



THE DEFINITIVE GUIDE

THE NEW “BAS AGENT” Regime

Volume 2

(Includes draft regulations released 1st August 2009)

Where is this new law at?

What is my status? – Decision tree for you and your response....

Becoming a BAS Agent

Being one

Remaining one

3rd August 2009

www.icb.org.au

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This guide will be updated following each relevant development of the law and systems to do with BAS Agents. This volume 2 should be read in conjunction with details provided in “The Definitive Guide – Professional Bookkeeping including NEW BAS Agent registration 16 March 2009”

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**The Institute of Certified Bookkeepers is a
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Professional Association
of Bookkeepers
for Bookkeepers**

The vision of ICB is to provide Bookkeepers with the co-operative forum to be the best they can be. We are about bookkeepers: Recognition, Education & Resources

3 August 2009

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Some Bookkeepers will be BAS Agents!

Some BAS agents will do Bookkeeping!

When the new system is up and running what does it mean?

- 1) You must be registered to provide BAS Services
- 2) Registered BAS Agents must comply with law and the Code of Professional Conduct

Start of the New Law – The Timetable

From now until Start date

- BAS Services can be provided by non-tax agents and be legal (icb.org.au).

Completed

- Tax Agent Services Act 2009 is law.
- ATO has formed the (interim) secretariat to commence preparation work
- Treasury is interviewing for the members to the Board right now.

Before Parliament

- Transitional Bill is before parliament – likely to be passed without amendment.
 - Finalisation of this Bill starts the clock towards start date
 - Hopefully not to receive royal assent before 1 October
 - But definitely this year

Public consultation until 26 August

- Draft Regulations are again out for comment

*October 2009

- New Tax Practitioners Board begins preparation for implementation of the new system

*Not before January 1, 2010 (estimated could be 1 July 2010) – Start Date

- Transitional period starts (see below)
- First date that new “BAS Agent” exists
- Transitional notifications to be lodged – allows 2 years of continuing to trade
- Applications to register as a BAS Agent able to be lodged (possibly earlier but I doubt it)
- Code of Conduct as prescribed by the new law must be adhered to by all bookkeepers acting as transitional or actually registered BAS Agents
- All must have Professional Indemnity Insurance
- Government embarks on an advertising and information program to businesses about the new law (hopefully)

*January 2010 till June 2010

- Notify Board that you are a Transitional Bookkeeper

*January 2010 till no later than December 2011

- Act as a transitional bookkeeper
- Apply for your initial registration (see below)

*Before December 2014 – possibly must be before December 2012

- Obtain educational qualification of at least Financial Services Certificate IV (Bookkeeping) or (Accounting) including a GST BAS taxation principles unit (refer page 9)
- Renew your registration

Start date is likely to be as late as 1 July 2010 but not later. It may be earlier but not before 1 January 2010.

It is likely that the first and subsequent registration periods will be 3 years in length; however, this is the minimum period.

* Estimated dates



“Creation of the BAS Agent!”

(This paper concentrates on the law as applied to bookkeepers and the future BAS Agents. We have not discussed Tax Agents in the context of the comments below.)

What is the idea behind the new Tax Agent Services law?

It has been recognised that a portion of the business community relies on an external bookkeeper to assist with various aspects of the Business Activity Statement. The legislation does not affect the employee bookkeeper.

It is recognised that in order to properly, correctly and effectively assist business with preparation of their BAS that such “help” should be provided by people who are accredited to help.

The creation of the Registered BAS Agent seeks to provide protection to the consumer in that the consumer can now know who is registered (accredited to a skill set and experience level) and can therefore be “RELIED ON” to assist them with the preparation of the BAS.

It will create a differentiation between bookkeepers who can be “Relied on” to assist with the preparation of the BAS, whom will be able to be called “BAS Agents”, and bookkeepers who may still provide bookkeeping services (data entry, reconciliation and reporting) but are not able to be relied on to provide assistance to a business client in respect to the actual completion and certification of the BAS.

This law helps define the career and potential development path of a bookkeeper to BAS Agent (comments below)

What are the advantages of the new system?

BAS Agents become a more formalised and recognised part of the Tax Services industry; enabling ATO to provide enhanced services and assistance to BAS Agents.

Clients/Consumers are being provided a level of “consumer protection” in that they can now know they can engage a BAS Agent to assist them whom has met the legislative requirements.

Taxpayers who engage a BAS Agent have access to “safe Harbour provisions” which remove penalties for misstatement or late lodgement if incurred due to a mistake of the agent.

What does it mean for bookkeepers?

Bookkeepers need to decide their style of business. A viable business model is to provide bookkeeping services but NOT provide a BAS Service where they are relied on as providing authoritative or final sign off on matters relating to the BAS. Typically this style of business would be providing information for review by another Agent.

Alternatively the bookkeeper may decide to structure their business so that they are able to position themselves as the BAS Agent; providing BAS Services to clients with authority and legally. An individual must be registered as a valid BAS Agent and working with that business in order for the business to comply.

A person seeking to develop themselves to be eligible for registration as a BAS Agent would first need to work with a BAS agent to gain the appropriate experience.

What must you do if you are a BAS Agent?

Once you become a BAS Agent you must meet the ongoing requirements of adhering to the Code of Conduct as prescribed in the legislation including; continuing education, independence, competence, honesty.

A registered BAS Agent will be subject to the rulings of the Tax Practitioners Board.

You will be required to have Professional Indemnity Insurance.

The yet to be appointed tax board will need to further refine the guiding information around these matters.

How to become a BAS Agent?

Once the system is up and running; to first gain BAS Agent registration a bookkeeper must have the required education and the required relevant experience (both of these requirements are yet to be finalised however a Certificate IV Financial Services (Bookkeeping) or (Accounting) or similar is likely to be the education requirement and 1400 hours of relevant BAS Service work over 3 years is likely to be the experience requirement.) There are further requirements but these are the two main ones.

In the early days a bookkeeper may be able to gain Transitional status (2 years of continuing to act within the new law) or gain the first registration without meeting the above two requirements.

Which course?

Your selection of Cert IV (Bookkeeping) or (Accounting) depends on your career path intentions. If you are aiming to develop further into an accountant then the core and elective subjects of the Accounting qualification maybe more relevant for you. If you are aiming to be an effective bookkeeper/BAS Agent then the Bookkeeping course contains more relevant subjects for the performance of those tasks.

Both courses provide credits towards further study if you so choose.

What is the Professional Indemnity Insurance requirement likely to be and what is valid PI Insurance?

The new tax board will hopefully provide guidance and quickly, as to appropriate level of insurance that they will require of BAS Agents.

The level of risk of most BAS Agents is substantially less than the typical accounting practice hence the ICB guide is for \$250,000 level of cover with \$5,000 excess and that legal costs MUST also be covered with the same minimal level of excess. The Willis policy recommended by ICB covers \$250,000 of indemnity plus \$250,000 costs with only \$5000 excess – details on our insurance web page.

Be careful of some of the policies being marketed to bookkeepers, some policies are cheap for very interesting reasons and we do not believe they will meet the requirements of the new board. One policy being sold to bookkeepers does not meet the requirements that would be accepted by the accounting bodies own requirements of their members.



How to make the most out of the new environment?

The development of the registered BAS Agent helps define the bookkeeper industry and will help designate the type of service being provided. It will remove any confusion by the client as to whether a bookkeepers work is allowed to be the final say in; preparation of the business BAS & the application of GST.

Bookkeepers can therefore market their business specifically and with the appropriate credibility.

If you are to become a BAS Agent – tell your existing and any new clients that you can “do the BAS legally” for them.

With the great development of the Cert IV Financial Services (Bookkeeping) as a course that is relevant to the bookkeeper / BAS Agent and with the general improvements in the number and quality of training providers, the course is becoming more relevant, more cost effective and better quality. So bookkeepers can now avail themselves of more appropriate study. Refer to the ICB “Bookkeepers guide to Cert IV (Bookkeeping) providers”.

Where to get help?

The ATO website provides information on the current compliance with Sn. 251L which is the law in effect until the future start date of the new law. The ATO may increase their resources around the impending system but this is more likely to be provided by the new Tax Practitioners Board when it comes into being (which should be late July to Mid August.)

The ICB aims to provide all bookkeepers and others with current information on how the system will be implemented, its effects and how to be involved. www.icb.org.au

ICB will seek to become recognised under the new legislation – the new system allows for recognition of BAS Agent Associations that may then assist the new board with their role in many facets.

MYTHS about the new system

All bookkeepers must become BAS Agents – **WRONG** – it is very possible to perform bookkeeping work that is not in the domain of only BAS Agents.

All bookkeepers must work for Accountants – **WRONG** – many bookkeepers work as independent businesses providing bookkeeping services to clients or their accountants and this continues under the new system.

Cert IV Bookkeeping is a dead end course – **WRONG** – in exactly the same way that Cert IV Accounting provides credits towards diploma or further study in accounting, the Cert IV Bookkeeping course provides credits towards the same courses. A number of RTO's have stated they prefer that their accounting students have actually started with the Cert IV Bookkeeping course as it provides a better grounding.

BAS Agents must belong to an Association – **WRONG** – neither tax agents nor BAS Agents have to belong to an association.

I quote one particular training organisation “only our Cert IV Bookkeeping course will be acceptable under the new system” – **WRONG** – there is no way that this could be the case as the legislation does not state this and the new Board has not been appointed.

BAS Agents become liable for late lodgement penalties or penalties for misstatement – **WRONG** – the new system provides safe harbour possibilities for the clients from these penalties in certain circumstances but does not pass them on to the Agent. The Agent would be subject to any disciplinary requirements that the Board may impose on them.

Accountants automatically get registration as a BAS Agent under the new system – **WRONG** – they are likely to need to have 1400 hours relevant experience in BAS Service work (we do not have the final regulations yet).

Members of Accounting Associations are automatically granted BAS Agent status – **WRONG** – they must have the relevant education and relevant 1400 hours of experience.

I have a degree therefore I qualify as a BAS Agent – **WRONG** – the qualification will need to be deemed “current” (similar concept to RPL accreditation in the education world) as well as you will need to meet the relevant experience requirement.

I can register as a BAS Agent with my association now – **WRONG** – registration of BAS Agents will be with the new Board. The new law allows Associations to help provide accreditation of their members but this is not the final registration with the board.

I don't need Professional Indemnity Insurance until I am registered as a BAS Agent – **WRONG** – you will need this insurance to provide BAS Services as from the commencement date of the new law even if you are a Transitional bookkeeper.

TAX AGENT SERVICES ACT 2009

BAS Agent

DECISIONS & ACTION TREES

Do I need to be a Registered BAS Agent?

How to qualify as a BAS Agent

How to transition into being a BAS Agent

Requirements of being a BAS Agent

Career pathway to become a BAS Agent

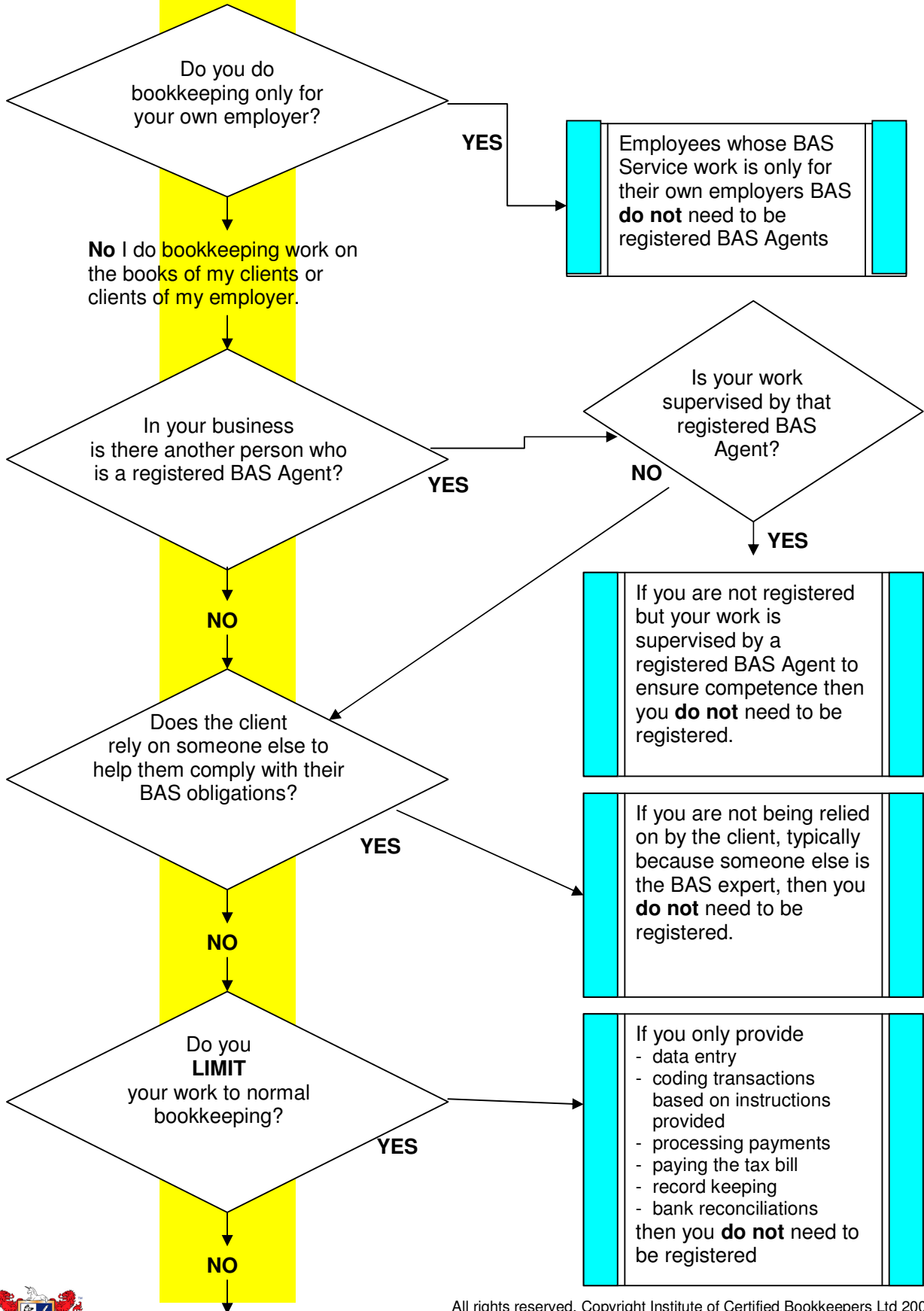
Remember not all bookkeepers need to be BAS Agents and not all bookkeeping means you have to be a BAS Agent.

Bookkeeping remains valid & necessary.

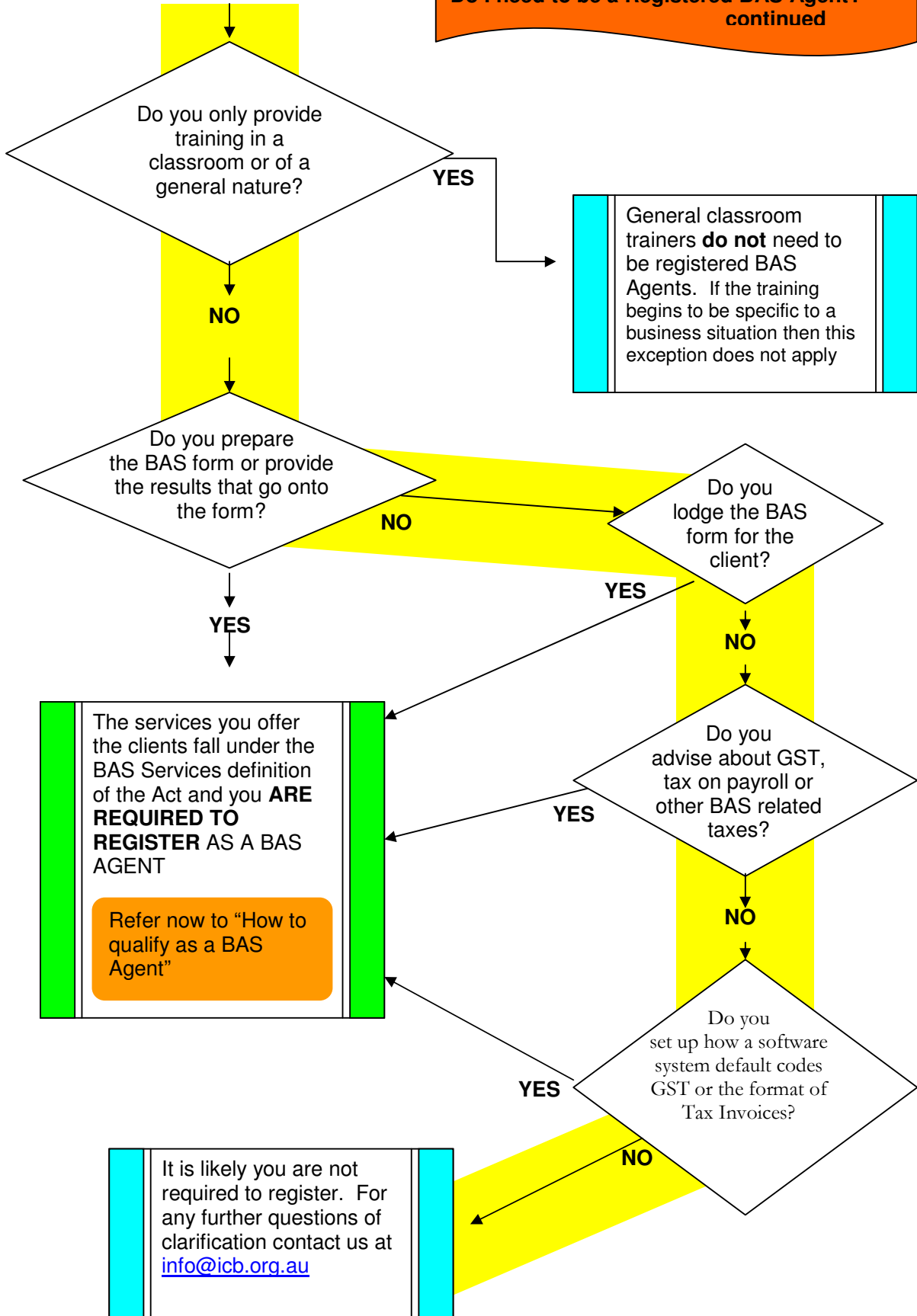
Bookkeeping continues to be a creditable profession.

How to Bookkeep and not breach the law

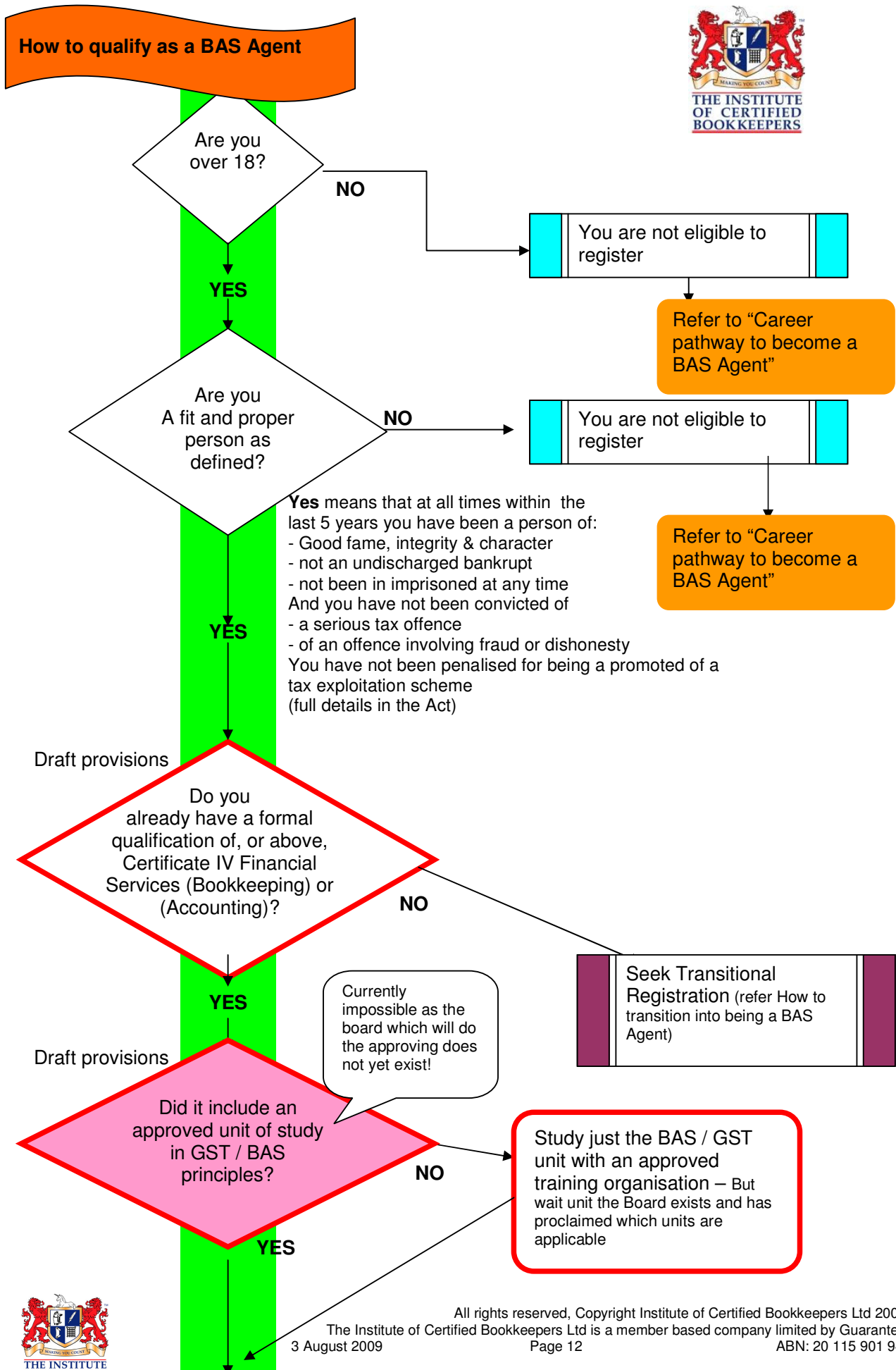
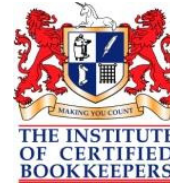
Do I need to be a Registered BAS Agent?



**Do I need to be a Registered BAS Agent?
continued**



How to qualify as a BAS Agent



Draft provisions

How to qualify as a BAS Agent continued

Do you
Have 1400 hours relevant
experience within the last
3 years?

NO

Seek Transitional
Registration (refer How to
transition into being a BAS
Agent)

Yes is likely to mean (draft)
Work that is
- as a BAS Agent (not possible)
- under supervision and control of a Tax Agent
- of a type approved by the Board
Including substantial work in relation to BAS & GST.

YES

You are eligible to
register as a BAS
Agent.

Apply to the Board
- their form
- with payment

You are considered
registered until decision
made

Board must process
within 6 months

Application
Successful?

NO

Contest
decision through
Admin Appeals
tribunal?

NO

First Registration will be
for 3 years

Seek Transitional
Registration (refer How to
transition into being a BAS
Agent)

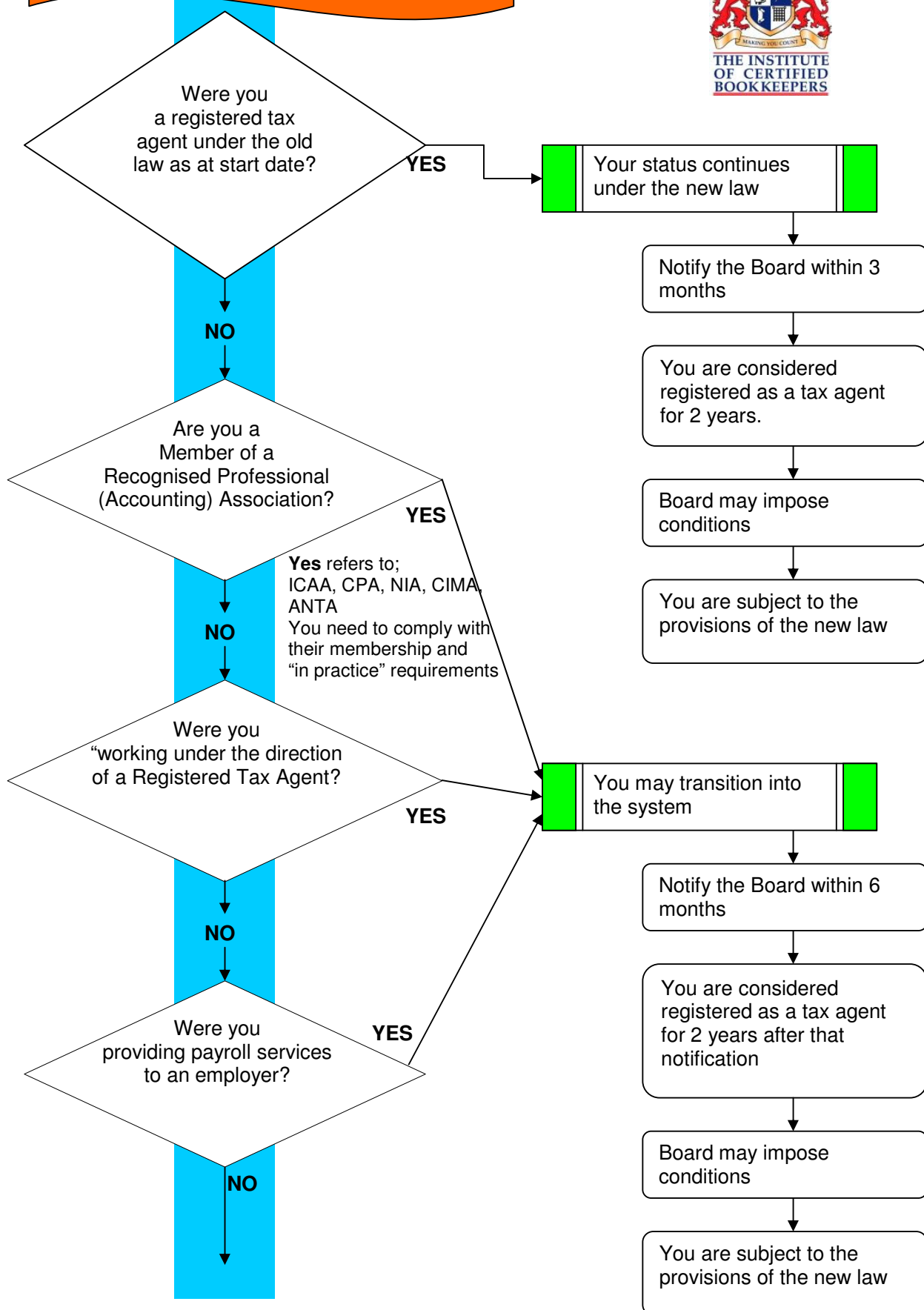
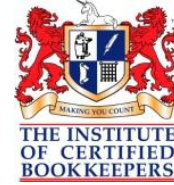
or

Refer to "Requirements
of being a BAS Agent"

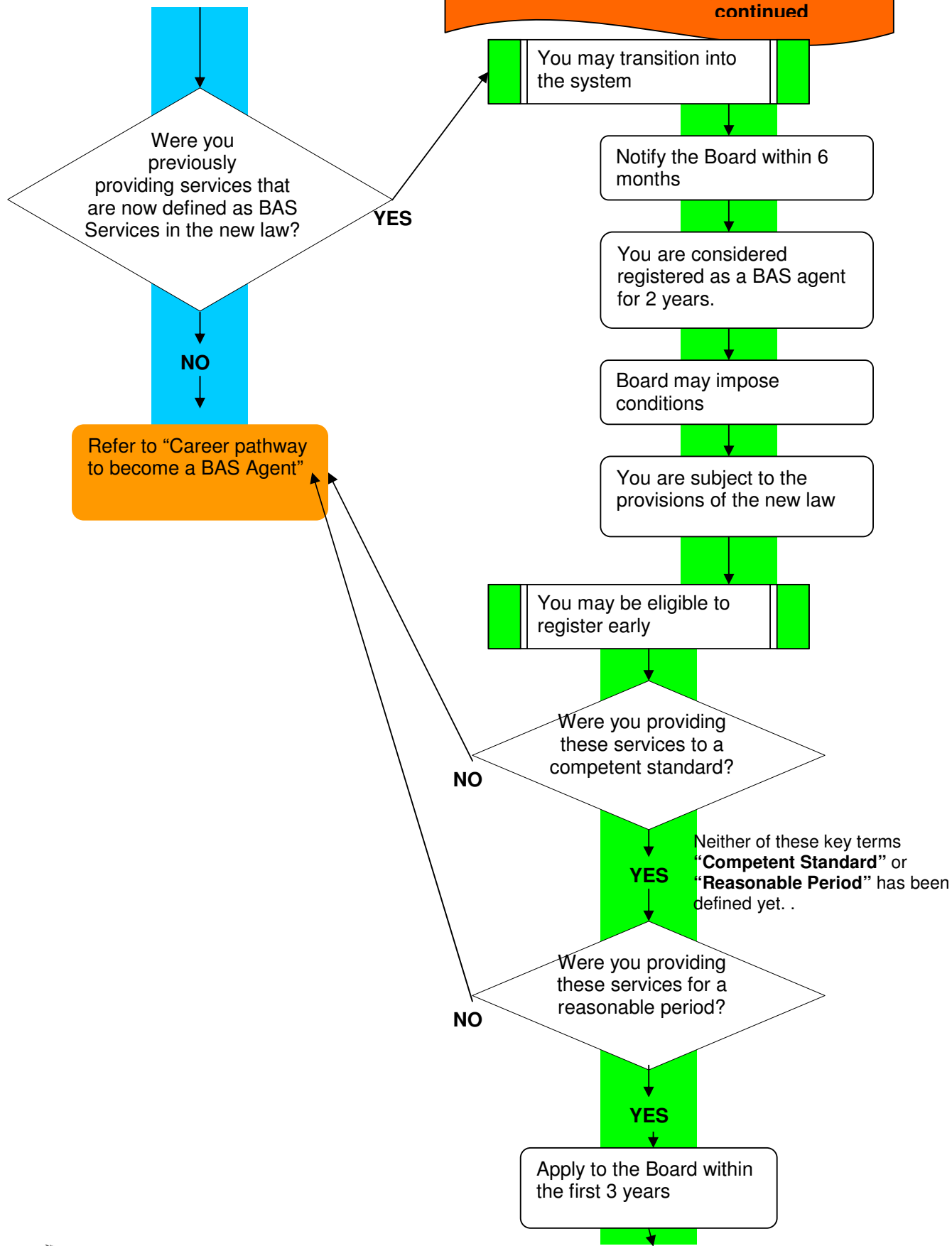
Refer to "Career pathway to
become a BAS Agent"



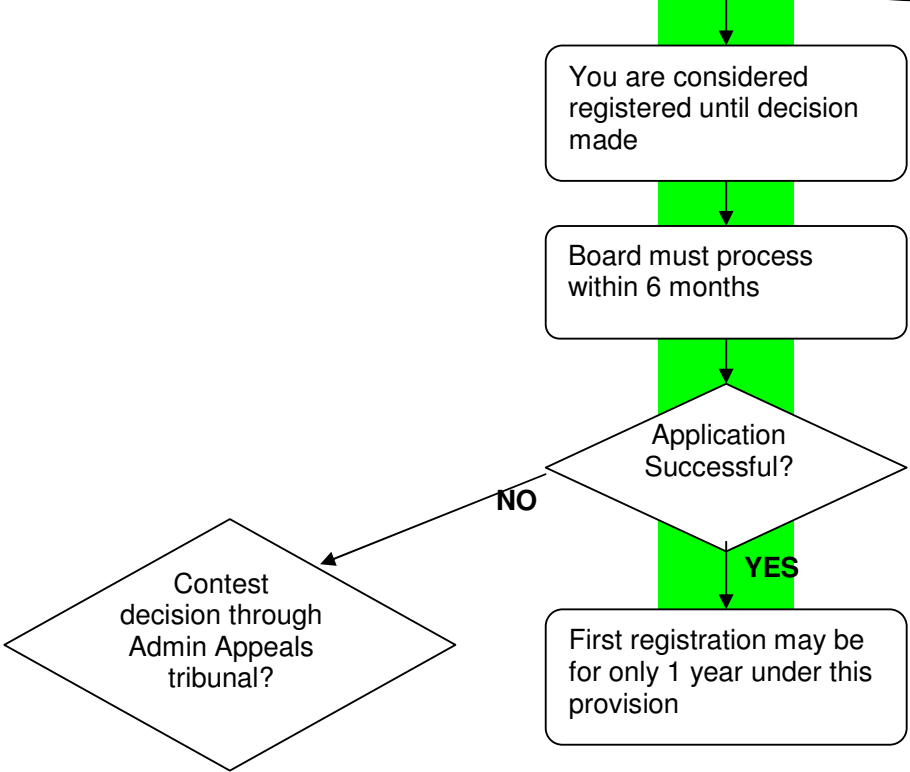
How to transition into being a BAS Agent



How to transition into being a BAS Agent continued



How to transition into being a BAS Agent continued



Requirements of being a BAS Agent

Be over 18

Remain a Fit & Proper person

Have Professional Indemnity Insurance (to the yet to be determined stated level)

Act with honesty & Integrity

Including:

- personally comply with tax law
- account for money in trust properly

Maintain independence from your client & between clients

Including

- acting lawfully in the best interests of your client
- manage conflicts of interest

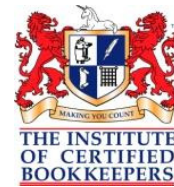
Maintain confidentiality of information

Not obstruct the administration of tax law &
Advise client of their rights & obligations under tax law

Respond to requests and directions from the Board in a timely, responsible & reasonable manner.

Advise changes in your circumstances

Career path to being a BAS Agent



Work for a BAS Agent
Obtaining (1400 hours) relevant experience
and Knowledge

Formal study to obtain:
Certificate IV Financial Services (Bookkeeping) or (Accounting)
Including unit of study in BAS / GST principles

Apply to the Board

You are considered
registered until decision
is made

Board must process
within 6 months, or
application is rejected

Application
Successful?

NO

YES

Contest
decision through
Admin Appeals
tribunal.
Successful?

NO

YES

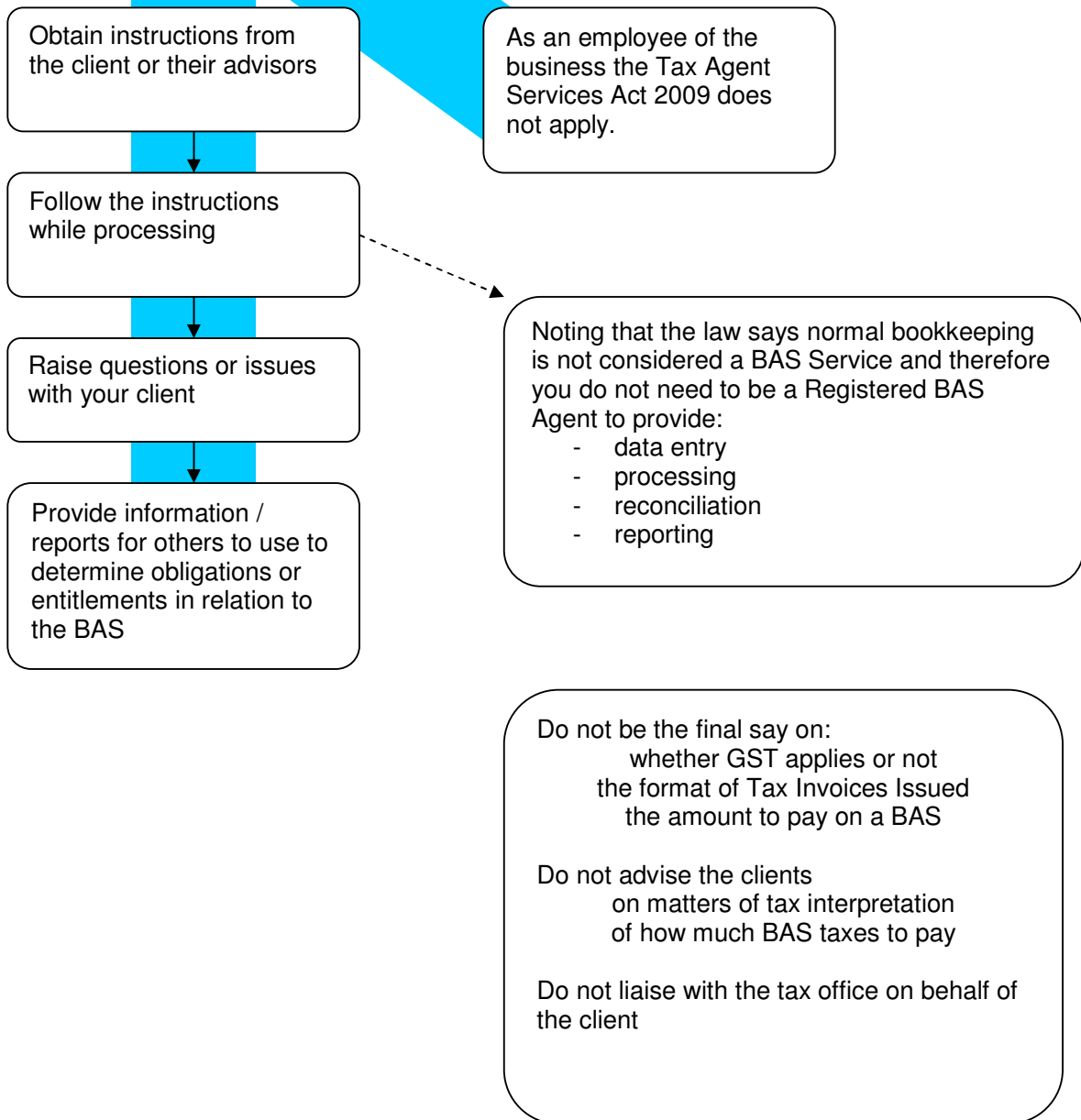
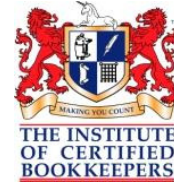
Board may impose
conditions on registration
or issue a restricted
("Specialist") registration

Work for someone else
or choose another career

You are subject to the
provisions of the new
law.



How to Bookkeep and not breach the law



When it's law: what then?

Only registered “**BAS Agents**” may provide “**BAS Services**” for a fee or reward.

“for a fee” means the law does not apply to employees of the business whose BAS is being considered or the business owners themselves. This law only applies to contract bookkeepers etc.

Therefore people or entities providing service to clients that fall within the definition of a BAS Service must have registered BAS Agents working with them.

An Individual must either be, or be supervised by, a registered BAS Agent (or tax agent). Entities must have a sufficient number of BAS Agents involved in its supervision, systems and review. Employees of an entity who provide BAS Services to clients where that entity/business is providing the BAS Services to the client must either be BAS Agents themselves or supervised by BAS Agents.

WHAT is a BAS Service?

Sn. 90-10 Meaning of *BAS service*

- (1) A *BAS service* is a * tax agent service:
 - (a) that relates to:
 - (i) ascertaining the liabilities, obligations or entitlements of an entity that arise, or could arise, under a *BAS provision; or
 - (ii) advising an entity about the liabilities, obligations or entitlements of the entity or another entity that arise, or could arise, under a BAS provision; or
 - (iii) representing an entity in their dealings with the Commissioner in relation to a BAS provision; and
 - (b) that is provided in circumstances where the entity can reasonably be expected to rely on the service for either or both of the following purposes:
 - (i) to satisfy liabilities or obligations that arise, or could arise, under a BAS provision;
 - (ii) to claim entitlements that arise, or could arise, under a BAS provision..
- (2) A service specified in the regulations for the purposes of this subsection is not a *BAS service*.

BAS Provisions can be understood to be completion of the Payable amount boxes on the BAS.

- GST amount collected or paid
- FBT Instalment amount or credit claim
- WET payable or refundable amounts
- Luxury Car Tax amounts
- Fuel Tax Credit amounts
- PAYG Withholding amount payable
- PAYG Instalments amount payable

Classroom or onsite training

- general training on the use of software is NOT a BAS Service
- general training around how GST works or is reported in the software is NOT a BAS service
- training that relates to exactly how GST works for a specific business – IS a BAS service

Install and configure software

- general software / bookkeeping / accounting configuration – No
- specifically determining what GST codes apply when – yes
- advising on legal compliance of the business tax invoice – yes
- configuring how a BAS like report is to be produced – yes
- implementing a default GST code list provided by a registered Agent to the business – No

If the client is relying on this install and configuration service to help that client ascertain their future GST/BAS obligations then it is a BAS Service.

Cont.

What is a BAS Service? Continued

Bookkeeping

- following instructions – no
- transfer data onto a computer program - no
- enter data – no
- code transactions (based on instructions) – no
- process payments – no
- prepare bank reconciliations - no

Advanced Bookkeeping

- If the client is relying on another registered BAS/Tax agent – no otherwise
- preparing an approved form – Yes
- lodging an approved form – yes
- giving advice about a BAS provision – yes
- “transacting” with the ATO on behalf of a client – yes
- Anything and everything where work is reviewed by another registered BAS agent – no
- Reconciling facets of the accounting records for a period – no
- Providing generic reports – no
- Preparing a report that is used to prepare the BAS – yes

When it's law: Action items from now - until - start date

In preparation for the new law but also in order to comply with the current law Sn. 251L(6) BAS Services may only be provided by:

- 1) Registered Tax Agents
- 2) Members of Recognised Professional Accounting Associations
- 3) If you are “Directed by a tax agent”

However various BAS like services are able to be provided by “Bookkeepers” who don't meet the above under current law (the requirements change under the new law):

- 4) Installing & configuring commercially available accounting software
- 5) Using commercially available accounting software to generate a BAS like report
- 6) Ordinary bookkeeping services

(for clarification refer to www.ATO.gov.au/bookkeeper or www.icb.org.au)

ICB members can download documents and precedents to assist with the establishment and conduct of the “Directed by Tax Agent” relationship with the clients respective tax agents.

ICB research has also resulted in a special program for ICB members to utilise Australian Bookkeeper Networks “BAS Wizard” program. This “Directed by Tax Agent” program provides a mechanism to comply with the Sn. 251L obligations.

When it's law: Action items from start date - until - you register

How to keep doing BAS Service work during the Transition.

There are two transitional methods of you being legally allowed to continue providing BAS Services after the start date:

A 2 year period is called the “Transition Period” during which you could be called a “Transitional BAS Agent” until you gain your registration.

- 1) If you comply with current law Sn. 251L(6) as at start date
(Member of a Recognised Professional Association, Payroll service, Customs broker or Bookkeepers working under the direction of a registered tax agent)

or

- 2) If you currently “legally” provide a BAS service according to current law, including:
 - a. Installing and configuring software including GST codes
 - b. Using software to generate a BAS like reportAnd you provide these BAS services during the next 2 years

then for either (1) or (2) you are considered as though you were registered in the new system and you may legally continue doing that same BAS work for 2 years.



HOWEVER you must notify the Tax Practitioners Board of your status as a transitional BAS Agent within 6 months.

Alternatively

- 3) If neither of the above, you need to immediately apply for registration:
 - a. Within 3 years of start date (including straight away)
 - b. You may not yet have the required education qualification
 - c. You are a fit and proper person
 - d. You convince the board that you provide BAS services to a competent standard and have done so for a reasonable period.

Then you are eligible to be registered, but you have to apply before you do any BAS Service work.

When it's law: Action items during transition or after

1) Register immediately when possible if you are not able to be a "Transitional BAS Agent"

If you cant qualify under any of the above provisions during the 3 year transition period or following the expiry of the transition period then you are subject to the normal registration requirements.

2) Register within 2 years if you are able to be a "Transitional BAS Agent"

REFER TO www.ICB.ORG.AU for all things BAS Agent

- How to be legal today
- Register your intention to be a BAS Agent
- Resources, explanations and updates
- Bookkeepers guide to ALL Cert IV Bookkeeping providers
- Professional Indemnity Insurance – information and access to creditable providers



ICB Membership

What is in it for me, how do I fit in and how do I join



Members Area

Members only access to a full range of resources



The BAS / BAS Agent

Am I OK to complete the BAS at the moment, and what will I need for the future



ICB Resources

A full range of resources developed for bookkeepers



Insurance

What sort of insurance to I really need and what should I watch out for



Certificate IV in Financial Services (Bookkeeping)

Enquiry / Response information to Institute of Certified Bookkeepers

Title Mr Mrs Miss Ms Other

Surname

First names

Address

Postcode

Date of Birth

Email Address

Business trading name

Phone: Mobile

Home

Daytime

Employment status:

- Self Employed
- Employed to provide contract bookkeeping to clients
- Employed as a bookkeeper in the Business

Nature of Enquiry:

- Please supply application for membership information
 - Application for assessments information
 - Subscribe to the Newsletter
 - Other_____
-
-

Send to The Institute of Certified Bookkeepers
Level 27
Rialto South Tower
525 Collins Street
Melbourne 3000

Fax: 1300 85 61 81
Email: info@ICB.org.au



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