

Massachusetts General Laws Annotated
Part I. Administration of the Government (Ch. 1-182)
Title XXI. Labor and Industries (Ch. 149-154)
Chapter 149. Labor and Industries (Refs & Annos)

M.G.L.A. 149 § 192

§ 192. Definitions applicable to Secs. 193 to 203
relating to professional employer agreements

Effective: August 10, 2018
Currentness

As used in this section and in sections 193 to 203, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:--

“Client” or “client company”, a person who enters into a professional employer agreement with a professional employer organization.

“Covered employee”, an individual employed in a PEO relationship where the individual's employment is subject to a professional employer agreement; provided, however, that “covered employee” shall include individuals who are officers, directors, shareholders, partners and managers of the client, except to the extent the professional employer organization and the client have expressly agreed in the professional employer agreement that such individuals shall not be covered employees; provided further, that such individuals meet the criteria of this paragraph and act as operational managers or perform day-to-day operational services for the client.

“Director”, the director of the department of labor standards.

“Employment agency”, as defined in section 46A of chapter 140.

“PEO group”, 2 or more professional employer organizations that are majority-owned or commonly controlled by the same entity, parent or controlling person.

“PEO relationship”, a co-employment relationship, in which all the rights, duties and obligations of an employer that arise out of an employment relationship have been allocated between the PEO and the client pursuant to a professional employer agreement; provided, however, that a staffing agency and an employment agency shall not be a PEO; provided further, that in a PEO relationship:

(i) the professional employer organization shall be entitled to enforce only such employer rights and is subject to only those obligations allocated in the professional employment agreement or as specifically required pursuant to section 192 to 203, inclusive; (ii) the client shall be entitled to enforce those rights, and obligated to provide and perform those employer obligations, allocated to the client by the written professional employer agreement; (iii) the client shall be entitled to enforce any right and obligated to perform any obligation of an employer not specifically allocated to the PEO or section 192 to 203, inclusive; and (iv) neither the client nor the PEO may delegate duties and responsibilities to the other unless such delegation is provided in the professional employer agreement and the covered employees are informed about this delegation of duties and responsibilities.

“Person”, an individual, partnership, corporation, limited liability company, association or any other form of legally recognized entity.

“Professional employer agreement”, a written contract by and between a client and a professional employer organization that: (i) provides for the PEO relationship of covered employees; (ii) allocates employer rights and obligations between the client and the professional employer organization with respect to the covered employees; and (iii) allocates the responsibilities between the professional employer organization and the client; provided, however, that a professional employer agreement shall not affect, modify or amend any employee rights under federal, state, local or municipal law or abrogate obligations of the client or the PEO to covered employees under such laws.

“Professional employer organization” or “PEO”, any person engaged in the business of providing professional employer services who is subject to registration and regulation pursuant to sections 192 to 203, inclusive, regardless of its use of the term or conducting business as a professional employer organization staff leasing company, registered staff leasing company, employee leasing company, administrative employer or any other name; provided, however, that the following shall not be deemed to be professional employer organizations or providing professional employment services: (i) arrangements wherein a person, whose principal business activity is not entering into professional employer arrangements and that does not hold itself out as a PEO, shares employees with a commonly owned company within the meaning of section 414(b) and section 414(c) of the Internal Revenue Code of 1986, as amended; (ii) independent contractor arrangements as governed by section 148B; or (iii) services provided by an employment agency or staffing agency.

“Professional employer services”, the service of entering into PEO relationships in which all or a majority of the employees providing services to a client or to a division or work unit of the client are covered employees.

“Registrant”, a PEO registered pursuant to section 196.

“Staffing agency”, as defined in section 159C.

“Wages”, shall include all forms of remuneration for employment.

Credits

Added by St.2018, c. 228, § 22, eff. Aug. 10, 2018.

M.G.L.A. 149 § 192, MA ST 149 § 192

Current through Chapter 46, except Chapter 41 of the 2019 1st Annual Session

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