

Chapter 657

Unemployment Compensation

Chapter 657

657.010

NOTES OF DECISIONS

The Unemployment Compensation Law is remedial and should be liberally construed. *Puget Sound B. & D. Co. v. State Unemp. Comp. Comm.*, (1942) 168 Or 614, 126 P2d 37; *Journal Publishing Co. v. State Unemp. Comp. Comm.*, (1945) 175 Or 627, 657, 155 P2d 570; *State Unemp. Comp. Comm. v. Brown*, (1960) 225 Or 306, 358 P2d 502.

This law embraces other relations than that of master and servant as understood at common law. *Singer Sewing Mach. Co. v. State Unemp. Comp. Comm.*, (1941) 167 Or 142, 116 P2d 744.

The provision for taxation is incidental to the paramount purpose of relief under the police power of the state. *Id.*

The overall purpose is beneficent in nature. *Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm.*, (1959) 217 Or 378, 342 P2d 114.

FURTHER CITATIONS: *Roberts v. State Unemp. Comp. Comm.*, (1958) 215 Or 100, 332 P2d 1067; *State Unemp. Comp. Comm. v. Bates*, (1959) 217 Or 121, 341 P2d 119; *Oregon Farm Bureau v. Thompson*, (1963) 235 Or 162, 183, 378 P2d 563, 384 P2d 182; *Baker v. Cameron*, (1965) 240 Or 354, 401 P2d 691; *Just-A-Mere Farm, Inc. v. Peet*, (1967) 247 Or 413, 430 P2d 987; *Willamette View Manor, Inc. v. Peet*, (1968) 252 Or 142, 448 P2d 546; *Dick v. Morgan*, (1970) 2 Or App 437, 468 P2d 544; *Golden Shear Barber Shop v. Morgan*, (1970) 3 Or App 247, 471 P2d 858, rev'd, 258 Or 105, 481 P2d 624; *Morgan v. Harris*, (1970) 3 Or App 402, 474 P2d 366.

ATTY. GEN. OPINIONS: Wages during disability as taxable wages, 1950-52, p 32; public housing authority as employer, 1950-52, p 35; acts by farmers' cooperative as "agricultural labor," 1956-58, p 78; supplemental unemployment benefits compared to wages, 1956-58, p 105; advances from the Federal Government to Oregon account in Federal Unemployment Trust Fund, 1956-58, p 290; applicability to labor unions, 1958-60, p 106; referral of farm workers to farm involved in labor dispute, 1960-62, p 129; tests applied to determine coverage, 1960-62, p 151; authority to lay off employes of Department of Employment, 1962-64, p 283; regulations on self-employment, 1962-64, p 293; validity of proposal to provide loans for vocational training, 1964-66, p 73; coverage of Portland Housing Authority, 1966-68, p 12.

LAW REVIEW CITATIONS: 16 OLR 385.

657.005

NOTES OF DECISIONS

The title of the Unemployment Compensation Law is not so restrictive that it cannot be made to apply to a case where an unemployed independent contractor is seeking to enforce a claim thereunder. *Singer Sewing Mach. Co. v. State Unemp. Comp. Comm.*, (1940) 167 Or 142, 103 P2d 708.

ATTY. GEN. OPINIONS: Validity of amendment to definition of "wages," 1950-52, p 374; discrepancies in bill extending coverage, 1950-52, p 229, p 374; construing "benefit year," 1958-60, p 106; filing initial claim while employed, construing "valid claim," 1958-60, p 361; construing "benefit year," 1962-64, p 377.

657.015

CASE CITATIONS: *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624.

LAW REVIEW CITATIONS: 37 OLR 91.

657.020

NOTES OF DECISIONS

A barber providing utilities, license and furniture to other barbers who rented part of his shop in return for 25 percent of their income was an "employer." *State Unemp. Comp. Comm. v. Brown*, (1960) 225 Or 306, 358 P2d 502.

FURTHER CITATIONS: *West Bearing & Parts, Inc. v. Peet*, (1969) 253 Or 639, 456 P2d 993; *Golden Shear Barber Shop v. Morgan*, (1970) 3 Or App 247, 471 P2d 858, rev'd, 258 Or 105, 481 P2d 624.

ATTY. GEN. OPINIONS: Labor union as "employing unit," 1958-60, p 106; applicability to employes of the State Military Department not performing military duties, 1958-60, p 227; Oregon Industries for the Blind as "employing unit," 1958-60, p 388; authority of Portland Housing Authority to come under this chapter, 1966-68, p 12.

657.025

CASE CITATIONS: *State Unemp. Comp. Comm. v. Bates*, (1959) 217 Or 121, 341 P2d 119; *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624.

ATTY. GEN. OPINIONS: Discrepancies in bill extending coverage, 1950-52, p 229, p 374; Federal Government as "employer," 1954-56, p 170; labor union as "employer," 1958-60, p 106; application to union employing officers regularly employed by Federal Government, 1958-1960, p 415; regulations on self-employment, 1962-64, p 293.

657.030

NOTES OF DECISIONS

A barber providing utilities, license and furniture to other barbers who rented part of his shop in return for 25 percent of their income was an "employer." *State Unemp. Comp. Comm. v. Brown*, (1960) 225 Or 306, 358 P2d 502.

Where employes were laid off for a period of three weeks commencing December 21, remuneration received by them as holiday pay was to be considered as remuneration for

services performed in determining unemployment compensation benefits and as earned in weeks in which holidays fell, even though employes had to return to work on the first day after the holiday to receive the pay. *Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm.*, (1959) 217 Or 378, 342 P2d 114.

FURTHER CITATIONS: *State Unemp. Comp. Comm. v. Bates*, (1959) 217 Or 121, 341 P2d 119; *Kirkpatrick v. Peet*, (1967) 247 Or 204, 428 P2d 405; *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624.

ATTY. GEN. OPINIONS: Applicability to labor unions, 1958-60, p 106; regulations on self-employment, 1962-64, p 293.

657.035

NOTES OF DECISIONS

In determining employment coverage, the various factors, in order of preference, are: (1) place where work is "localized"; (2) situs of "base of operations"; (3) situs of "place from which operations are directed and controlled"; and (4) situs of "employee's residence." *Puget Sound Bridge & Dredging Co. v. State Unemp. Comp. Comm.*, (1942) 168 Or 614, 126 P2d 37.

Where shore facilities were maintained on Oregon shore, the base of operations was in Oregon, although dredging work was done on both sides of the center of the Columbia River. *Id.*

657.040

NOTES OF DECISIONS

1. In general
2. Construction
3. In particular cases

1. In general

The relationship between employer and employe must be determined by statutory definitions which are broader than the scope of employer-employe relation or that of master and servant at common law. *State Unemp. Comp. Comm. v. Brown*, (1960) 225 Or 306, 358 P2d 502; *Kirkpatrick v. Peet*, (1967) 247 Or 204, 428 P2d 405.

Once it is shown that the individual has performed service for remuneration for an employer, the burden is on the one who claims such a person is not under the Act to satisfy the commission that he comes within its exceptions. *State Unemp. Comp. Comm. v. Brown*, (1960) 225 Or 306, 358 P2d 502; *Kirkpatrick v. Peet*, (1967) 247 Or 204, 428 P2d 405; *Culp v. Peet*, (1970) 3 Or App 406, 474 P2d 13; *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624, rev'g 3 Or App 247, 471 P2d 858.

The burden is on the employer to establish the persons were free from his control or direction. *Union Ave. Social Club, Inc. v. Peet*, (1968) 249 Or 135, 437 P2d 730; *Dick v. Morgan*, (1970) 2 Or App 437, 468 P2d 544.

An employment relationship exists between a salesman and the company whose products he sells on a commission basis and whose directions he must follow in respect to sales campaigns. *Singer Sewing Mach. Co. v. State Unemp. Comp. Comm.*, (1941) 167 Or 142, 116 P2d 744.

The reservation in an alleged employer of the power of control, whether actually exercised or not, constitutes control. *Journal Publishing Co. v. State Unemp. Comp. Comm.*, (1945) 175 Or 627, 155 P2d 570.

This section places the burden of persuasiveness upon the one claiming that services performed are not employment, but it does not grant to the commissioner the power to be arbitrary. *Baker v. Cameron*, (1965) 240 Or 354, 401 P2d 691.

If the facts are not disputed the question of whether one is an employe or the contractor of another is a question of law. *Id.*

The commissioner was justified in determining that the service performed prior to the enactment of ORS 657.087 was "employment." *Id.*

Employer did not establish lack of control or direction. *Union Ave. Social Club, Inc. v. Peet*, (1968) 249 Or 135, 437 P2d 730.

2. Construction

With regard to OCLA 126-702 [ORS 657.420 and 657.425], the elective provisions were intended to apply to those classes of service, such as agricultural, domestic, etc., which are expressly excluded from the term "employment" by OCLA 126-702 [ORS 657.045 to 657.090]. *Journal Publishing Co. v. State Unemp. Comp. Comm.*, (1945) 175 Or 627, 155 P2d 570.

The word "service," as used in this section, is a broad descriptive term evidencing legislative intent to give the law a broad and liberal coverage. *Id.*

The word "remuneration" was used advisedly as one of broad meaning in order that the objects of the law might be achieved. *Id.*

The question of control, under subsection (1), need not be decided unless it is first determined that services were performed for remuneration. *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624, rev'g 3 Or App 247, 471 P2d 858.

3. In particular cases

Provisions in the barber licensing law requiring supervision of apprentices do not conclusively turn the relationship of supervising barber and apprentice into an employer-employe relationship under the Unemployment Insurance Law. *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624, rev'g 3 Or App 247, 471 P2d 858.

A salesman selling products on a commission basis was not engaged in an "independently established business" so as to be excluded from the provisions of the law. *Singer Sewing Mach. Co. v. State Unemp. Comp. Comm.*, (1941) 167 Or 142, 116 P2d 744.

A claimant who sold sewing machines for a manufacturer was not "free from control or direction" and his services were "employment" entitling him to benefits. *Id.*

FURTHER CITATIONS: *State Unemp. Comp. Comm. v. Bates*, (1959) 217 Or 121, 341 P2d 119.

ATTY. GEN. OPINIONS: Coverage of an owner-driver of a logging truck as an employe, 1960-62, p 151; regulations on self-employment, 1962-64, p 293.

LAW REVIEW CITATIONS: 21 OLR 406; 46 OLR 317-322.

657.045

NOTES OF DECISIONS

A commercial packing house, which performed its services on a commission basis, and title to the fruit remained in farmer while in the packing house, was not a "terminal market." *Roberts v. State Unemp. Comp. Comm.*, (1958) 215 Or 100, 332 P2d 1067.

Agricultural labor includes work performed in commercial packing houses in the preparation of fruits and vegetables for market. *Id.*

The work of plaintiff's employes did not constitute agricultural labor within the meaning of this section. *Just-A-Mere Farm, Inc. v. Peet*, (1967) 247 Or 413, 439 P2d 87.

ATTY. GEN. OPINIONS: Acts by farmer's cooperative as

"agricultural labor," 1956-58, p 78; applicability to migrant agricultural workers, (1970) Vol 35, p 305.

LAW REVIEW CITATIONS: 5 WLJ 674-677.

657.047

LAW REVIEW CITATIONS: 46 OLR 317.

657.050

ATTY. GEN. OPINIONS: Employment within this exemption, 1944-46, p 138.

657.056

NOTES OF DECISIONS

Services performed by an employe upon a vessel in order to be excluded from the provisions hereof must substantially tend to promote the welfare of the vessel as an agency of navigation; it is not sufficient if they are merely incidental thereto. Puget Sound Bridge & Dredging Co. v. State Unemp. Comp. Comm., (1942) 168 Or 614, 126 P2d 37.

The fireman of an engine on a drill barge being used to deepen and widen a river channel, and to propel the barge, was not a "member of a crew." Id.

657.060

ATTY. GEN. OPINIONS: The service of the father of one partner performed in the employ of a partnership of which his child was one of the partners and the other partners were not his children as employment under the compensation law, 1942-44, p 244.

657.065

ATTY. GEN. OPINIONS: Unemployment compensation for employes of a public housing authority, 1950-52, p 35; Federal Government as "employer," 1954-56, p 170; applicability to employes of the Military Department not performing military duties, 1958-60, p 227; Oregon Industries for the Blind as "employing unit," 1958-60, p 388; legislative employment of retired members of Public Employes' Retirement System, 1966-68, p 220.

657.080

LAW REVIEW CITATIONS: 46 OLR 317.

657.085

LAW REVIEW CITATIONS: 46 OLR 317.

657.087

NOTES OF DECISIONS

"Including," as used in this section, is a word of enlargement, or of illustrative application, not a word of limitation. Premier Prod. Co. v. Cameron, (1965) 240 Or 123, 400 P2d 227.

FURTHER CITATIONS: Baker v. Cameron, (1965) 240 Or 354, 401 P2d 691.

LAW REVIEW CITATIONS: 46 OLR 317.

657.095

CASE CITATIONS: Journal Publishing Co. v. State Unemp. Comp. Comm., (1945) 175 Or 627, 155 P2d 570.

ATTY. GEN. OPINIONS: Taxability of wages paid during disability, 1950-52, p 32; construing "payroll," 1956-58, p 16.

657.100

NOTES OF DECISIONS

Where employes were laid off for a period of three weeks commencing December 21, remuneration received by them as holiday pay was to be considered as remuneration for services performed in determining unemployment compensation benefits and as earned in weeks in which holidays fell, even though employes had to return to work on the first day after the holiday to receive the pay. Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm., (1959) 217 Or 378, 342 P2d 114.

FURTHER CITATIONS: Zimbrick v. Morgan, (1970) 4 Or App 138, 477 P2d 908.

ATTY. GEN. OPINIONS: Supplemental unemployment benefits compared to wages, 1956-58, p 105; prerequisites to payment of benefits, 1958-60, p 361; regulations on self-employment, 1962-64, p 293.

657.105

NOTES OF DECISIONS

Where employes were laid off for a period of three weeks commencing December 21, remuneration received by them as holiday pay was to be considered as remuneration for services performed in determining unemployment compensation benefits and as earned in weeks in which holidays fell, even though employes had to return to work on the first day after the holiday to receive the pay. Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm., (1959) 217 Or 378, 342 P2d 114.

FURTHER CITATIONS: Journal Publishing Co. v. State Unemp. Comp. Comm., (1945) 175 Or 627, 155 P2d 570.

ATTY. GEN. OPINIONS: Taxability of wages paid during disability, 1950-52, p 32; construing "wages," 1956-58, p 16; supplemental unemployment benefits compared to wages, 1956-58, p 105.

657.115

ATTY. GEN. OPINIONS: Validity of amendment to definition of "wages," 1950-52, p 374.

657.150

NOTES OF DECISIONS

Where employes were laid off for a period of three weeks commencing December 21, remuneration received by them as holiday pay was to be considered as remuneration for services performed in determining unemployment compensation benefits and as earned in weeks in which holidays fell, even though employes had to return to work on the first day after the holiday to receive the pay. Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm., (1959) 217 Or 378, 342 P2d 114.

FURTHER CITATIONS: Zimbrick v. Morgan, (1970) 4 Or App 138, 477 P2d 908.

ATTY. GEN. OPINIONS: Commission entering into agreement with Federal Government to pay additional benefits to persons who have exhausted their benefits under state law, 1956-58, p 314; eligibility of employes of union, 1958-60, p 106; prerequisites to payment of benefits, 1958-60, p 361;

effect of this section upon employer's liability to pay taxes, 1958-60, p 415; regulations on self-employment, 1962-64, p 293; benefits payable prior claimants after January 1, 1964, 1962-64, p 377.

657.155

CASE CITATIONS: *Journal Publishing Co. v. State Unemp. Comp. Comm.*, (1945) 175 Or 627, 155 P2d 570.

ATTY. GEN. OPINIONS: Supplemental unemployment benefits compared to wages, 1956-58, p 105; construing "valid claim," 1958-60, p 361; regulations on self-employment, 1962-64, p 293.

LAW REVIEW CITATIONS: 43 OLR 179.

657.176

NOTES OF DECISIONS

An employee's voluntary failure to maintain union membership which results in termination of employment pursuant to an agreement between employer and union constitutes voluntary termination of employment. *Amuchastegul v. Dept. of Employ.*, (1971) 4 Or App 456, 479 P2d 526, Sup Ct review denied.

ATTY. GEN. OPINIONS: Regulations on self-employment, 1962-64, p 293.

657.190

LAW REVIEW CITATIONS: 43 OLR 179.

657.195

CASE CITATIONS: *Henzel v. Cameron*, (1961) 228 Or 452, 365 P2d 498.

ATTY. GEN. OPINIONS: Referral of farm workers to a farm involved in a labor dispute, 1960-62, p 129.

LAW REVIEW CITATIONS: 19 OLR 201.

657.200

NOTES OF DECISIONS

A lockout is a labor dispute. *Henzel v. Cameron*, (1961) 228 Or 452, 365 P2d 498; *Cameron v. DeBoard*, (1962) 230 Or 411, 370 P2d 709.

An individual is "directly interested" in a labor dispute when his wages, hours or conditions of work will be affected favorably or adversely by the outcome. *Henzel v. Cameron*, (1961) 228 Or 452, 365 P2d 498.

The matter of claimant's "direct interest" in a labor dispute is a question of fact. *Id.*

A claimant whose work is integrated with that of the strikers is prima facie disqualified as a member of a class. *Cameron v. DeBoard*, (1962) 230 Or 411, 370 P2d 709.

Determining factors for requalification are integration of the work and community of interest between the claimant and the participants. *Id.*

Paragraph (b) of subsection (3) contemplates classes which may include nonorganized workers or members of more than one union. *Id.*

Refusal to work behind a picket line constitutes participation within the meaning of paragraph (a) of subsection (3). *Id.*

The work is integrated when the effective utilization of the plant and labor force requires the continued services of substantially all the workmen. *Id.*

When a claim is challenged, the claimant has at least

the burden of going forward with the evidence until he makes a prima facie case of requalifying. *Id.*

FURTHER CITATIONS: *Latham v. State Unemp. Comp. Comm.*, (1941) 167 Or 371, 117 P2d 971; *Baker v. Cameron*, (1965) 240 Or 354, 401 P2d 691.

657.205

CASE CITATIONS: *Zimbrick v. Morgan*, (1970) 4 Or App 138, 477 P2d 908.

ATTY. GEN. OPINIONS: Federal Government as "employer," 1954-56, p 170; supplemental unemployment benefits, 1956-58, p 105.

657.255

ATTY. GEN. OPINIONS: Requirement that regulations not conflict with this section, 1958-60, p 361.

657.260

ATTY. GEN. OPINIONS: Construing "valid claim," 1958-60, p 361.

657.265

NOTES OF DECISIONS

Although employer made no personal appearance, it was a party to the proceedings and was, as a contributor to the fund, bound thereby. *Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm.*, (1959) 217 Or 378, 342 P2d 114.

657.270

NOTES OF DECISIONS

Although employer made no personal appearance, it was a party to the proceedings and was, as a contributor to the fund, bound thereby. *Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm.*, (1959) 217 Or 378, 342 P2d 114.

ATTY. GEN. OPINIONS: Exclusion of member of public from hearings, 1954-56, p 160.

657.275

NOTES OF DECISIONS

Although employer made no personal appearance, it was a party to the proceedings and was, as a contributor to the fund, bound thereby. *Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm.*, (1959) 217 Or 378, 342 P2d 114.

FURTHER CITATIONS: *Cameron v. DeBoard*, (1962) 230 Or 411, 370 P2d 709.

657.280

CASE CITATIONS: *Cameron v. DeBoard*, (1962) 230 Or 411, 370 P2d 709.

ATTY. GEN. OPINIONS: Applicability of rules of evidence, 1954-56, p 160.

657.282

NOTES OF DECISIONS

1. Under former similar statute

A party could seek judicial review after the hearing before the commission since application for reconsideration before the commission was an optional right. *Weyerhaeuser Tbr.*

Co. v. State Unemp. Comp. Comm., (1959) 217 Or 378, 342 P2d 114.

Any reasonable evidence would be regarded as substantial evidence to support the findings. *Henzel v. Cameron*, (1961) 228 Or 452, 365 P2d 498.

Subsection (5) codifies a rule basic and fundamental to administrative law. *Id.*

Substantial evidence was such proof as a reasonable mind would employ to support a conclusion. *Id.*

There was substantial evidence to support the findings of the commission. *Amuchastegul v. Dept. of Employment*, (1971) 4 Or App 456, 479 P2d 526, Sup Ct review denied.

FURTHER CITATIONS: *Latham v. State Unemp. Comp. Comm.*, (1941) 167 Or 371, 117 P2d 971; *Rahoutis v. State Unemp. Comp. Comm.*, (1943) 171 Or 93, 136 P2d 426; *Booth-Kelly Lbr. Co. v. State Unemp. Comp. Comm.*, (1959) 217 Or 336, 330 P2d 351, 342 P2d 121; *Cameron v. DeBoard*, (1962) 230 Or 411, 370 P2d 709; *Zimbrick v. Morgan*, (1970) 4 Or App 138, 477 P2d 908.

657.290

NOTES OF DECISIONS

Application to the commission for reconsideration is not a prerequisite to judicial review. *Weyerhaeuser Tbr. Co. v. State Unemp. Comp. Comm.*, (1959) 217 Or 378, 342 P2d 114.

FURTHER CITATIONS: *Cameron v. DeBoard*, (1962) 230 Or 411, 435, 370 P2d 709.

657.405

ATTY. GEN. OPINIONS: Construing "payroll," 1956-58, p 16; applicable contribution rate, 1958-60, p 106.

657.430 to 657.457

ATTY. GEN. OPINIONS: Applicable contribution rate, 1958-60, p 106.

657.435

CASE CITATIONS: *Journal Publishing Co. v. State Unemp. Comp. Comm.*, (1945) 175 Or 627, 155 P2d 570.

ATTY. GEN. OPINIONS: Applicable contribution rate, 1958-60, p 106.

657.471

ATTY. GEN. OPINIONS: Construing "immediate," 1962-64, p 191.

657.480

NOTES OF DECISIONS

Transfer of experience rating was not authorized. *West Bearing & Parts, Inc. v. Peet*, (1969) 253 Or 639, 456 P2d 993.

657.485

ATTY. GEN. OPINIONS: Exclusion of member of public from hearings, 1954-56, p 160.

657.505

ATTY. GEN. OPINIONS: Advances from the Federal Government to Oregon account in Federal Unemployment Trust Fund, 1956-58, p 290.

657.506

LAW REVIEW CITATIONS: 46 OLR 321.

657.515

CASE CITATIONS: *Rahoutis v. State Unemp. Comp. Comm.*, (1943) 171 Or 93, 136 P2d 426.

657.525

LAW REVIEW CITATIONS: 3 WLJ 90, 91.

657.530

LAW REVIEW CITATIONS: 3 WLJ 90, 91.

657.535

LAW REVIEW CITATIONS: 3 WLJ 90, 91.

657.540

LAW REVIEW CITATIONS: 3 WLJ 90, 91.

657.552

NOTES OF DECISIONS

The assessment, a condition precedent to notice, was not made until over nine years after accrual of liability. *Morgan v. Harris*, (1970) 3 Or App 402, 474 P2d 366.

657.608

ATTY. GEN. OPINIONS: Advances from the Federal Government to Oregon account in Federal Unemployment Trust Fund, 1956-58, p 290.

657.610

CASE CITATIONS: *Zimbrick v. Morgan*, (1970) 4 Or App 138, 477 P2d 908.

ATTY. GEN. OPINIONS: Advances from the Federal Government to Oregon account in Federal Unemployment Trust Fund, 1956-58, p 290; referral of farm workers to a farm involved in a labor dispute, 1960-62, p 129; layoff of employees due to lack of funds, 1962-64, p 283; regulations on self-employment, 1962-64, p 293.

657.620

ATTY. GEN. OPINIONS: Advances from the Federal Government to Oregon account in Federal Unemployment Trust Fund, 1956-58, p 290.

657.625

ATTY. GEN. OPINIONS: Governor's power to apply for advance on loan of federal funds for Unemployment Compensation Trust Fund, 1956-58, p 290.

657.630

CASE CITATIONS: *State ex rel. Cameron v. Van Drimmen*, (1965) 240 Or 347, 401 P2d 298.

657.635

CASE CITATIONS: *State ex rel. Cameron v. Van Drimmen*, (1965) 240 Or 347, 401 P2d 298.

657.657

ATTY. GEN. OPINIONS: Governor's power to apply for advance on loan of federal funds for Unemployment Compensation Trust Fund, 1956-58, p 290; necessity for competitive bids, 1958-60, p 384; legislative control of capital construction, 1960-62, p 436.

657.660

CASE CITATIONS: *Journal Publishing Co. v. State Unemp. Comp. Comm.*, (1945) 175 Or 627, 155 P2d 570.

657.665

ATTY. GEN. OPINIONS: When unemployment compensation commission authorized to supply photostatic copies of records to applicants, 1936-38, p 532; exclusion of member of public from hearings, 1954-56, p 160.

657.679

CASE CITATIONS: *Willamette View Manor, Inc. v. Cameron*, (1964) 239 Or 371, 397 P2d 543; *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624.

657.681

NOTES OF DECISIONS

The burden of establishing that employes are free from the employer's direction and control both in contract and in fact is on the employer. *Dick v. Morgan*, (1970) 2 Or App 437, 468 P2d 544.

FURTHER CITATIONS: *Morgan v. Harris*, (1970) 3 Or App 402, 474 P2d 366.

657.683

NOTES OF DECISIONS

If the facts are not disputed, the question of whether one is an employe or a contractor of another is a question of law. *Baker v. Cameron*, (1965) 240 Or 354, 401 P2d 691; *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624, rev'g 3 Or App 247, 471 P2d 858.

The extent of judicial review is dependent upon legislative direction in the Unemployment Compensation Act. *Baker v. Cameron*, (1965) 240 Or 354, 401 P2d 691.

Under subsection (2), unless petitioner can show either a change in the law or a change in the material facts, the first administrative decision, if not overturned by a timely judicial review, is final. *Willamette View Manor, Inc. v. Peet*, (1968) 252 Or 142, 448 P2d 546.

On judicial review of the order of the referee, the findings of fact are conclusive if supported by substantial evidence, and the jurisdiction of the court is limited to questions of law. *Dick v. Morgan*, (1970) 2 Or App 437, 468 P2d 544.

The facts did not support a finding of an employment relationship. *Golden Shear Barber Shop v. Morgan*, (1971) 258 Or 105, 481 P2d 624, rev'g 3 Or App 247, 471 P2d 858.

FURTHER CITATIONS: *Willamette View Manor, Inc. v. Cameron*, (1964) 239 Or 371, 397 P2d 543.

ATTY. GEN. OPINIONS: Appearance at hearing by non-lawyer representative, (1968) Vol 34, p 91.

LAW REVIEW CITATIONS: 46 OLR 319.

657.705

ATTY. GEN. OPINIONS: Governor's power to apply for advance on loan of federal funds for Unemployment Compensation Trust Fund, 1956-58, p 290; referral of farm workers to a farm involved in a labor dispute, 1960-62, p 129.

657.710

ATTY. GEN. OPINIONS: Referral of farm workers to a farm involved in a labor dispute, 1960-62, p 129.

657.715

ATTY. GEN. OPINIONS: Referral of farm workers to a farm involved in a labor dispute, 1960-62, p 129.

657.720

ATTY. GEN. OPINIONS: Referral of farm workers to a farm involved in a labor dispute, 1960-62, p 129.

657.755

ATTY. GEN. OPINIONS: Governor's power to apply for advance on loan of federal funds for Unemployment Compensation Trust Fund, 1956-58, p 290; commission entering into agreement with Federal Government to pay additional benefits to persons who have exhausted their benefits under state law, 1956-58, p 314.

657.760

ATTY. GEN. OPINIONS: Commission entering into agreement with Federal Government to pay additional benefits to persons who have exhausted their benefits under state law, 1956-58, p 314.

657.805

ATTY. GEN. OPINIONS: Disposition of funds obtained without authority, 1956-58, p 290.

657.815

ATTY. GEN. OPINIONS: Disposition of funds obtained without authority, 1956-58, p 290.

657.825

ATTY. GEN. OPINIONS: Governor's power to apply for advance on loan of federal funds for Unemployment Compensation Trust Fund, 1956-68, p 290.

657.830

ATTY. GEN. OPINIONS: Deposit by State Treasurer of Unemployment Compensation Trust Fund with Secretary of the Treasury of the United States, 1934-36, p 697; disposition of funds obtained without authority, 1956-58, p 290.