntary contribution payment.

Any voluntary contributions you pay are credited directly to your company's account balance. This increases your company's reserve percentage and may lower your company's UI contribution rate. Paying voluntary contributions may not result in significant savings for your company. To help you decide if voluntary contributions are right for you, consider the following issues below:

Determining whether your company is eligible for voluntary contributions:

- You must be eligible for experience rating
- New employers with an assigned "new employer rate" and employers who are at the lowest rate of the schedule in effect for that calendar year are not eligible
- You must have filed all quarterly Employment and Wage Detail Reports to date
- You must have paid all UI, EMAC, and WTF contributions including any interest and penalties to date
- Other categories of employers who are not eligible for voluntary contributions include governmental employers, employers with suspended accounts, and employers with no wages

Voluntary contribution payments:

- Cannot be used for any purpose other than to reduce a company's UI contribution rate
- Cannot be refunded
- Are not considered for FUTA 940 certification
- Do not reduce EMAC or WTF contribution rates
- Do not retroactively reduce UI contribution rates

If you have questions about your company's eligibility, or simply want more information, please call the Experience Rating Department at (617) 626-6893.

Understanding the reimbursable method of payment

Governmental entities and non-profit employers (organizations holding 501(c)(3) status) may choose to reimburse DUA only when benefits are actually paid to their former employees. This is in lieu of paying quarterly contributions. For some of these employers, the reimbursable method makes more sense because it does not require regular quarterly contribution payments. Under the reimbursable method, there is no solvency account and the employer is liable and billed for all costs of any and all benefits paid to former employees.

Charges to entities under the reimbursable method

Failure to anticipate personnel separations can lead to financial difficulties for small non-profit or governmental organizations. Employers choosing the reimbursable method should also be aware that the Massachusetts Unemployment Insurance Law requires them to reimburse DUA for benefits paid to former employees in circumstances under which contributory employers normally are not charged. Charges to reimbursable employers could result from any of the following:

- **Dependency allowances:** Awarded to claimants for each dependent child, up to a maximum amount equal to 50% of a claimant's weekly benefit amount. Dependency allowance is \$25 per child. For example, a claimant with four children and a weekly benefit amount of \$250 will actually collect \$350 a week.

Example: **Step 1:** \$25 x 4 dependents = \$100.00 dependency allowance

Step 2: \$100.00 + \$250 original weekly benefit amount = **\$350**

\$350.00 = weekly benefit amount

- **State-financed extended benefits:** Awarded during periods of high unemployment. Claims in Massachusetts can be extended to provide additional weeks of benefits during a recession.
- **Approved voluntary separations:** Voluntarily leaving — without a good reason attributable to the employer — will normally disqualify a worker from receiving benefits. However, if it can be established that the reasons a worker left a job were of such a compelling nature that the separation was actually involuntary, benefits will be paid and a reimbursable employer would have to pay the costs of that claim.
- **State-approved training programs:** Claimants in vocational training may receive benefits for up to 26 additional weeks. Reimbursable employers are liable for the full amount of approved retraining benefits paid.
- **Remaining benefits:** When the liability of the full-time employer is exhausted, reimbursable employers must pay for any remaining benefits paid, even though the claimant may be still working part-time for them. This is because an employer's liability for charges is limited to 36% of the total claimant wages during the claimant's base period. DUA first charges the most recent employer in that year. When that employer's 36% limit is reached, the next most recent employer is charged. DUA continues charging the claimant's employers of that preceding year until the claimant exhausts his or her maximum benefit entitlement. For subsidiary employers (secondary or part-time employment), the order for charging may be reversed.
- Reimbursable employers are charged even if the claimant left the previous job under what would be disqualifying circumstances (e.g., An employee leaving to take another job which does not come through, or which results in a subsequent layoff; or a former employee who is initially disqualified for benefits, then obtains new employment, and is subsequently laid off for lack of work).

- If a claimant is initially granted benefits, but is subsequently disqualified on appeal, reimbursable employers must still reimburse DUA for the benefits paid. Once DUA recovers the money from the claimant, the employer's account will be credited. It is important to know that DUA is prohibited, according to the Massachusetts Unemployment Insurance Law, from charging any of the reimbursable benefits listed above to the contributory employers' solvency account.

In contrast, under the contributory method, these costs would be charged to the solvency fund.

For any month in which there are charges to your account—or a past due payment—DUA will mail you a bill. You can view and print this statement online by logging into UI Online at www.mass.gov/uima. By law you must pay this bill within 30 days of its mailing date to avoid interest charges. If you choose to question any charges, you may do so in the space provided on the back of the form. You may direct questions to the Reimbursement Department at (617) 626-5075, option 5.

Reimbursable employers must still reimburse DUA for these benefits paid. Once the claimant repays DUA, the reimbursable employer's account will be credited.

Estimating Your Risk

If you are a small organization, with relatively limited employee turnover, the reimbursable method may be best for you. If you select the reimbursable method, it is important to understand your financial obligations, specifically your responsibility to pay your portion of any claim where you are a base period employer. Even one or two claims against a very small organization or one with a limited budget could cause extreme financial hardship.

If you elect the reimbursable method, you may want to consider a self-imposed contributory system, setting aside the contribution you would have paid to DUA in an interest-bearing account. This way, you will be prepared if a claim is filed against your organization.

Changing your financing method

You may change from one financing method to another by providing notice to DUA through UI Online. Once selected, that method is in effect for at least two calendar years.

If you are a governmental employer, this notice is due by December 31 of the year preceding the changeover year. For non-profit employers, notice is due by December 1 of the year prior to the changeover year. After you inform DUA of your choice of financing methods, benefits are charged to your account according to the financing method in effect at the time a particular unemployment claim is filed. New non-profit or governmental employers are asked to choose a financing method when the organization becomes subject to the Unemployment Insurance Law.

If no financing method is selected, by law, the contributory method is assigned. When deciding whether to become a reimbursable or contributory employer, you should consider all the factors described that may relate to your organization's potential unemployment liability. For additional information on either of these financing methods, please logon to your account at www.mass.gov/uima or call (617) 626-5075.

Collections

When employers fail to pay their UI contributions or reimbursements, the effect is felt by all Massachusetts employers. DUA has various enforcement tools to collect overdue contributions. Possible enforcement tools include:

- Random audits of your accounts to see if you classified workers and reported workers' wages properly
- Late filing penalties based on M.G.L. 151A Section 14P

Workforce size penalty amounts	
Number of employees	Amount of penalty
0 - 4	\$25
5 - 9	\$100
10 - 49	\$250
50 - 99	\$500
100 - 499	\$1000
500 and up	\$2500

- Levy on your bank account after a court judgment and formal notice
- Liens on property
- Possible suspension of a delinquent employer's liquor license after a hearing with the Alcohol Beverage Control Commission (ABCC)
- Prosecution of individuals and principals in corporations by the Attorney General's Office for failure to file or pay UI contributions
- Additional compliance checks with the Department of Industrial Accidents (DIA), Division of Capital Asset Management (DCAM), and the Department of Labor Standards (DLS)

Tips to manage your UI costs

You should manage your UI costs like any other business cost. This includes :

- Forecast and budget your quarterly contribution payments
- Monitor monthly statements of benefits charged to you. Review these statements for accuracy
- Report to DUA if one of your former employees has returned to work although you are still being charged for benefits
- Explore every alternative prior to separation including retraining, reassignment, advance notice, time off for a job search, referrals to other firms, or job placement assistance from DUA

- Document the circumstances surrounding each separation for reasons other than lack of work so you'll be prepared to furnish DUA with accurate information promptly
- Respond to all DUA's requests for information timely
- Appeal DUA decisions if you believe that benefits were awarded to a claimant who does not qualify under the law
- Call back separated workers if work becomes available. Certified mail is the best way to do this. Let DUA know if you recall an employee who does not return to work
- Hire smart. Invest time before hiring to get the best workers. Check their work histories and references. Workers who are discharged for poor performance – because they lack the ability to do a job – are not disqualified from collecting benefits under the law
- Hire other UI claimants through your local One-Stop Career Center. This lowers overall disbursements from the UI Trust Fund

Pay your contribution

Payments are due by April 30, July 31, October 31 and January 31. If the due date falls on a weekend, payments initiated the following business day will be timely.

For the first and second quarters, you may defer up to one-third of the contributions due, by checking off the deferral option, to the following second and third quarters respectively. You can file and pay online by logging into your account at www.mass.gov/uima. It is your responsibility to file the report before the due date.

If you fail to file on the due date, you may be assessed a penalty. By law, you will be charged interest on all contributions paid after the due date. The interest is 12% per year. DUA charges interest on the contributions due starting from the due date until the payment date.

Making Federal Payments

If you are a private, for profit employer, you may be required to pay FUTA taxes. These taxes are paid directly to the Internal Revenue Service (IRS). Contact the IRS for information on your FUTA tax liability and filing obligations.

You are entitled to a FUTA tax credit for contributions that have been paid in full and timely to DUA. You may request FUTA certification using your online account.

7 Appendix

A. Support Services for Employers

On the web: Visit our website, UI Online, to handle all your UI-related business needs: www.mass.gov/uionline.

By telephone: To reach the appropriate Revenue department, call **(617) 626-5075** and follow the prompts below to speak to a representative.

Press	...if you require support with the following
1	Passwords for employers, TPA password reset, questions about user ID
2	EMAC Supplement Program, details of an EMAC Supplement liability determination
3	New account registration, closing an account, address change, method of payment, TPA update, temporary user ID and password
4	Revenue collections and enforcement, payment plan notice, tax intercept, certificate of compliance
5	Benefit charges protest and submission, contributory benefit charges, reimbursable benefit charges, seasonal employer certification
6	Audit, business transfers, reporting new federal tax ID number, employment and wage reporting, refunds, payment information, experience rating information

Other employer support services

Services	Phone
Economic Research QCEW (Quarterly Census of Employment and Wages)	(617) 626-6464
24-Hour Fraud Hotline	(800) 354-9927
Audit Information for employers located in the Western Region	(413) 452-4725
Benefits Questions	(617) 626-6800

Contacting your local Hearings office

Office	Address	Phone
Greater Boston	19 Staniford Street, 1st Floor Boston, MA 02114	(617) 626-5200
Northeastern Massachusetts	360 Merrimack Street, Building 9, 3rd Floor, South Lawrence, MA 01843	(978) 738-4400
Southeastern Massachusetts	36 Main Street, 1st Floor Brockton, MA 01840	(508) 894-4777
Western/Central Massachusetts	88 Industry Avenue, Suite A Springfield, MA 01104	(413) 452-4700

B. Support Services for Claimants

Claimants may conduct a number of important UI-related activities by telephone, or on the web using UI Online. Such activities may include filing or reopening new claims, obtaining status of a claim or payment, resolving claim issues, or accessing information. Services in languages other than English are also available upon request. The following describes different ways claimants may receive support for their UI needs.

On the web:

Claimants should also visit UI Online, for all their UI-related business needs: www.mass.gov/dua

By telephone:

- Call (877) 626-6800 from the following area codes: 351, 413, 508, 774, and 978
- Call (617) 626-6800 from any other area code
- Call (800) 439-2370 for TTY/TTD

C. Description of Special Programs and Services

Massachusetts WorkShare Program	
Description	<p>If your company needs to reduce payroll costs, because of a temporary decline in business, Massachusetts' WorkShare Program is your alternative to layoffs. With WorkShare, you can reduce your payroll costs and maintain your valued workforce. You can avoid layoffs and avoid losing trained workers by reducing the hours of work for employees in your entire company, or a small unit or department. Your workers receive unemployment insurance benefits to supplement their reduced wages.</p> <p>A win-win program Experienced, trained workers are a company's most valuable resource, one that is difficult and expensive to replace. When workers are laid off during a slowdown in business, the economic reality of being out of work, even temporarily, may cause them to seek new jobs elsewhere. Both employers and workers have made a mutual investment in the success of a business. There are no losers with WorkShare. When layoffs loom, WorkShare can help to preserve jobs and safeguard that mutual investment.</p>
Benefits	<ul style="list-style-type: none"> ▪ Keeps your skilled, trained employees ▪ Reduces future hiring and retraining costs ▪ Avoids disruption in your business operations ▪ Helps you remain prepared for future business growth ▪ Maintains worker productivity
Eligibility	<p>Only Massachusetts employers in good standing can participate. All contributions, payments in lieu of contributions, interest and penalty charges have to be paid in order to participate (see GL 151A §29D (b) (11). This includes both large corporations with hundreds of workers and businesses with only two employees, non-profit as well as for profit, and even governmental entities. Any workers who would be eligible to receive regular unemployment insurance benefits are eligible to participate in the WorkShare Program.</p>
Additional Information	<p>For more information call the Special Programs Department at (617) 626-5521. On the web at www.mass.gov/dua/WorkShare.</p>

The Massachusetts Rapid Response Team	
Description	The Rapid Response program serves as a resource for Massachusetts' businesses and works collaboratively with employers to develop strategies for maintaining a skilled workforce during periods of transition.
Benefits	<p>Expansion and growth Work with businesses to develop strategies for hiring skilled workers, including:</p> <ul style="list-style-type: none"> ▪ Access to qualified candidates ▪ Posting of jobs ▪ Assistance with small and large-scale recruitment ▪ Information on training grants, tax credits and labor market information ▪ Linking growing companies to similar businesses that have downsized <p>Layoff aversion Help businesses identify the exact needs to avoid layoffs and match transitioning businesses with similar skill sets. Offer companies resources to maintain their workforce through a variety of resources, including:</p> <ul style="list-style-type: none"> ▪ WorkShare program ▪ Workforce Training Fund Program ▪ Massachusetts' One-Stop Career Centers ▪ Tax incentives ▪ Business loans ▪ Growth-based systems for manufacturing ▪ Employee ownership and succession plans <p>Layoffs and closings Quickly coordinate and provide customized on-site services to companies and affected employees when layoffs and closings are necessary.</p> <p>Benefits to Employers</p> <ul style="list-style-type: none"> ▪ Higher productivity and employee morale ▪ Lower unemployment insurance costs ▪ Decreased likelihood of work disruptions ▪ Better public relations and media management <p>Benefits to Employees</p> <ul style="list-style-type: none"> ▪ On-site group orientations on unemployment insurance ▪ Information on continued education and training courses ▪ Information on maintaining health insurance benefits and pensions ▪ Workshops including resume preparation, career counseling, and job search assistance
Eligibility	All Massachusetts employers are eligible.
Additional information	For more information or to contact the Rapid Response Team, visit: www.mass.gov/dcs/rapidresponse .

The Massachusetts Workforce Training Fund (WTF) Program	
Description	To remain productive and competitive, Massachusetts businesses need employees with up-to-date, leading edge skills. The Workforce Training Fund Program (WTF) awards grants to help Massachusetts businesses and labor organizations train the Commonwealth's workers, enhancing their existing skills and introducing them to new technologies, production methods and other needed skill sets.
Benefits	<p>General Program For any size company training employees in job-related skills through a program designed by the company. Two General Program grants are available: Training Grants up to a maximum amount of \$250,000. Technical Assistance Grants up to a maximum amount of \$25,000.</p> <p>Express Program For small companies (50 or fewer employees) training employees using off-the-shelf training. A claimant can receive \$3,000 per trainee per course and a total of \$30,000 per company within a 24-month period.</p> <p>Hiring Incentive Training Program For all employers who pay into the fund. It provides a flat fee of \$5,000 per employee and up to \$75,000 per company. It also assists companies in paying for training for new employees who are Massachusetts residents who have been unemployed for 6 months or more (the period of unemployment is waived for Veterans (DD214 is required)).</p>
Eligibility	<ul style="list-style-type: none"> ▪ The business or labor organization applying for a grant must pay into the Workforce Training Fund and must be current with its Unemployment Insurance payments ▪ All trainees must be employed in Massachusetts. Trainees cannot be government employees ▪ A certified copy of a <i>Certificate in Good Standing</i> from the Massachusetts Department of Revenue (DOR) must be provided at the time of application
Additional Information	To learn more about the Workforce Training Fund program, visit www.mass.gov/wtfp .

DUA Economic Data and MassStats information	
Description	These programs provide interactive information on current economic trends, the Commonwealth's industries, occupations and labor force. DUA economists collect and analyze statistics on population, employment, wages, economic indicators and occupational/industry projections. Information is published regularly in printed publications and on the web. DUA's website has a large volume of economic data instantly available.
Benefits	<p>Whether you are starting a new business or growing your current operations, ensure that you are building on a strong foundation by:</p> <ul style="list-style-type: none"> ▪ Researching the best locations for your company ▪ Getting an economic snapshot of Massachusetts cities and towns including family income, local tax revenues, property values, population, and building permit information ▪ Checking on the availability of the labor supply you will need
Eligibility	These services are available to the general public.
Additional Information	To learn more about the MassStats program, visit www.mass.gov/lmi .

D. Glossary

Alternate base period

Wages paid during the three most recently completed calendar quarters, plus the time between the last completed quarter and the effective date of the claim. If a claimant is not monetarily eligible for benefits using the primary base period, and would be eligible using the alternate, DUA will automatically use this method to determine your benefits. Also, claimants may elect to use the alternate base period if they provide credible documentation showing that their maximum benefit amount would be increased by at least 10% by using the alternate base period.

Average weekly wage

A formula established by law based on the total amount of wages paid during the base period.

Maximum benefit amount

The total amount of benefits a claimant is potentially eligible to collect during a benefit year if they meet all the other eligibility requirements of the law.

Weekly benefit amount

The amount of monetary benefits a claimant is eligible to receive each week. This equates to 50% of a claimant's average weekly wage up to the current maximum.

Benefit year

52 weeks following the effective date of a claim.

Duration of benefits

The maximum number of weeks a claimant can collect. This is determined by dividing the maximum benefit amount by the weekly benefit amount. The maximum number of weeks a claimant can collect full benefits is 30 weeks (capped at 26 weeks during periods of extended benefits and low unemployment).

Effective date of the claim

It is the date the claim begins. This is typically the Sunday of the calendar week in which a claim is initially filed.

Interstate claims

Claims filed by Massachusetts workers who have moved to another state.

Intrastate claims

Claims filed by Massachusetts workers who live in Massachusetts.

Primary base period

The last four completed calendar quarters immediately preceding the date on which a claim is effective. Claims are based on wages received during this period.

TeleCert

Interactive telephone system for claiming weekly benefits. TeleCert is available in English or Spanish.

Waiting week

The first week in which a claimant is eligible to collect benefits is their waiting period. Every effort will be made to pay benefits three weeks from the first week in which a claim is filed. The total number of weeks for which a claimant is eligible is not reduced by this waiting period.