CHAPTER 37

Employment and Workforce ‑ Employer’s Coverage

Code Commissioner’s Note

At the direction of the Code Commissioner “Employment and Workforce” substituted for “Employment Security”, to bring the chapter title in conformance with 2010 Act No. 146.

CROSS REFERENCES

Corporate officers exempt from unemployment benefits absent employer election, procedure, exceptions, see Section 41‑27‑265.

Department of Employment and Workforce integrity fund, see Section 41‑33‑910.

**SECTION 41‑37‑10.** Period of coverage generally.

Except as provided in Section 41‑37‑20, any employing unit which is or becomes an employer subject to Chapters 27 through 41 of this Title within any calendar year shall be subject to such chapters during the whole of such calendar year.

HISTORY: 1962 Code Section 68‑251; 1952 Code Section 68‑251; 1942 Code Section 7035‑88; 1936 (39) 1716; 1939 (41) 487.

CROSS REFERENCES

Dissemination of information to employees, see S.C. Code of Regulations R. 47‑17.

Provisions governing staff leasing services do not affect Employment Security Law (Sections 41‑27‑10 through 41‑41‑50), see Section 40‑68‑180.

**SECTION 41‑37‑20.** Election as to coverage.

(A) An employing unit not otherwise subject to Chapters 27 through 41 of this title, which files with the department its written election to become an employer subject to these chapters for not less than two calendar years, with the written approval of the election by the department, must become an employer subject to the same extent as all other employers as of the date stated in the approval and must cease to be subject to these chapters as of January first of a calendar year subsequent to the two calendar years if by the thirtieth day of April of that year it has filed with the department a written notice to that effect.

(B) An employing unit, for which services that do not constitute employment as defined in Chapters 27 through 41 of this title are performed, may file with the department a written election that services performed by an individual in its employment in one or more distinct establishments or places of business must be considered to constitute employment by an employer for the purposes of those chapters for not less than two calendar years. On the written approval of this election by the department, these services must be considered to constitute employment subject to those chapters from and after the date stated in the approval. These services cease to be considered employment subject to these chapters as of January first of a calendar year subsequent to those two calendar years if by the thirtieth day of April of that year the employing unit files with the department a written notice to that effect.

HISTORY: 1962 Code Section 68‑252; 1952 Code Section 68‑252; 1942 Code Section 7035‑88; 1936 (39) 1716; 1939 (41) 487; 1952 (47) 1888; 1961 (52) 166; 1971 (57) 950; 1977 Act No. 161 Section 22; 2010 Act No. 146, Section 100, eff March 30, 2010.

Effect of Amendment

The 2010 amendment redesignated subsections (1) and (2) as (A) and (B), respectively; substituted “department” for six occurrences of “Commission”; and made other nonsubstantive changes throughout the section.

CROSS REFERENCES

Employer elections covering multi‑state workers, see S.C. Code of Regulations R. 47‑33.

Records required of employers, see S.C. Code of Regulations R. 47‑14.

LIBRARY REFERENCES

81 C.J.S., Social Security and Public Welfare Section 172.

**SECTION 41‑37‑30.** Termination of coverage.

Except as otherwise provided in Section 41‑37‑20:

(A) As of January 1, 1972, an employing unit must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the department by the thirtieth day of April of that year an application for termination of coverage and the department finds that there were no twenty different weeks within the preceding calendar year within which the employing unit had four or more individuals in employment subject to these chapters.

(B) As of January 1, 1973, an employing unit shall cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the department by the thirtieth day of April of a calendar year an application for termination of coverage and the department finds that there were no twenty different weeks within the preceding calendar year within which the employing unit had at least one individual in employment subject to these chapters and that there was no calendar quarter within the preceding calendar year in which the employing unit paid fifteen hundred dollars or more in wages for service in employment, except that no employing unit for which service is performed in employment as defined in Section 41‑27‑230(3) may cease to be an employer subject to Chapters 27 through 41 of this title unless it files with the department by the thirtieth day of April of any calendar year an application for termination of coverage and the department finds that there were not twenty different weeks within the preceding calendar year within each of which the employing unit had four or more persons in employment.

(C) As of January 1, 1979, an employing unit, as defined in Section 41‑27‑230(5), must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the department by the thirtieth day of April of a calendar year an application for termination of coverage and the department finds that there were not twenty different weeks within the preceding calendar year within which the employing unit had at least ten individuals in employment subject to Chapters 27 through 41 of this title and that there was no calendar quarter within the preceding calendar year in which the employing unit paid twenty thousand dollars or more in wages for service in employment.

(D) As of January 1, 1979, an employing unit, as defined in Section 41‑27‑230(6), must cease to be an employer subject to Chapters 27 through 41 of this title only if it files with the department by the thirtieth day of April of a calendar year an application for termination of coverage and the department finds that there was no calendar quarter within the preceding calendar year in which the employing unit paid one thousand dollars or more in wages for service in employment.

(E) An employer who has rendered no employment and paid no wages in the State for a continuous period of one calendar year may submit an application for termination of coverage upon the resumption of employment in the State. However, when a successor employer acquired substantially all of the business of a predecessor employer and the experience rating reserve of the predecessor is transferred to the successor, the liability of the predecessor may be terminated at the end of the calendar year during which this succession occurred, provided that the predecessor did not within the calendar year subsequent to the date of succession render employment or pay wages sufficient to remain an employer as defined in Section 41‑27‑210.

(F) The provisions of this section must not be applicable to an employing unit for a service performed in employment as defined by Section 41‑27‑230(2).

For the purpose of this section, the two or more employing units mentioned in items (3) and (4) of Section 41‑27‑210 must be treated as a single employing unit.

HISTORY: 1962 Code Section 68‑253; 1952 Code Section 68‑253; 1942 Code Section 7035‑88; 1936 (39) 1716; 1939 (41) 487; 1952 (47) 1888; 1956 (49) 1623; 1961 (52) 453; 1971 (57) 950; 1977 Act No. 161 Section 23; 2010 Act No. 146, Section 101, eff March 30, 2010.

Effect of Amendment

The 2010 amendment redesignated subsections (1) through (6) as (A) through (F), respectively; substituted “department” for ten occurrences of “Commission”; and made other nonsubstantive changes throughout the section.

CROSS REFERENCES

Records required of employers, see S.C. Code of Regulations R. 47‑14.

LIBRARY REFERENCES

81 C.J.S., Social Security and Public Welfare Section 175.