

Practice Directives

The Assessment Department of the Workers' Compensation Board issues practice directives in order to provide technical interpretation and elaboration of relevant provisions of Divisions 1 and 4 of Part 1 of the *Workers Compensation Act* and of the *Assessment Manual*. An interpretation, commentary, or clarification in a practice directive is not intended to be and is not a substitute for the law or Board policy; and, therefore, the reader should reference each of the *Act* and applicable policy in considering application of a practice directive.

Furthermore, as an interpretation, commentary, or clarification in a practice directive relates to provisions of the law and Board policy in force at the time of the issuance of the practice directive; the reader should consider such interpretation, commentary, or clarification in light of the relevant provisions of the law and Board policy in force at the time under consideration, taking into account the effect of any relevant amendment to either the law or Board policy occurring after the date on which the practice directive was issued.

In these practice directives, examples are intended to be illustrative, and the conclusions drawn in each example are based solely on the facts included in the example.

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OBJECTIVE

1. This practice directive explains the purposes and scope of the Assessment Department's practice directives and aids in the interpretation of the *Workers Compensation Act*, the *Assessment Manual*, and the department's practice directives.

INTERPRETATIVE GUIDELINES

2. Section 96(8) of the *Act* permits the Board to "establish practices and procedures for carrying out its responsibilities under the *Act*". Generally, practices and procedures are aids to administrative efficiency: they serve to promote consistency, coherence, and fairness in the treatment of matters before the Assessment Department, while allowing the flexibility requisite in an exercise of discretion.

A Practice directives

3. The Assessment Department's practice directives do not form part of Board policy; they are practices sanctioned by the Board's administration, rather than being approved by the Board of Directors under section 82 of the *Act*. They complement but are subordinate to the *Act*, and regulations and policy made thereunder; and, in the main, serve to aid in interpretation of law or policy, or allow for greater transparency, consistency, and predictability.
4. One category of practice directive is interpretory guidelines: advisory interpretations of policy language. For example, *Practice Directive 1-38-2(A) – Assessable Payroll* includes an advisory interpretation of the policy phrase “wages and salaries”. Other practice directives involve codifications of established presumptions used in administering policy, and are, therefore, specific to a circumstance or industry. For example, *Practice Directive 1-1-3(B) – Status – Specific Occupations* is directed to the circumstances referred to therein.

B Classification unit descriptions

5. A special class of practice is a *Classification Unit Description* issued by the Assessment Department to describe an industry within the Employer Classification System (see *Practice Directive 1-37-1(A) – The Employer Classification System*).

II GLOSSARY

6. The following general descriptions aid in the interpretation of the *Act* and assessment policy.

Active (in a firm)	An individual is active in the business of a firm if that individual, <ul style="list-style-type: none"> • provides oversight or management of the direction or policy of the firm; or • does, or is required to, or is charged with the oversight or management of the direction or policy of the firm; or • does, or is required to, or is charged with effectuating direction or policy of the firm; or • undertakes action or effort in or on behalf of the firm.
Activity	An activity a single task or – and more typically – an operationally integrated chain of tasks (each of which may be an activity in itself) that results in a product or service, actual or notional.
Affiliation	Firms are affiliated where: <ul style="list-style-type: none"> • directly, or indirectly through one or more intermediaries, or by other means; one firm controls the other firm, or both firms are controlled by the same person or group of persons, or • the firms are controlled by family members, immediate, extended, or equivalent.
Assessable payroll	That portion of a firm's payroll that represents workers and employment within the scope of Part 1 of the <i>Act</i> , subject to the maximum wage rate referenced in section 33 of the <i>Act</i> .
Business enterprise independent	An entity <ul style="list-style-type: none"> • constituted or organized under applicable law, whether or not for profit, and whether privately or publicly owned, including any corporation, partnership, sole proprietorship, trust, or other association; • undertaking a commercial, industrial, service, or investment activity (or a combination thereof); • free from the control and constraint of another for whom it performs work.
Business operations	The commercial, industrial, or professional activities of a firm; which generally comprise its assets and activities respecting property, plant(s), equipment, products, or services.
Business undertaking	One or more activities carried out by a firm, either through the efforts of its own workers or vicariously, <ul style="list-style-type: none"> • to produce a product or service for revenue, or • for a not-for-profit firm, towards a common goal.
Commercial fisher	See section 1 of the <i>Fishing Industry Regulations</i> .
Common ownership	In the context of <i>AP1-1-3</i> and <i>AP1-38-3</i> , two or more firms sharing at least one common owner.
Contract	A legally enforceable agreement – whether written, oral, implied or a combination of these – made between two or more parties which exhibits each of the following four elements: <ul style="list-style-type: none"> • Offer and acceptance leading to agreement;

	<ul style="list-style-type: none"> • An intention to be legally bound; • Mutuality of obligation between the parties. That is, the agreement must set out more than mere reasonable expectations; there must be defined or determinable contractual obligations, such as an obligation to perform work; and • Consideration.
Contract for service	A contract under which an independent operator agrees to perform prescribed labour for another as stipulated in the contract; and the independent operator retains control of the means, method, and manner of accomplishing the desired results.
Contract of service	A contract under which a worker agrees to provide personal services to an employer for a period of time, rather than the accomplishment of a specified amount of work, in return for remuneration. The employer can specify when, where, how, and under what conditions the work will be performed.
Control (for affiliation)	The ability or power, actual or potential, direct or indirect through intermediaries, to direct or cause the direction of the management of a firm's business operations, through the ownership of voting securities, by contract, or by other means.
Core business operation	A firm's core-business operation is either: <ul style="list-style-type: none"> • activities that are integral and strategic to the firm's achievement of goals and critical to its existing and future business direction; or • its primary activity.
Decision¹	A determination made through the application of facts to law and policy, which results in benefit or obligation to a person within the workers' compensation system.
Earnings	A comprehensive term which includes compensation for labour (e.g., salary, wages, fees) and compensation for the use of capital (e.g., dividends).
Employer Classification System	The economic classification system by which the Board partitions the aggregate economic undertaking of the Province of British Columbia into industries based on industrial undertaking. In the main, the Employer Classification System is a production-oriented framework in which industries are defined and distinguished on the basis of the production of similar goods and services through similar production processes.
Firm	An entity providing goods or services involving commercial, industrial, service, or investment activity (or a combination thereof), for profit, gain, or otherwise.
Fishing Industry Regulations	British Columbia Regulation 674/76 approved by Order-In-Council No. 3779 dated 22 December 1976 as detailed in <i>Workers' Compensation Reporter Decision No. 223</i> . Regulation 674/76 repealed the <i>Fishing Industry Regulations</i> approved by Order-In-Council No. 3648 dated 20 November

¹ Policy item #99.20, *Notification of Decisions*, in the *Rehabilitation Services & Claims Manual*, Volume II contains a definition of "decision" for the purposes of compensation and rehabilitation matters under Part 1 of the *Act*.

	1975 (B.C. Reg. 759/75) as detailed in <i>Workers' Compensation Reporter Decision No. 163</i> .
Independent operator	A proprietor or a partner in a partnership, who has an independent business existence but neither employs nor is employed by another person or entity.
Major equipment	For the purposes of workplace status determination, major equipment means a single asset which requires a significant capital outlay to acquire and a significant expense to provide, including operating costs, maintenance, or both. Hand tools and vehicles used for personal transportation or to move lesser equipment are not major equipment.
Major revenue-producing equipment	For the purposes of workplace status determination, major revenue-producing equipment means the major equipment necessary to fulfill a service provider's obligation under a contract. That is, absent such major equipment it is probable onto certain that the service contracted for could not be provided as and when required.
Management company	A company which provides a degree of administrative or management services to an operating firm.
Officer²	An individual appointed as an officer of a company, including the chairperson of the board of directors, the president, a vice-president, the secretary, the treasurer, the comptroller, the general counsel, the general manager, a managing director, or any other individual who performs functions for a company similar to those normally performed by an individual occupying any of those offices.
Partner	A person (an individual or other entity) in a partnership.
Partnership	The relation which subsists between persons carrying on business in common with a view of profit.
Payroll	(a) An employer's list of persons to be paid, together with the amount that each person is to receive; (b) the total amount to be distributed among these persons.
Place of business	An establishment (a factory or an assembly plant or retail store or warehouse etc.) where business is conducted, goods are made, stored or processed, or where services are rendered.
Prime contractor³	The person or group of persons who, pursuant to a contract, an agreement, or ownership, directs the activities of one or more firms engaged in work at a work site.
"product or service"	Product references "a tangible item or object and would fall within the meaning of 'goods, article or commodity'" while service references "[t]hings

² This description does not apply to a "Board officer".

³ Section 118(1) of the *Act* contains a definition of "prime contractor" for the purposes of Part 3 of the *Act*.

	purchased by consumers that do not have physical characteristics (e.g. services of doctors, lawyers, dentists, repair personnel)." ⁴
Proprietor	An individual who is the sole owner of an unincorporated business and who exercises control over the business, is personally liable for all the debts and obligations of the business, and is entitled to all of its profits.
Related companies	Companies which are affiliated.
Residence	A housing unit in British Columbia that was occupied by the individual during his service to the employer as his or her primary place of residence. Generally, an individual is resident in the place where he, in the settled routine of his life, regularly, normally or customarily lives. That quality is chiefly a matter of the degree to which a person in mind and fact settles into or maintains or centralizes his ordinary mode of living.
Usual place of employment	Where the individual customarily discharges the substance of the commercial, industrial, or professional activity the individual has contracted to provide.
Volunteer	An individual who undertakes a service willingly and without contemplation of remuneration, in whatever form, that is significantly greater than the inconsequential incidences of an otherwise gratuitous relationship, which are generally limited to the reimbursement of out-of-pocket expenses.
WorkSafeBC	The Workers' Compensation Board of British Columbia.

⁴ *Appeal Division Decision 97-0920*, 10 July 1997.