

CURRENT EMPLOYMENT INSURANCE ACT

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Short Title

Short title 1. This Act may be cited as the *Employment Insurance Act*.

Interpretation

Definitions 2. (1) In this Act,

"affidavit"	"affidavit" means an affidavit sworn or affirmed before a commissioner of oaths or any other person authorized to take affidavits;
"benefit period"	"benefit period" means the period described in sections 9 and 10;
"benefits"	"benefits" means unemployment benefits payable under Part I, but does not include employment benefits;
"board of referees"	"board of referees" means a board of referees established under Part VI;
"claimant"	"claimant" means a person who applies or has applied for benefits under this Act;
"Commission"	"Commission" means the Canada Employment Insurance Commission;
"Common-law partner"	"common-law partner", in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year;
"confirmed delivery service"	"confirmed delivery service" means certified or registered mail or any other delivery service that provides proof of delivery;
"documents"	"documents" includes money, securities, books, records, letters, telegrams, vouchers, invoices, accounts and statements (financial or otherwise);
"dwelling-house"	"dwelling-house" means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes (a) a building within the yard of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and (b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as a residence;
"employee's premium"	"employee's premium" means the premium that a person employed in insurable employment is required to pay under section 67;
"employer"	"employer" includes a person who has been an employer and, in respect of remuneration of an individual referred to as sponsor or co-ordinator of a project in paragraph 5(1)(e), it includes that individual;

"employer's premium"	"employer's premium" means the premium that an employer of an insured person is required to pay under section 68;
"employment"	"employment" means the act of employing or the state of being employed;
"employment benefits"	"employment benefits" means benefits established under section 59;
"insurable earnings"	"insurable earnings" means the total amount of the earnings, as determined in accordance with Part IV, that an insured person has from insurable employment;
"insurable employment"	"insurable employment" has the meaning assigned by section 5;
"insured person"	"insured person" means a person who is or has been employed in insurable employment;
"interruption of earnings"	"interruption of earnings" means an interruption that occurs in the earnings of an insured person at any time and in any circumstances determined by the regulations;
"labour dispute"	"labour dispute" means a dispute between employers and employees, or between employees and employees, that is connected with the employment or non-employment, or the terms or conditions of employment, of any persons;
"Minister"	"Minister" means the Minister of Human Resources and Skills Development, except in Parts IV and VII;
"overpayment of benefits"	"overpayment of benefits" does not include a benefit repayment as described in Part VII;
"prescribed"	"prescribed" means prescribed by the regulations or determined in accordance with rules prescribed by the regulations;
"provincial law"	"provincial law" means the provisions of any Act of the legislature of a province authorizing, or entitling a person to, the payment of benefits under a plan established by or under that Act;
"rate of unemployment"	"rate of unemployment" means the rate of unemployment as determined from time to time in a year;
"regular benefits"	"regular benefits" means benefits payable under Part I and Part VIII, but does not include special benefits or benefits by virtue of section 24 or 25;
"special benefits"	"special benefits" means benefits paid for any reason mentioned in subsection 12(3);
"umpire"	"umpire" means an umpire appointed under Part VI;

"week"	"week" means a period of seven consecutive days beginning on and including Sunday, or any other prescribed period;
"year"	"year" means a calendar year.
Rates of unemployment produced by Statistics Canada	(2) If the use of rates of unemployment produced by Statistics Canada is required under this Act or the regulations, the Commission shall use those most recently produced at the time it is appropriate or necessary for the Commission to make a final determination in respect of those rates or involving their use.
Electronic documents and communication	(3) A document or other communication under this Act or the regulations may be in electronic form and a reference in this Act or the regulations to a form, record, book, notice, request, demand, decision or any other document includes a document in electronic form.
References to claims for benefits	(4) In this Act and the regulations, references to claims for benefits include questions arising in relation to those claims, and references to action on a claim include determining questions in favour of or adversely to claimants.
Weeks of benefits paid	(5) For the purposes of subsection 7(4.1) and section 145, the Commission may, with the approval of the Governor in Council, make regulations for establishing how many weeks of benefits a claimant was paid, in order to take into account benefit reductions or deductions in the calculation or payment of those benefits. 1996, c. 23, ss. 2, 189; 2000, c 12, s.106.; 2001, c. 5, s. 1; 2003, c.15, s.15;2005, c.34, s. 80.

Report

Commission to assess adjustment	<p>3. (1) The Commission shall monitor and assess</p> <p>(a) how individuals, communities and the economy are adjusting to the changes made by this Act to the insurance and employment assistance programs under the Unemployment Insurance Act;</p> <p>(b) whether the savings expected as a result of the changes made by this Act are being realized; and</p> <p>(c) the effectiveness of the benefits and other assistance provided under this Act, including</p> <p style="padding-left: 40px;">(i) how the benefits and assistance are utilized by employees and employers, and</p> <p style="padding-left: 40px;">(ii) the effect of the benefits and assistance on the obligation of claimants to be available for and to seek employment and on the efforts of employers to maintain a stable workforce.</p>
Report	(2) The Commission shall report to the Minister on its assessment annually from 2001 to 2006, no later than March 31 following the end of each of those years. The Commission shall make any additional reports at any other times, as the Minister may request.
Tabling in Parliament	(3) The Minister shall lay each report before Parliament within 30 days after receiving it or, if Parliament is not then sitting, on any of the first 30 days that either House of Parliament is sitting after it is received.

Referral to committee (4) Each report shall be referred to such committee of the House of Commons as may be designated or established by the House for that purpose.
1996, c. 23, s. 3; 2001, c. 5, s. 2.

Maximum Yearly Insurable Earnings

Maximum yearly insurable earnings 4. (1) For the purposes of subsection 14(1.1), section 17, subsection 82(2) and sections 95 and 145, the maximum yearly insurable earnings is \$39,000 until the amount calculated in accordance with subsection (2) for a year, before rounding down under subsection (4), exceeds \$39,000, in which case the maximum yearly insurable earnings for that year is that amount, rounded down under subsection (4).

Calculation of amount (2) The amount referred to in subsection (1) is the amount equal to 52 times the product obtained by multiplying

(a) the average for the twelve month period ending on June 30 in the preceding year of the Average Weekly Earnings for each month in that period by

(b) the ratio that the average for the twelve month period ending on June 30 in that preceding year of the Average Weekly Earnings for each month in that twelve month period bears to the average for the twelve month period ending twelve months prior to June 30 of that preceding year of the Average Weekly Earnings for each month in that twelve month period ending twelve months prior to June 30 of that preceding year.

Subsequent years (3) For years subsequent to the year in which the maximum yearly insurable earnings exceeds \$39,000, before rounding down under subsection (4), the maximum yearly insurable earnings is the maximum yearly insurable earnings for the preceding year, before rounding down under subsection (4), multiplied by the ratio that the average for the twelve month period ending on June 30 in that preceding year of the Average Weekly Earnings for each month in that twelve month period bears to the average for the twelve month period ending twelve months prior to June 30 of that preceding year of the Average Weekly Earnings for each month in that twelve month period ending twelve months prior to June 30 of that preceding year.

Rounding down (4) If the amount calculated in accordance with subsection (2) or (3) is not a multiple of one hundred dollars, the amount of the maximum yearly insurable earnings is rounded down to the nearest multiple of one hundred dollars.

Average Weekly Earnings (5) The Average Weekly Earnings for a month is the average weekly earnings of the Industrial Aggregate in Canada for the month as published by Statistics Canada under the authority of the *Statistics Act*. 1996, c. 23, s.4; 2001, c. 5, s.3.

Insurable Employment

Types of insurable employment 5. (1) Subject to subsection (2), insurable employment is

(a) employment in Canada by one or more employers, under any express or implied contract of service or apprenticeship, written or oral, whether the earnings of the employed person are received from the employer or some other person and whether the earnings are calculated by time or by the piece, or partly by time and partly by the piece, or otherwise;

- (b) employment in Canada as described in paragraph (a) by Her Majesty in right of Canada;
- (c) service in the Canadian Forces or in a police force;
- (d) employment included by regulations made under subsection (4) or (5); and
- (e) employment in Canada of an individual as the sponsor or co-ordinator of an employment benefits project.

Excluded employment

(2) Insurable employment does not include

- (a) employment of a casual nature other than for the purpose of the employer's trade or business;
- (b) the employment of a person by a corporation if the person controls more than 40% of the voting shares of the corporation;
- (c) employment in Canada by Her Majesty in right of a province;
- (d) employment in Canada by the government of a country other than Canada or of any political subdivision of the other country;
- (e) employment in Canada by an international organization;
- (f) employment in Canada under an exchange program if the employment is not remunerated by an employer that is resident in Canada;
- (g) employment that constitutes an exchange of work or services;
- (h) employment excluded by regulations made under subsection (6); and
- (i) employment if the employer and employee are not dealing with each other at arm's length.

Arm's length dealing

(3) For the purposes of paragraph (2)(i),

- (a) the question of whether persons are not dealing with each other at arm's length shall be determined in accordance with the *Income Tax Act*; and
- (b) if the employer is, within the meaning of that Act, related to the employee, they are deemed to deal with each other at arm's length if the Minister of National Revenue is satisfied that, having regard to all the circumstances of the employment, including the remuneration paid, the terms and conditions, the duration and the nature and importance of the work performed, it is reasonable to conclude that they would have entered into a substantially similar contract of employment if they had been dealing with each other at arm's length.

Regulations to include employment

4) The Commission may, with the approval of the Governor in Council, make regulations for including in insurable employment

- (a) employment outside Canada or partly outside Canada that would be insurable employment if it were in Canada;
- (b) the entire employment of a person who is engaged by one employer partly in insurable employment and partly in other employment;

(c) employment that is not employment under a contract of service if it appears to the Commission that the terms and conditions of service of, and the nature of the work performed by, persons employed in that employment are similar to the terms and conditions of service of, and the nature of the work performed by, persons employed under a contract of service;

(d) employment in Canada by Her Majesty in right of a province if the government of the province waives exclusion and agrees to insure all its employees engaged in that employment;

(e) employment in Canada by the government of a country other than Canada or of any political subdivision of the other country if the employing government consents;

(f) employment in Canada by an international organization if the organization consents; and

(g) the tenure of an office as defined in subsection 2(1) of the Canada Pension Plan.

Regulations to include persons in business

(5) The Commission may, with the approval of the Governor in Council and subject to affirmative resolution of Parliament, make regulations for including in insurable employment the business activities of a person who is engaged in a business, as defined in subsection 248(1) of the *Income Tax Act*.

Regulations to exclude employment

(6) The Commission may, with the approval of the Governor in Council, make regulations for excluding from insurable employment

(a) any employment if it appears to the Commission that because of the laws of a country other than Canada a duplication of contributions or benefits will result;

(b) the entire employment of a person who is engaged by one employer partly in insurable employment and partly in other employment;

(c) any employment if it appears to the Commission that the nature of the work performed by persons employed in that employment is similar to the nature of the work performed by persons employed in employment that is not insurable employment;

(d) the employment of a member of a religious order who has taken a vow of poverty and whose remuneration is paid directly or by the member to the order;

(e) any employment in which persons are employed hardly at all or for nominal remuneration; and

(f) any employment provided under regulations made under section 24 or under employment benefits.

Defining certain expressions

(7) The Commission may, with the approval of the Governor in Council, make regulations defining, for the purposes of this section, the expressions "casual nature", "government", in relation to a government of a country other than Canada or of a political subdivision of the other country, and "international organization".

Part 1 (Sections 6 to 55)

UNEMPLOYMENT BENEFITS

Interpretation

Definitions	6. (1) In this Part,
"disentitled"	"disentitled" means not entitled under section 13, 18, 21, 31, 32, 33, 36, 37, 49 or 50 or under the regulations;
"disqualified"	"disqualified" means disqualified under section 27 or 30;
"initial claim for benefits"	"initial claim for benefits" means a claim made for the purpose of establishing a claimant's benefit period;
"major attachment claimant"	"major attachment claimant" means a claimant who qualifies to receive benefits and has 600 or more hours of insurable employment in their qualifying period;
"minor attachment claimant"	"minor attachment claimant" means a claimant who qualifies to receive benefits and has fewer than 600 hours of insurable employment in their qualifying period;
"qualifying period"	"qualifying period" means the period described in section 8;
"waiting period"	"waiting period" means the two weeks of the benefit period described in section 13.
Rounding off percentages or fractions	(2) A reference in this Part to an amount equal to a percentage or fraction of earnings or benefits in a period shall be rounded to the nearest multiple of one dollar or, if the amount is equidistant from two multiples of one dollar, to the higher multiple.
Hours of insurable employment	(3) For the purposes of this Part, the number of hours of insurable employment that a claimant has in any period shall be established as provided under section 55, subject to any regulations made under paragraph 54(z.1) allocating the hours to the claimant's qualifying period. 1996 c. 23, .s. 6; 2000, c. 14, s. 2

Qualifying for Benefits

Benefits payable to persons who qualify	7. (1) Unemployment benefits are payable as provided in this Part to an insured person who qualifies to receive them.
Qualification requirement	(2) An insured person, other than a new entrant or a re-entrant to the labour force, qualifies if the person (a) has had an interruption of earnings from employment; and

(b) has had during their qualifying period at least the number of hours of insurable employment set out in the following table in relation to the regional rate of unemployment that applies to the person.

Table

Regional Rate of Unemployment	Required Number of Hours of Insurable Employment in Qualifying Period
6% and under	700
more than 6% but not more than 7%	665
more than 7% but not more than 8%	630
more than 8% but not more than 9%	595
more than 9% but not more than 10%	560
more than 10% but not more than 11%	525
more than 11% but not more than 12%	490
more than 12% but not more than 13%	455
more than 13%	420

Qualification requirement for new entrants and re-entrants (3) An insured person who is a new entrant or a re-entrant to the labour force qualifies if the person

(a) has had an interruption of earnings from employment; and

(b) has had 910 or more hours of insurable employment in their qualifying period.

New entrants and re-entrants (4) An insured person is a new entrant or a re-entrant to the labour force if, in the last 52 weeks before their qualifying period, the person has had fewer than 490

(a) hours of insurable employment;

(b) hours for which benefits have been paid or were payable to the person, calculated on the basis of 35 hours for each week of benefits;

(c) prescribed hours that relate to employment in the labour force; or

(d) hours comprised of any combination of those hours.

Exception (4.1) An insured person is not a new entrant or a re-entrant if the person has been paid one or more weeks of special benefits referred to in paragraph 12(3)(a) or (b) in the period of 208 weeks preceding the period of 52 weeks before their qualifying period or in other circumstances, as prescribed by regulation, arising in that period of 208 weeks.

Computation of hours (5) For the purposes of subsection (4), an hour that is taken into account under any of paragraphs (4)(a), (b) or (c) may not be taken into account under the other.

Other benefit rights — Canada-U.S. agreement (6) An insured person is not qualified to receive benefits if it is jointly determined that the insured person must first exhaust or end benefit rights under the laws of another jurisdiction, as provided by Article VI of the *Agreement Between Canada and the United States Respecting Unemployment Insurance*, signed on March 6 and 12, 1942.
1996, c. 23, s. 7; 1999, c. 31, s. 75(E); 2001, c. 5, s.4.

Increase in required hours 7.1 (1) The number of hours that an insured person, other than a new entrant or re-entrant to the labour force, requires under section 7 to qualify for benefits is increased to the number provided in the following table if the insured person accumulates one or more violations in the 260 weeks before making their initial claim for benefit.

Table

Regional Rate of Unemployment	Violation			
	minor	serious	very serious	subsequent
6% and under	875	1050	1225	1400
more than 6% but not more than 7%	831	998	1164	1330
more than 7% but not more than 8%	788	945	1103	1260
more than 8% but not more than 9%	744	893	1041	1190
more than 9% but not more than 10%	700	840	980	1120
more than 10% but not more than 11%	656	788	919	1050
more than 11% but not more than 12%	613	735	858	980
more than 12% but not more than 13%	569	683	796	910
more than 13%	525	630	735	840

New entrants and re-entrants to the labour force (2) The number of hours that an insured person who is a new entrant or re-entrant to the labour force requires under section 7 to qualify for benefits is increased if, in the 260 weeks before making their initial claim for benefit, the person accumulates

(a) a minor violation, in which case the number of required hours is increased to 1,138 hours;

(b) a serious violation, in which case the number of required hours is increased to 1,365 hours; or

(c) a very serious violation, in which case the number of required hours is increased to 1,400 hours.

Limitation (3) A violation may not be taken into account under subsection (1) or (2) in more than two initial claims for benefits if the insured person qualified for benefits with the increased number of hours in each of those claims.

Violations (4) An insured person accumulates a violation if in any of the following circumstances the Commission issues a notice of violation to the person:

(a) one or more penalties are imposed on the person under section 38, 39, 41.1 or 65.1, as a result of acts or omissions mentioned in section 38, 39 or 65.1;

(b) the person is found guilty of one or more offences under section 135 or 136 as a result of acts or omissions mentioned in those sections; or

(c) the person is found guilty of one or more offences under the Criminal Code as a result of acts or omissions relating to the application of this Act.

Classification of violations

(5) Except for violations for which a warning was imposed, each violation is classified as a minor, serious, very serious or subsequent violation as follows:

(a) if the value of the violation is

(i) less than \$1,000, it is a minor violation,

(ii) \$1,000 or more, but less than \$5,000, it is a serious violation, or

(iii) \$5,000 or more, it is a very serious violation; and

(b) if the notice of violation is issued within 260 weeks after the person accumulates another violation, it is a subsequent violation, even if the acts or omissions on which it is based occurred before the person accumulated the other violation.

Value of violations

(6) The value of a violation is the total of

(a) The amount of the overpayment of benefits resulting from the acts or omissions on which the violation is based, and

(b) if the claimant is disqualified or disentitled from receiving benefits, or the act or omission on which the violation is based relates to qualification requirements under section 7, the amount determined, subject to subsection (7), by multiplying the claimant's weekly rate of benefit by the average number of weeks of regular benefits, as determined under the regulations.

Maximum

(7) The maximum amount to be determined under paragraph (6)(b) is the amount of benefits that could have been paid to the claimant if the claimant had not been disentitled or disqualified or had met the qualification requirements under section 7.

Qualifying period

8. (1) Subject to subsections (2) to (7), the qualifying period of an insured person is the shorter of

(a) the 52-week period immediately before the beginning of a benefit period under subsection 10(1), and

(b) the period that begins on the first day of an immediately preceding benefit period and ends with the end of the week before the beginning of a benefit period under subsection 10(1).

Extension of qualifying period	<p>(2) A qualifying period mentioned in paragraph (1)(a) is extended by the aggregate of any weeks during the qualifying period for which the person proves, in such manner as the Commission may direct, that throughout the week the person was not employed in insurable employment because the person was</p> <ul style="list-style-type: none"> (a) incapable of work because of a prescribed illness, injury, quarantine or pregnancy; (b) confined in a jail, penitentiary or other similar institution; (c) receiving assistance under employment benefits; or (d) receiving payments under a provincial law on the basis of having ceased to work because continuing to work would have resulted in danger to the person, her unborn child or a child whom she was breast-feeding.
Extension resulting from severance payments	<p>(3) A qualifying period mentioned in paragraph (1)(a) is extended by the aggregate of any weeks during the qualifying period for which the person proves, in such manner as the Commission may direct, that</p> <ul style="list-style-type: none"> (a) earnings paid because of the complete severance of their relationship with their former employer have been allocated to weeks in accordance with the regulations; and (b) the allocation has prevented them from establishing an interruption of earnings.
Further extension of qualifying period	<p>(4) A qualifying period is further extended by the aggregate of any weeks during an extension for which the person proves, in such manner as the Commission may direct, that</p> <ul style="list-style-type: none"> (a) in the case of an extension under subsection (2), the person was not employed in insurable employment because of a reason specified in that subsection; or (b) in the case of an extension under subsection (3), the person had earnings paid to them because of the complete severance of their relationship with their former employer.
Period not counted if benefits received	<p>(5) For the purposes of subsections (2) to (4), a week during which the person was in receipt of benefits does not count.</p>
Period not counted if insurable employment	<p>(6) For the purposes of subsection (3) and paragraph (4)(b), a week during which the person was employed in insurable employment does not count.</p>
Maximum extension of qualifying period	<p>(7) No extension under any of subsections (2) to (4) may result in a qualifying period of more than 104 weeks.</p>

Benefit Period

Establishment of benefit period	<p>9. When an insured person who qualifies under section 7 or 7.1 makes an initial claim for benefits, a benefit period shall be established and, once it is established, benefits are payable to the person in accordance with this Part for each week of unemployment that falls in the benefit period.</p>
Beginning of benefit period	<p>10. (1) A benefit period begins on the later of</p> <ul style="list-style-type: none">(a) the Sunday of the week in which the interruption of earnings occurs, and(b) the Sunday of the week in which the initial claim for benefits is made.
Length of benefit period	<p>(2) The length of a benefit period is 52 weeks, except as otherwise provided in subsections (10) to (15) and section 24.</p>
Prior benefit period	<p>(3) Subject to a change or cancellation of a benefit period under this section, a benefit period shall not be established for the claimant if a prior benefit period has not ended.</p>
Late initial claims	<p>(4) An initial claim for benefits made after the day when the claimant was first qualified to make the claim shall be regarded as having been made on an earlier day if the claimant shows that the claimant qualified to receive benefits on the earlier day and that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the initial claim was made.</p>
Other late claims	<p>(5) A claim for benefits, other than an initial claim for benefits, made after the time prescribed for making the claim shall be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the claim was made.</p>
Exception	<p>(5.1) A claim for benefits referred to in section 23.1 with respect to a family member shall not be regarded as having been made on an earlier day under subsection (4) or (5) if</p> <ul style="list-style-type: none">(a) at the time the claim is made, all benefits that may otherwise have been payable in relation to that claim have already been exhausted;(b) the beginning of the period referred to in subsection 23.1(4) has already been determined with respect to that family member and the claim would have the effect of moving the beginning of that period to an earlier date; or(c) the claim is made in any other circumstances set out in the regulations.
Cancelling benefit period	<p>(6) Once a benefit period has been established for a claimant, the Commission may</p> <ul style="list-style-type: none">(a) cancel the benefit period if it has ended and no benefits were paid or payable during the period; or

(b) whether or not the period has ended, cancel at the request of the claimant that portion of the benefit period immediately before the first week for which benefits were paid or payable, if the claimant

(i) establishes a new benefit period beginning the first week for which benefits were paid or payable, and

(ii) shows that there was good cause for the delay in making the request throughout the period beginning on the day when benefits were first paid or payable and ending on the day when the request for cancellation was made.

Effect of cancellation (7) A cancelled benefit period or portion of a benefit period is deemed never to have begun.

End of benefit period (8) A benefit period ends when any of the following first occurs:

(a) no further benefits are payable to the claimant in their benefit period, including for the reason that benefits have been paid for the maximum number of weeks for which benefits may be paid under section 12;

(b) the benefit period would otherwise end under this section; or

(c) [Repealed 2002, c. 9, ss. 12(3)]

(d) the claimant

(i) requests that their benefit period end,

(ii) makes a new initial claim for benefits, and

(iii) qualifies to receive benefits under this Part.

Late requests (9) Whether or not the benefit period has ended, a request under paragraph 8(d) shall be regarded as having been made on an earlier day if the claimant shows that there was good cause for the delay throughout the period beginning on the earlier day and ending on the day when the request was made.

Extension of benefit period (10) A claimant's benefit period is extended by the aggregate of any weeks during the benefit period for which the claimant proves, in such manner as the Commission may direct, that the claimant was not entitled to benefits because the claimant was

(a) confined in a jail, penitentiary or other similar institution;

(b) in receipt of earnings paid because of the complete severance of their relationship with their former employer;

(c) in receipt of workers' compensation payments for an illness or injury; or

(d) in receipt of payments under a provincial law on the basis of having ceased to work because continuing to work would have resulted in danger to the claimant, her unborn child or a child whom she was breast-feeding.

Further extension of benefit period

(11) A claimant's benefit period is extended by the aggregate of any weeks during an extension of a benefit period under subsection (10) for which the claimant proves, in such manner as the Commission may direct, that the claimant was not entitled to benefits because of a reason specified in that subsection.

Extension of benefit period — children in hospital

(12) If the child or children referred to in subsection 23(1) are hospitalized during the period referred to in subsection 23(2), the benefit period is extended by the number of weeks during which the child or children are hospitalized.

Extension of benefit period — special benefits

(13) If, during a claimant's benefit period,

(a) regular benefits were not paid to the claimant,

(b) benefits were paid because of all of the reasons mentioned in paragraphs 12(3)(a), (b) and (c), and

(c) benefits were not paid for the maximum number of weeks established for the reasons mentioned in paragraphs 12(3)(a), (b) and (c),

the benefit period is extended so that benefits may be paid up to the maximum number of weeks available to the claimant for the reason mentioned in each of paragraphs 12(3)(a), (b) and (c).

Extension of benefit period — special benefits

(13.1) If, during a claimant's benefit period,

(a) regular benefits were not paid to the claimant,

(b) benefits were paid because of all of the reasons mentioned in paragraphs 12(3)(b), (c) and (d), and

(c) benefits were not paid for the maximum number of weeks established for the reasons mentioned in paragraphs 12(3)(b), (c) and (d),

the benefit period is extended so that benefits may be paid up to the maximum number of weeks available to the claimant for the reason mentioned in each of paragraphs 12(3)(b), (c) and (d).

Extension of benefit period — special benefits

(13.2) If, during a claimant's benefit period,

(a) regular benefits were not paid to the claimant,

(b) benefits were paid because of all of the reasons mentioned in paragraphs 12(3)(a), (b) and (d), and

(c) benefits were not paid for the maximum number of weeks established for the reasons mentioned in paragraphs 12(3)(a), (b) and (d),

the benefit period is extended so that benefits may be paid up to the maximum number of weeks available to the claimant for the reason mentioned in each of paragraphs 12(3)(a), (b) and (d).

Extension of benefit period — special benefits

(13.3) If, during a claimant's benefit period,

(a) regular benefits were not paid to the claimant,

(b) benefits were paid because of all of the reasons mentioned in subsection 12(3), and

(c) benefits were not paid for the maximum number of weeks established for the reasons mentioned in paragraphs 12(3)(a), (b), (c) and (d),

the benefit period is extended so that benefits may be paid up to the maximum number of weeks available to the claimant for the reason mentioned in each of those paragraphs.

Maximum extension under subsections (10) to (13.3)

(14) Subject to subsection (15), no extension under any of subsections (10) to (13.3) may result in a benefit period of more than 104 weeks.

Maximum extension under subsection (13 to 13.3)

(15) Unless the benefit period is also extended under any of subsections (10) to (12),

(a) no extension under subsection (13) may result in a benefit period of more than 67 weeks;

(b) no extension under subsection (13.1) or (13.2) may result in a benefit period of more than 58 weeks; and

(c) no extension under subsection (13.3) may result in a benefit period of more than 73 weeks.

1996, c. 23, s. 10; 2002, c. 9, s. 12; 2003, c. 15, s. 16.

Week of unemployment

11. (1) A week of unemployment for a claimant is a week in which the claimant does not work a full working week.

Exception — no duties to perform

(2) A week during which a claimant's contract of service continues and in respect of which the claimant receives or will receive their usual remuneration for a full working week is not a week of unemployment, even though the claimant may be excused from performing their normal duties or does not have any duties to perform at that time.

Exception — leave with deferred remuneration

(3) A week or part of a week during a period of leave from employment is not a week of unemployment if the employee

(a) takes the period of leave under an agreement with their employer;

(b) continues to be an employee of the employer during the period; and

(c) receives remuneration that was set aside during a period of work, regardless of when it is paid.

Exception — compensatory leave

(4) An insured person is deemed to have worked a full working week during each week that falls wholly or partly in a period of leave if

(a) in each week the insured person regularly works a greater number of hours, days or shifts than are normally worked in a week by persons employed in full-time employment; and

(b) the person is entitled to the period of leave under an employment agreement to compensate for the extra time worked.

Payment of Benefits

Benefits

12. (1) If a benefit period has been established for a claimant, benefits may be paid to the claimant for each week of unemployment that falls in the benefit period, subject to the maximums established by this section.

General maximum

(2) The maximum number of weeks for which benefits may be paid in a benefit period because of a reason other than those mentioned in subsection (3) shall be determined in accordance with the table in Schedule I by reference to the regional rate of unemployment that applies to the claimant and the number of hours of insurable employment of the claimant in their qualifying period.

Maximum — special benefits

(3) The maximum number of weeks for which benefits may be paid in a benefit period

(a) because of pregnancy is 15;

(b) because the claimant is caring for one or more new-born children of the claimant or one or more children placed with the claimant for the purpose of adoption is 35;

(c) because of a prescribed illness, injury or quarantine is 15; and

(d) because the claimant is providing care or support to one or more family members described in subsection 23.1(2), is six.

Maximum — special benefits

(4) The maximum number of weeks for which benefits may be paid

(a) for a single pregnancy is 15; and

(b) for the care of one or more new-born or adopted children as a result of a single pregnancy or placement is 35.

Maximum — compassionate care benefits

(4.1) Even if more than one claim is made, or certificate is issued, in respect of the same family member, the maximum number of weeks of benefits payable under section 23.1 is six weeks during the period of 26 weeks beginning with the first day of the week referred to in paragraph 23.1(4)(a).

Shorter period

(4.2) If a shorter period is prescribed for the purposes of subsection 23.1(5), then that shorter period applies for the purposes of subsection (4.1).

Expiration of shorter period	(4.3) When a shorter period referred to in subsection (4.2) has expired in respect of a family member, no further benefits are payable under section 23.1 in respect of that family member until the minimum prescribed number of weeks has elapsed.
Combined weeks of benefits	(5) In a claimant's benefit period, the claimant may combine weeks of benefits to which the claimant is entitled because of a reason mentioned in subsection (3), but the maximum number of combined weeks is 50. If the benefit period <ul style="list-style-type: none"> (a) is extended under subsection 10(13), the maximum number of combined weeks is 65; (b) is extended under subsection 10(13.1) or (13.2), the maximum number of combined weeks is 56; and (c) is extended under subsection 10(13.3), the maximum number of combined weeks is 71
Combined weeks of benefits	(6) In a claimant's benefit period, the claimant may, subject to the applicable maximums, combine weeks of benefits to which the claimant is entitled because of a reason mentioned in subsections (2) and (3), but the total number of weeks of benefits shall not exceed 50.
Extension of maximum	(7) [Repealed, 2000, c. 14, s. 3]
Adoption	(8) For the purposes of this section, the placement with a major attachment claimant, at the same or substantially the same time, of two or more children for the purpose of adoption is a single placement of a child or children for the purpose of adoption. 1996 c. 23, .s. 12; 2000, c. 14, s. 3; 2002, c. 9, s. 13; 2003, c. 15, s. 17.
Waiting period	13. A claimant is not entitled to be paid benefits in a benefit period until, after the beginning of the benefit period, the claimant has served a two week waiting period that begins with a week of unemployment for which benefits would otherwise be payable.

Rate of Benefits

Rate of weekly benefits	14. (1) The rate of weekly benefits payable to a claimant is 55% of their weekly insurable earnings.
Maximum weekly insurable earnings	(1.1) The maximum weekly insurable earnings is <ul style="list-style-type: none"> (a) \$750 if the claimant's benefit period begins during the years 1997 to 2000; and (b) if the claimant's benefit period begins in a subsequent year, the maximum yearly insurable earnings divided by 52.
Weekly insurable earnings	(2) A claimant's weekly insurable earnings are their insurable earnings in the rate calculation period divided by the larger of the following divisors:

(a) the divisor that equals the number of weeks during the rate calculation period in which the claimant had insurable earnings, and

(b) the divisor determined in accordance with the following table by reference to the applicable regional rate of unemployment.

Table

Regional Rate of Unemployment	Divisor
not more than 6%	22
more than 6% but not more than 7%	21
more than 7% but not more than 8%	20
more than 8% but not more than 9%	19
more than 9% but not more than 10%	18
more than 10% but not more than 11%	17
more than 11% but not more than 12%	16
more than 12% but not more than 13%	15
more than 13%	14

Insurable earnings (3) Insurable earnings in the rate calculation period shall be established and calculated in accordance with the regulations and include earnings from any insurable employment, regardless of whether the employment has ended.

Rate calculation period (4) The rate calculation period is the period of not more than 26 consecutive weeks in the claimant's qualifying period ending with the later of

(a) the week

(i) before the claimant's benefit period begins, if it begins on the Sunday of the week in which the claimant's last interruption of earnings occurs, or

(ii) in which the claimant's last interruption of earnings occurs, if their benefit period begins on the Sunday of a week that is after the week in which the claimant's last interruption of earnings occurs, and

(b) the week before the claimant's benefit period begins, if the claimant has an insurable employment at the beginning of that period.

A prescribed week relating to employment in the labour force shall not be taken into account when determining what weeks are within the rate calculation period.

Length of rate calculation period (4.1) The rate calculation period is 26 weeks, unless the claimant's qualifying period begins on a Sunday that is less than 26 weeks before the Sunday of the week in which the rate calculation period ends under subsection (4), in which case it is the number of weeks between those Sundays.

Reduction	15. [Repealed 2001, c. 5. s. 5] 1996, c. 23, s. 15; 2001, c. 5, s. 5
Rate increase — family supplement	16. (1) The rate of weekly benefits of a claimant who has one or more dependent children shall be increased by the amount of a family supplement determined in accordance with the regulations if the claimant establishes, in such manner as the Commission may direct, that the claimant meets the prescribed low-income family eligibility criteria.
Criteria	(2) The criteria for low-income family eligibility may include criteria that are the same as or similar to the criteria for receiving a child tax benefit.
Child tax benefit	(3) For the purposes of subsection (2), a child tax benefit is a deemed overpayment under subdivision a.1 of Division E of Part I of the <i>Income Tax Act</i> .
Maximum increase	(4) The amount of the increase in the claimant's rate of weekly benefits shall not exceed the prescribed percentage of the claimant's weekly insurable earnings or, if no percentage is prescribed, 25%.
Maximum rate of weekly benefits	17. The maximum rate of weekly benefits is 55% of the maximum yearly insurable earnings divided by 52. 1996, c. 23, s. 17; 2001, c. 5, s. 6.

Disentitlement to Benefits

Availability for work, etc.	18. A claimant is not entitled to be paid benefits for a working day in a benefit period for which the claimant fails to prove that on that day the claimant was <ul style="list-style-type: none"> (a) capable of and available for work and unable to obtain suitable employment; (b) unable to work because of a prescribed illness, injury or quarantine, and that the claimant would otherwise be available for work; or (c) engaged in jury service.
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Deductions from Benefits

Earnings in waiting period	19. (1) If a claimant has earnings during their waiting period, an amount not exceeding those earnings shall, as prescribed, be deducted from the benefits payable for the first three weeks for which benefits are otherwise payable.
Earnings in periods of unemployment	(2) Subject to subsections (3) and (4), if the claimant has earnings during any other week of unemployment, there shall be deducted from benefits payable in that week the amount, if any, of the earnings that exceeds

(a) \$50, if the claimant's rate of weekly benefits is less than \$200; or

(b) 25% of the claimant's rate of weekly benefits, if that rate is \$200 or more.

Undeclared earnings (3) If the claimant has failed to declare all or some of their earnings to the Commission for a period, determined under the regulations, for which benefits were claimed,

(a) the following amount shall be deducted from the benefits paid to the claimant for that period:

(i) the amount of the undeclared earnings, if, in the opinion of the Commission, the claimant knowingly failed to declare the earnings, or

(ii) in any other case, the amount of the undeclared earnings less the difference between

(A) all amounts determined under paragraph (2)(a) or (b) for the period, and

(B) all amounts that were applied under those paragraphs in respect of the declared earnings for the period; and

(b) the deduction shall be made

(i) from the benefits paid for a number of weeks that begins with the first week for which the earnings were not declared in that period, and

(ii) in such a manner that the amount deducted in each consecutive week equals the claimant's benefits paid for that week.

NOTE: Subsection 19 (3) became inoperative effective 12 August, 2001 [SOR/2001-291, s. 2]

Earnings and allowances from employment benefits, courses and programs (4) Earnings from employment under employment benefits and earnings or allowances payable to a claimant for attending a course or program of instruction or training shall not be deducted under this section except in accordance with the regulations.

Deduction for excluded days in waiting period 20. (1) If a claimant is not entitled to receive benefits for a working day in their waiting period, an amount equal to 1/5 of their weekly rate of benefits for each such working day shall be deducted from the benefits payable for the three weeks described in subsection 19(1).

Deduction for excluded days not in waiting period (2) If a claimant is disentitled from receiving benefits for a working day in a week of unemployment that is not in their waiting period, an amount equal to 1/5 of their weekly rate of benefits for each such working day shall be deducted from the benefits payable for that week.

Special Benefits

Illness, etc. — minor attachment claimants	21. (1) A minor attachment claimant who ceases work because of illness, injury or quarantine is not entitled to receive benefits while unable to work for that reason.
Limitation	(2) If benefits are payable to a claimant for unemployment caused by illness, injury or quarantine and any allowances, money or other benefits are payable to the claimant for that illness, injury or quarantine under a provincial law, the benefits payable to the claimant under this Act shall be reduced or eliminated as prescribed.
Deduction	(3) If earnings are received by a claimant for a period in a week of unemployment during which the claimant is incapable of work because of illness, injury or quarantine, subsection 19(2) does not apply and, subject to subsection 19(3), all those earnings shall be deducted from the benefits payable for that week.
Pregnancy	22. (1) Notwithstanding section 18, but subject to this section, benefits are payable to a major attachment claimant who proves her pregnancy.
Weeks for which benefits may be paid	(2) Subject to section 12, benefits are payable to a major attachment claimant under this section for each week of unemployment in the period <ol style="list-style-type: none">(a) that begins the earlier of<ol style="list-style-type: none">(i) eight weeks before the week in which her confinement is expected, and(ii) the week in which her confinement occurs; and(b) that ends 17 weeks after the later of<ol style="list-style-type: none">(i) the week in which her confinement is expected, and(ii) the week in which her confinement occurs.
Limitation	(3) When benefits are payable to a claimant for unemployment caused by pregnancy and any allowances, money or other benefits are payable to the claimant for that pregnancy under a provincial law, the benefits payable to the claimant under this Act shall be reduced or eliminated as prescribed.
Application of section 18	(4) For the purposes of section 13, the provisions of section 18 do not apply to the two week period that immediately precedes the period described in subsection (2).
Earnings deducted	(5) If benefits are payable under this section to a major attachment claimant who receives earnings for a period that falls in a week in the period described in subsection (2), the provisions of subsection 19(2) do not apply and, subject to subsection 19(3), all those earnings shall be deducted from the benefits paid for that week.

Extension of period	(6) If a child who is born of the claimant's pregnancy is hospitalized, the period during which benefits are payable under subsection (2) shall be extended by the number of weeks during which the child is hospitalized.
Limitation	(7) The extended period shall end no later than 52 weeks after the week of confinement.
Parental benefits	23. (1) Notwithstanding section 18, but subject to this section, benefits are payable to a major attachment claimant to care for one or more newborn children of the claimant or one or more children placed with the claimant for the purpose of adoption under the laws governing adoption in the province in which the claimant resides.
Weeks for which benefits may be paid	(2) Subject to section 12, benefits under this section are payable for each week of unemployment in the period <ul style="list-style-type: none"> (a) that begins with the week in which the child or children of the claimant are born or the child or children are actually placed with the claimant for the purpose of adoption; and (b) that ends 52 weeks after the week in which the child or children of the claimant are born or the child or children are actually placed with the claimant for the purpose of adoption.
Extension of period — children in hospital	(3) If the child or children referred to in subsection (1) are hospitalized during the period referred to in subsection (2), the period is extended by the number of weeks during which the child or children are hospitalized.
Limitation	(3.1) No extension under subsection (3) may result in the period being longer than 104 weeks. (3.2) If, during a claimant's benefit period, <ul style="list-style-type: none"> (a) regular benefits were not paid to the claimant, (b) benefits were paid because of all of the reasons mentioned in paragraphs 12(3)(a), (b) and (c), and (c) benefits were not paid for the maximum number of weeks established for the reason mentioned in paragraph 12(3)(b), the period referred to in subsection (2) is extended so that benefits may be paid up to that maximum number.
Extension of period — special benefits	(3.21) If, during a claimant's benefit period, <ul style="list-style-type: none"> (a) regular benefits were not paid to the claimant, (b) benefits were paid because of all of the reasons mentioned in paragraphs 12(3)(b), (c) and (d), and (c) benefits were not paid for the maximum number of weeks established for the reason mentioned in paragraph 12(3)(b), the period referred to in subsection (2) is extended so that benefits may be paid up to that maximum number.

Extension of period — special benefits	<p>(3.22) If, during a claimant's benefit period,</p> <ul style="list-style-type: none"> (a) regular benefits were not paid to the claimant, (b) benefits were paid because of all of the reasons mentioned in paragraphs 12(3)(a), (b) and (d), and (c) benefits were not paid for the maximum number of weeks established for the reasons mentioned in paragraph 12(3)(b), <p>the period referred to in subsection (2) is extended so that benefits may be paid up to that maximum number.</p>
Extension of period — special benefits	<p>(3.23) If, during a claimant's benefit period,</p> <ul style="list-style-type: none"> (a) regular benefits were not paid to the claimant, (b) benefits were paid because of all of the reasons mentioned in subsection 12(3), and (c) benefits were not paid for the maximum number of weeks established for the reason mentioned in paragraph 12(3)(b), <p>the period referred to in subsection (2) is extended so that benefits may be paid up to that maximum number.</p>
Limitation	<p>(3.3) No extension under any of the following provisions may result in the period referred to in subsection (2) being longer than the specified number of weeks:</p> <ul style="list-style-type: none"> (a) for an extension under subsection (3.2), 67 weeks; (b) for an extension under subsection (3.21) or (3.22), 58 weeks; and (c) for an extension under subsection (3.23), 73 weeks.
Limitation	<p>(3.4) No extension under any of subsections 10(10) to (13.3) may result in the period referred to in subsection (2) being longer than 104 weeks.</p>
Limitation	<p>(3.5) If benefits are payable to a claimant for the reasons set out in this section and any allowances, money or other benefits are payable to the claimant for the same reasons under a provincial law, the benefits payable to the claimant under this Act are to be reduced or eliminated as prescribed.</p>
Division of weeks of benefits	<p>(4) If two major attachment claimants are caring for a child referred to in subsection (1), weeks of benefits payable under this section may be divided between the major attachment claimants.</p>
Deferral of waiting period	<p>(5) A major attachment claimant who makes a claim for benefits under this section may have his or her waiting period deferred until he or she makes another claim for benefits in the same benefit period, otherwise than under section 22 or this section, if</p>

(a) the claimant has already made a claim for benefits under section 22 or this section in respect of the same child and has served the waiting period;

(b) another major attachment claimant has made a claim for benefits under section 22 or this section in respect of the same child and that other claimant has served or is serving his or her waiting period;

(c) another major attachment claimant is making a claim for benefits under section 22 or this section in respect of the same child at the same time as the claimant and that other claimant elects to serve the waiting period; or

(d) the claimant or another major attachment claimant meets the prescribed requirements.

1996 c. 23, s. 23; 2000, c. 14, s.4; 2000, c.12, ss. 107(2); 2002, c. 9, s. 14; 2003, c. 15, s. 18; 2005, c. 30, s. 130

23.1 (1) In this section, "family member", in relation to an individual, means

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(a) a spouse or common-law partner of the individual;

(b) a child of the individual or a child of the individual's spouse or common-law partner;

(c) a parent of the individual or a spouse or common-law partner of the parent; and

(d) any other person who is a member of a class of persons prescribed for the purposes of this definition.

(2) Notwithstanding section 18, but subject to this section, benefits are payable to a major attachment claimant if a medical doctor has issued a certificate stating that

Compassionate care benefits

(a) a family member of the claimant has a serious medical condition with a significant risk of death within 26 weeks

(i) from the day the certificate is issued,

(ii) in the case of a claim that is made before the day the certificate is issued, from the day from which the medical doctor certifies the family member's medical condition, or

(iii) in the case of a claim that is regarded to have been made on an earlier day under subsection 10(4) or (5), from that earlier day; and

(b) the family member requires the care or support of one or more other family members.

Medical practitioner

(3) In the circumstances set out in the regulations, the certificate required under subsection (2) may be issued by a member of a prescribed class of medical practitioners.

Weeks for which benefits may be paid

(4) Subject to section 12, benefits under this section are payable for each week of unemployment in the period

(a) that begins with the first day of the week in which the following falls, namely,

(i) the day of issuance of the first certificate in respect of the family member that meets the requirements of subsection (2) and is filed with the Commission,

(ii) in the case of a claim that is made before the day the certificate is issued, the day from which the medical doctor certifies the family member's medical condition, or

(iii) in the case of a claim that is regarded to have been made on an earlier day under subsection 10(4) or (5), that earlier day; and

(b) that ends on the last day of the week in which any of the following occurs, namely,

(i) all benefits payable under this section in respect of the family member are exhausted,

(ii) the family member dies, or

(iii) the expiration of 26 weeks following the first day of the week referred to in paragraph (a).

Shorter period

(5) If a shorter period is prescribed for the purposes of this section,

(a) the certificate referred to in subsection (2) must state that the family member has a serious medical condition with a significant risk of death within that period; and

(b) that period applies for the purposes of subparagraph (4)(b)(iii).

Exception

(6) Subparagraph (4)(a)(ii) does not apply to a claim if

(a) at the time the certificate is filed with the Commission, all benefits that may otherwise have been payable in relation to that claim have already been exhausted;

(b) the beginning of the period referred to in subsection (4) has already been determined with respect to the family member, and the filing of the certificate with the Commission would have the effect of moving the beginning of that period to an earlier date; or

(c) the claim is made in any other circumstances set out in the regulations.

Deferral of waiting period

(7) A claimant who makes a claim for benefits under this section may have their waiting period deferred until they make another claim for benefits in the same benefit period if

(a) another claimant has made a claim for benefits under this section in respect of the same family member during the period described in subsection (4) and that other claimant has served or is serving their waiting period in respect of that claim;

(b) another claimant is making a claim for benefits under this section in respect of the same family member at the same time as the claimant and that other claimant elects to serve the waiting period; or

(c) the claimant or another claimant meets the prescribed requirements.

Division of weeks of benefits

(8) If more than one claimant makes a claim for benefits under this section in respect of the same family member, any remaining weeks of benefits payable under this section may be divided in the manner agreed to by those claimants.

Failure to agree

(9) If the claimants referred to in subsection (8) cannot agree, the weeks of benefits are to be divided in accordance with the prescribed rules.

Limitation

(10) When benefits are payable to a claimant for the reasons set out in this section and any allowances, money or other benefits are payable to the claimant under a provincial law for the same or substantially the same reasons, the benefits payable to the claimant under this section shall be reduced or eliminated as prescribed.

1996 c. 23, .s. 23; 2003, c. 15, s.19.

Work-Sharing

Regulations for work-sharing benefits

24. (1) The Commission may, with the approval of the Governor in Council, make regulations providing for the payment of work-sharing benefits to claimants who are qualified to receive benefits under this Act and are employed under a work-sharing agreement that has been approved for the purposes of this section by special or general direction of the Commission, including regulations

(a) defining and determining the nature of work-sharing employment for which benefits may be paid;

(b) prescribing the maximum number of weeks for which benefits may be paid;

(c) prescribing the method of paying benefits;

(d) prescribing the rate of weekly benefits;

(e) providing a method for setting the amount that is the weekly insurable earnings of a claimant employed in work-sharing employment for the purposes of section 14;

(f) prescribing the manner of treating, for benefit purposes, earnings received from the claimant's employer or from other sources;

(g) providing for the extension of a claimant's qualifying period or benefit period for a number of weeks not exceeding the number of weeks of work-sharing employment;

(h) deferring service by a claimant of all or any part of their waiting period until their work-sharing employment has ended; and

(i) providing for any other matters necessary to carry out the purposes and provisions of this section.

No appeal

(2) A special or general direction of the Commission approving or disapproving a work sharing agreement for the purposes of subsection (1) is not subject to appeal under section 114 or 115.

Presumption

(3) For the purposes of this Part, a claimant is unemployed and capable of and available for work during a week when the claimant works in work-sharing employment.

Courses, Programs and Employment Benefits

Status of claimants

25. (1) For the purposes of this Part, a claimant is unemployed and capable of and available for work during a period when the claimant is

(a) attending a course or program of instruction or training at the claimant's own expense, or under employment benefits or similar benefits that are the subject of an agreement under section 63, to which the Commission, or an authority that the Commission designates, has referred the claimant; or

(b) participating in any other employment activity

(i) for which assistance has been provided for the claimant under prescribed employment benefits or benefits that are the subject of an agreement under section 63 and are similar to the prescribed employment benefits, and

(ii) to which the Commission, or an authority that the Commission designates, has referred the claimant.

No appeal

(2) A decision of the Commission about the referral of a claimant to a course, program or other employment activity mentioned in subsection (1) is not subject to appeal under section 114 or 115. 1996, c. 23, s. 25; 1997, c. 26, s. 88; 1999, c. 31, s. 76(F).

Benefits are not earnings

26. For the purposes of this Part, Part IV, the *Income Tax Act* and the *Canada Pension Plan*, benefits paid to a claimant while employed under employment benefits, or under similar benefits that are the subject of an agreement under section 63, are not earnings from employment. 1996, c. 23, s. 26; 1997, c. 26, s. 89.

Disqualification and Disentitlement

Disqualification — general

27. (1) A claimant is disqualified from receiving benefits under this Part if, without good cause since the interruption of earnings giving rise to the claim, the claimant

(a) has not applied for a suitable employment that is vacant after becoming aware that it is vacant or becoming vacant, or has failed to accept the employment after it has been offered to the claimant;

(b) has not taken advantage of an opportunity for suitable employment;

(c) has not carried out a written direction given to the claimant by the Commission with a view to assisting the claimant to find suitable employment, if the direction was reasonable having regard both to the claimant's circumstances and to the usual means of obtaining that employment; or

(d) has not attended an interview that the Commission has directed the claimant to attend to enable the Commission or another appropriate agency

(i) to provide information and instruction to help the claimant find employment, or

(ii) to identify whether the claimant might be assisted by job training or other employment assistance.

Termination of referral (1.1) A claimant is disqualified from receiving benefits under this Part if

(a) the Commission or an authority that the Commission designates has, with the agreement of the claimant, referred the claimant to a course or program of instruction or training or to any other employment activity for which assistance has been provided under employment benefits; and

(b) the Commission has terminated the referral because

(i) without good cause, the claimant has not attended or participated in the course, program or employment activity and, in the opinion of the Commission, it is unlikely that the claimant will successfully complete the course, program or employment activity,

(ii) without good cause, the claimant has withdrawn from the course, program or employment activity, or

(iii) the organization providing the course, program or employment activity has expelled the claimant.

Employment not suitable

(2) For the purposes of this section, employment is not suitable employment for a claimant if

(a) it arises in consequence of a stoppage of work attributable to a labour dispute;

(b) it is in the claimant's usual occupation either at a lower rate of earnings or on conditions less favourable than those observed by agreement between employers and employees, or in the absence of any such agreement, than those recognized by good employers; or

(c) it is not in the claimant's usual occupation and is either at a lower rate of earnings or on conditions less favourable than those that the claimant might reasonably expect to obtain, having regard to the conditions that the claimant usually obtained in the claimant's usual occupation, or would have obtained if the claimant had continued to be so employed.

Reasonable interval

(3) After a lapse of a reasonable interval from the date on which an insured person becomes unemployed, paragraph (2)(c) does not apply to the employment described in that paragraph if it is employment at a rate of earnings not lower and on conditions not less favourable than those observed by agreement between employers and employees or, in the absence of any such agreement, than those recognized by good employers. 1996, c. 23, par.27 (2)(c); 2001, c. 34, s.41 (E)

Duration of disqualification

28. (1) A disqualification under section 27 is for the number of weeks that the Commission may determine, but

(a) the number of weeks of a disqualification arising under paragraph 27(1)(a) or (b) shall be not fewer than 7 or more than 12; and

(b) the number of weeks of a disqualification arising under paragraph 27(1)(c) or (d) or subsection 27(1.1) shall be not more than 6.

When disqualification is to be served

(2) Subject to subsections (3) to (5), the weeks of disqualification are to be served during the weeks following the waiting period for which benefits would otherwise be payable if the disqualification had not been imposed and, for greater certainty, the length of the disqualification is not affected by any subsequent loss of employment by the claimant during the benefit period.

Disqualification to be carried forward

(3) Any portion of the disqualification that has not been served when the claimant's benefit period ends shall, subject to subsections (4) and (5), be served in any benefit period subsequently established within two years after the event giving rise to the disqualification.

Limitation	(4) No weeks of disqualification shall be carried forward against a claimant who has had 700 or more hours of insurable employment since the event giving rise to the disqualification.
Deferral	(5) The Commission shall defer the serving of the disqualification if the claimant is otherwise entitled to special benefits or benefits by virtue of section 25.
Presumption	(6) For the purposes of this Part, benefits are deemed to be paid for the weeks of disqualification.
Exception	(7) Subsection (6) does not apply to prevent a claimant from requesting that a benefit period established for the claimant as a minor attachment claimant be cancelled under subsection 10(6) and that a benefit period be established for the claimant as a major attachment claimant to enable the claimant to receive special benefits. 1996, c. 23, s.28; 2001, c. 5, s.7.
Interpretation	<p>29. For the purposes of sections 30 to 33,</p> <p>(a) "employment" refers to any employment of the claimant within their qualifying period or their benefit period;</p> <p>(b) loss of employment includes a suspension from employment, but does not include loss of, or suspension from, employment on account of membership in, or lawful activity connected with, an association, organization or union of workers;</p> <p>(b.1) voluntarily leaving an employment includes</p> <p style="padding-left: 40px;">(i) the refusal of employment offered as an alternative to an anticipated loss of employment, in which case the voluntary leaving occurs when the loss of employment occurs,</p> <p style="padding-left: 40px;">(ii) the refusal to resume an employment, in which case the voluntary leaving occurs when the employment is supposed to be resumed, and</p> <p style="padding-left: 40px;">(iii) the refusal to continue in an employment after the work, undertaking or business of the employer is transferred to another employer, in which case the voluntary leaving occurs when the work, undertaking or business is transferred; and</p> <p>(c) just cause for voluntarily leaving an employment or taking leave from an employment exists if the claimant had no reasonable alternative to leaving or taking leave, having regard to all the circumstances, including any of the following:</p> <p style="padding-left: 40px;">(i) sexual or other harassment,</p> <p style="padding-left: 40px;">(ii) obligation to accompany a spouse, common-law partner or dependent child to another residence,</p>

- (iii) discrimination on a prohibited ground of discrimination within the meaning of the Canadian Human Rights Act,
- (iv) working conditions that constitute a danger to health or safety,
- (v) obligation to care for a child or a member of the immediate family,
- (vi) reasonable assurance of another employment in the immediate future,
- (vii) significant modification of terms and conditions respecting wages or salary,
- (viii) excessive overtime work or refusal to pay for overtime work,
- (ix) significant changes in work duties,
- (x) antagonism with a supervisor if the claimant is not primarily responsible for the antagonism,
- (xi) practices of an employer that are contrary to law,
- (xii) discrimination with regard to employment because of membership in an association, organization or union of workers,
- (xiii) undue pressure by an employer on the claimant to leave their employment, and
- (xiv) any other reasonable circumstances that are prescribed.

1996, c. 23, s. 29; 2000, c. 12, s. 108

Disqualification — misconduct or leaving without just cause

30. (1) A claimant is disqualified from receiving any benefits if the claimant lost any employment because of their misconduct or voluntarily left any employment without just cause, unless

(a) the claimant has, since losing or leaving the employment, been employed in insurable employment for the number of hours required by section 7 or 7.1 to qualify to receive benefits; or

(b) the claimant is disentitled under sections 31 to 33 in relation to the employment.

Length of disqualification

(2) The disqualification is for each week of the claimant's benefit period following the waiting period and, for greater certainty, the length of the disqualification is not affected by any subsequent loss of employment by the claimant during the benefit period.

Not retroactive	(3) If the event giving rise to the disqualification occurs during a benefit period of the claimant, the disqualification does not include any week in that benefit period before the week in which the event occurs.
Suspension	(4) Notwithstanding subsection (6), the disqualification is suspended during any week for which the claimant is otherwise entitled to special benefits.
Restriction on qualifying for benefits	(5) If a claimant who has lost or left an employment as described in subsection (1) makes an initial claim for benefits, the following hours may not be used to qualify under section 7 or 7.1 to receive benefits: <ul style="list-style-type: none"> (a) hours of insurable employment from that or any other employment before the employment was lost or left; and (b) hours of insurable employment in any employment that the claimant subsequently loses or leaves, as described in subsection (1).
Restriction on number of weeks and rate of benefits	(6) No hours of insurable employment in any employment that a claimant loses or leaves, as described in subsection (1), may be used for the purpose of determining the maximum number of weeks of benefits under subsection 12(2) or the claimant's rate of weekly benefits under section 14.
Interpretation	(7) For greater certainty, but subject to paragraph (1)(a), a claimant may be disqualified under subsection (1) even if the claimant's last employment before their claim for benefits was not lost or left as described in that subsection and regardless of whether their claim is an initial claim for benefits.
Disentitlement — suspension for misconduct	31. A claimant who is suspended from their employment because of their misconduct is not entitled to receive benefits until <ul style="list-style-type: none"> (a) the period of suspension expires; (b) the claimant loses or voluntarily leaves the employment; or (a) the claimant, after the beginning of the period of suspension, accumulates with another employer the number of hours of insurable employment required by section 7 or 7.1 to qualify to receive benefits.
Disentitlement — period of leave without just cause	32. (1) A claimant who voluntarily takes a period of leave from their employment without just cause is not entitled to receive benefits if, before or after the beginning of the period of leave, <ul style="list-style-type: none"> (a) the period of leave was authorized by the employer; and (b) the claimant and the employer agreed as to the day on which the claimant would resume employment.
Duration of disentitlement	(2) The disentitlement lasts until the claimant <ul style="list-style-type: none"> (a) resumes the employment;

(b) loses or voluntarily leaves the employment; or

(c) after the beginning of the period of leave, accumulates with another employer the number of hours of insurable employment required by section 7 or 7.1 to qualify to receive benefits.

**Disentitlement —
anticipated loss of
employment**

33. (1) A claimant is not entitled to receive benefits if the claimant loses an employment because of their misconduct or voluntarily leaves without just cause within three weeks before

(a) the expiration of a term of employment, in the case of employment for a set term; or

(b) the day on which the claimant is to be laid off according to a notice already given by the employer to the claimant.

**Duration of
disentitlement**

(2) The disentitlement lasts until the expiration of the term of employment or the day on which the claimant was to be laid off.

**Suspension of
disentitlement**

34. A disentitlement under sections 31 to 33 is suspended during any week for which the claimant is otherwise entitled to special benefits.

Exception

35. Notwithstanding anything in this Part, no claimant is disqualified or disentitled under sections 30 to 33 from receiving benefits only because the claimant left or refused to accept employment if, by remaining in or accepting the employment, the claimant would lose the right

(a) to become or refrain from becoming a member of an association, organization or union of workers; or

(b) to continue to be a member and to observe the lawful rules of an association, organization or union of workers.

Labour disputes

36. (1) Subject to the regulations, if a claimant loses an employment, or is unable to resume an employment, because of a work stoppage attributable to a labour dispute at the factory, workshop or other premises at which the claimant was employed, the claimant is not entitled to receive benefits until the earlier of

(a) the end of the work stoppage, and

(b) the day on which the claimant becomes regularly engaged elsewhere in insurable employment.

Regulations

(2) The Commission may, with the approval of the Governor in Council, make regulations for determining the number of days of disentitlement in a week of a claimant who loses a part-time employment or is unable to resume a part-time employment because of the reason mentioned in subsection (1).

**Suspension of
disentitlement**

(3) A disentitlement under this section is suspended during any period for which the claimant

(a) establishes that the claimant is otherwise entitled to special benefits or benefits by virtue of section 25; and

(b) establishes, in such manner as the Commission may direct, that before the work stoppage, the claimant had anticipated being absent from their employment because of any reason entitling them to those benefits and had begun making arrangements in relation to the absence.

Non-application

(4) This section does not apply if a claimant proves that the claimant is not participating in, financing or directly interested in the labour dispute that caused the stoppage of work.

Separate branches of work

(5) If separate branches of work that are commonly carried on as separate businesses in separate premises are carried on in separate departments on the same premises, each department is, for the purpose of this section, a separate factory or workshop.

Prison inmates and persons outside Canada

37. Except as may otherwise be prescribed, a claimant is not entitled to receive benefits for any period during which the claimant

(a) is an inmate of a prison or similar institution; or

(b) is not in Canada.

Penalties

Penalty for claimants, etc.

38. (1) The Commission may impose on a claimant, or any other person acting for a claimant, a penalty for each of the following acts or omissions if the Commission becomes aware of facts that in its opinion establish that the claimant or other person has

(a) in relation to a claim for benefits, made a representation that the claimant or other person knew was false or misleading;

(b) being required under this Act or the regulations to provide information, provided information or made a representation that the claimant or other person knew was false or misleading;

(c) knowingly failed to declare to the Commission all or some of the claimant's earnings for a period determined under the regulations for which the claimant claimed benefits;

NOTE: Paragraph 38(1)(c) became inoperative effective 12 August, 2001. [SOR/2001-291, s. 2]

(d) made a claim or declaration that the claimant or other person knew was false or misleading because of the non-disclosure of facts;

(e) being the payee of a special warrant, knowingly negotiated or attempted to negotiate it for benefits to which the claimant was not entitled;

(f) knowingly failed to return a special warrant or the amount of the warrant or any excess amount, as required by section 44;

(g) imported or exported a document issued by the Commission, or had it imported or exported, for the purpose of defrauding or deceiving the Commission; or

(h) participated in, assented to or acquiesced in an act or omission mentioned in paragraphs (a) to (g).

Maximum penalty

(2) The Commission may set the amount of the penalty for each act or omission at not more than

(a) three times the claimant's rate of weekly benefits;

(b) if the penalty is imposed under paragraph (1)(c),

(i) three times the amount of the deduction from the claimant's benefits under subsection 19(3), and

(ii) three times the benefits that would have been paid to the claimant for the period mentioned in that paragraph if the deduction had not been made under subsection 19(3) or the claimant had not been disentitled or disqualified from receiving benefits; or

(c) three times the maximum rate of weekly benefits in effect when the act or omission occurred, if no benefit period was established.

Determination under subsection 145(2)

(3) For greater certainty, weeks of regular benefits that are repaid as a result of an act or omission mentioned in subsection (1) are deemed to be weeks of regular benefits paid for the purposes of the application of subsection 145(2). 1996, c. 23, s.38; 2001, c. 5, s.8.

Penalty for employers, etc.

39. (1) The Commission may impose on an employer, or any other person acting for an employer or pretending to be or act for an employer, a penalty for each of the following acts if the Commission becomes aware of facts that in its opinion establish that the employer or other person has

(a) made, in relation to any matter arising under this Act, a representation that the employer or other person knew was false or misleading;

(b) being required under this Act or the regulations to provide information, provided information or made a representation that the employer or other person knew was false or misleading;

(c) in relation to any matter arising under this Act, made a declaration that the employer or other person knew was false or misleading because of the non-disclosure of facts;

(d) imported or exported a document issued by the Commission, or had it imported or exported, for the purpose of defrauding or deceiving the Commission; or

(e) participated in, assented to or acquiesced in an act mentioned in paragraphs (a) to (d).

Maximum penalty	(2) The Commission may set the amount of the penalty for each act at not more than nine times the maximum rate of weekly benefits in effect when the penalty is imposed.
Officers, etc., of corporations	(3) If the Commission becomes aware of facts that in its opinion establish that a corporation has committed an act described in subsection (1) and that any officer, director or agent of the corporation has directed, authorized, assented to, acquiesced in or participated in the act, the Commission may impose a penalty on the officer, director or agent, whether or not a penalty has been imposed on the corporation.
Contravention of information requirements	(4) Notwithstanding subsection (2), if the act involves the provision of information about any matter on which the fulfilment of conditions for the qualification and entitlement for receiving or continuing to receive benefits depends, the Commission may set the amount of the penalty at not more than the greater of <ul style="list-style-type: none"> (a) \$12,000, and (b) the amount of the penalty imposed under section 38 on any person who made a claim for benefits based on the information provided.
Major contraventions	(5) Notwithstanding subsection (2), the Commission may set the amount of the penalty at an amount required or authorized by the regulations if the act is a major contravention, as defined under the regulations.
Limitation on imposition of penalties	40. A penalty shall not be imposed under section 38 or 39 if <ul style="list-style-type: none"> (a) a prosecution for the act or omission has been initiated against the employee, employer or other person; or (b) 36 months have passed since the day on which the act or omission occurred.
Rescission, etc., of penalty	41. The Commission may rescind the imposition of a penalty under section 38 or 39, or reduce the penalty, on the presentation of new facts or on being satisfied that the penalty was imposed without knowledge of, or on the basis of a mistake as to, some material fact.
Warning	41.1 (1) The Commission may issue a warning instead of setting the amount of a penalty for an act or omission under subsection 38(2) or 39(2).
Limitation period	(2) Notwithstanding paragraph 40(b), a warning may be issued within 72 months after the day on which the act or omission occurred.

Non-assignment of Benefits and Liability to Return Benefits and Pay Penalties

- Benefits not assignable** 42. (1) Subject to subsections (2) and (3), benefits are not capable of being assigned, charged, attached, anticipated or given as security and any transaction appearing to do so is void.
1996, c. 23, s.42; 2001, c. 4, s.74 (F).
- Exception — recovery of amounts payable** (2) Any amounts payable under this Act by any person and required to be credited to the Employment Insurance Account may be recovered out of any benefits payable to that person, without affecting any other mode of recovery.
- Exception — payment to other governments** (3) If the Government of Canada, a provincial or municipal government or any other prescribed authority pays a person an advance or assistance or a welfare payment for a week that would not be paid if unemployment benefits were paid for that week, and unemployment benefits subsequently become payable to that person for that week, the Commission may, subject to the regulations, deduct from those or any subsequent benefits and pay to the government or the prescribed authority an amount equal to the amount of the advance, assistance or welfare payment paid, if the person had, on or before receiving the advance, assistance or welfare payment, consented in writing to the deduction and payment by the Commission.
- Liability for overpayments** 43. A claimant is liable to repay an amount paid by the Commission to the claimant as benefits
- (a) for any period for which the claimant is disqualified; or
 - (b) to which the claimant is not entitled.
- Liability to return overpayment** 44. A person who has received or obtained a benefit payment to which the person is disentitled, or a benefit payment in excess of the amount to which the person is entitled, shall without delay return the amount, the excess amount or the special warrant for payment of the amount, as the case may be.
- Return of benefits by claimant** 45. If a claimant receives benefits for a period and, under a labour arbitration award or court judgment, or for any other reason, an employer, a trustee in bankruptcy or any other person subsequently becomes liable to pay earnings, including damages for wrongful dismissal or proceeds realized from the property of a bankrupt, to the claimant for the same period and pays the earnings, the claimant shall pay to the Receiver General as repayment of an overpayment of benefits an amount equal to the benefits that would not have been paid if the earnings had been paid or payable at the time the benefits were paid.
- Return of benefits by employer or other person** 46. (1) If under a labour arbitration award or court judgment, or for any other reason, an employer, a trustee in bankruptcy or any other person becomes liable to pay earnings, including damages for wrongful dismissal or proceeds realized from the property of a bankrupt, to a claimant for a period and has reason to believe that benefits have been paid to the claimant for that period, the employer or other person shall ascertain whether an amount would be repayable under section 45 if the

earnings were paid to the claimant and if so shall deduct the amount from the earnings payable to the claimant and remit it to the Receiver General as repayment of an overpayment of benefits.

Return of benefits by employer

(2) If a claimant receives benefits for a period and under a labour arbitration award or court judgment, or for any other reason, the liability of an employer to pay the claimant earnings, including damages for wrongful dismissal, for the same period is or was reduced by the amount of the benefits or by a portion of them, the employer shall remit the amount or portion to the Receiver General as repayment of an overpayment of benefits.

Liability of directors to pay penalties

46.1 (1) If a penalty is imposed on a corporation under section 38 or 39 for an act or omission, the directors of the corporation at the time of the act or omission are, subject to subsections (2) to (7), jointly and severally, or solidarily, liable, together with the corporation, to pay the amount of the penalty.

Limitations on liability

(2) A director is not liable unless

(a) a certificate for the amount of the corporation's liability for the penalty has been registered in the Federal Court under section 126 and execution for that amount has been returned unsatisfied in whole or in part;

(b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of its liability has been proved within six months after the date of commencement of the proceedings or the date of the dissolution, whichever is earlier; or

(c) the corporation has made an assignment or a bankruptcy order has been made against it under the *Bankruptcy and Insolvency Act* and a claim for the amount of its liability has been proved within six months after the date of the assignment or bankruptcy order.

Defence of due diligence

(3) A director is not liable if the director exercised the degree of care, diligence and skill that a reasonably prudent person would have exercised in comparable circumstances to prevent the act or omission for which the penalty is imposed.

Limitation period

(4) No action or proceedings to recover any amount payable by a director shall be commenced more than six years after the occurrence of the act or omission for which the penalty is imposed.

Amount recoverable

(5) If execution referred to in paragraph (2)(a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Preference

(6) If a director pays an amount in respect of a corporation's liability that is proved in liquidation, dissolution or bankruptcy proceedings,

(a) the director is entitled to any preference that Her Majesty in right of Canada would have been entitled to if that amount had not been paid; and

(b) if a certificate that relates to that amount has been registered, the director is entitled to an assignment of the certificate to the extent of the director's payment and the Commission shall make the assignment.

Contribution from other directors (7) A director who has satisfied a claim under this section is entitled to contribution from the other directors who are liable for the claim.
1996. c. 23, s. 46.1; 1999, c. 31, s. 77(F); 2004, c. 25, ss. 133 (E), 197.

Debts to Crown 47. (1) All amounts payable under section 38, 39, 43, 45, 46 or 46.1 are debts due to Her Majesty and are recoverable in the Federal Court or any other court of competent jurisdiction or in any other manner provided by this Act.

Recovery (2) If benefits become payable to a claimant, the amount of the indebtedness may be deducted and retained out of the benefits.

Limitation (3) No amount due under this section may be recovered more than 72 months after the day on which the liability arose.

Appeals (4) A limitation period established by subsection (3) does not run when there is pending an appeal or other review of a decision establishing the liability.

Claim Procedure

Claim required 48. (1) No benefit period shall be established for a person unless the person makes an initial claim for benefits in accordance with section 50 and the regulations and proves that the person is qualified to receive benefits.

Information required (2) No benefit period shall be established unless the claimant supplies information in the form and manner directed by the Commission, giving the claimant's employment circumstances and the circumstances pertaining to any interruption of earnings, and such other information as the Commission may require.

Notification (3) On receiving an initial claim for benefits, the Commission shall decide whether the claimant is qualified to receive benefits and notify the claimant of its decision.

Proof required 49. (1) A person is not entitled to receive benefits for a week of unemployment until the person makes a claim for benefits for that week in accordance with section 50 and the regulations and proves that

(a) the person meets the requirements for receiving benefits;
and

(b) no circumstances or conditions exist that have the effect of disentitling or disqualifying the person from receiving benefits.

Benefit of the doubt	(2) The Commission shall give the benefit of the doubt to the claimant on the issue of whether any circumstances or conditions exist that have the effect of disqualifying the claimant under section 30 or disentitling the claimant under section 31, 32 or 33, if the evidence on each side of the issue is equally balanced.
Notification	(3) On receiving a claim for benefits, the Commission shall decide whether benefits are payable to the claimant for that week and notify the claimant of its decision.
Entitlement to benefits	50. (1) A claimant who fails to fulfil or comply with a condition or requirement under this section is not entitled to receive benefits for as long as the condition or requirement is not fulfilled or complied with.
How a claim must be made	(2) A claim for benefits shall be made in the manner directed at the office of the Commission that serves the area in which the claimant resides, or at such other place as is prescribed or directed by the Commission.
Form	(3) A claim for benefits shall be made by completing a form supplied or approved by the Commission, in the manner set out in instructions of the Commission.
Time	(4) A claim for benefits for a week of unemployment in a benefit period shall be made within the prescribed time.
Additional information	(5) The Commission may at any time require a claimant to provide additional information about their claim for benefits.
Making claim or providing information in person	(6) The Commission may require a claimant or group or class of claimants to be at a suitable place at a suitable time in order to make a claim for benefits in person or provide additional information about a claim.
Registration for employment	(7) For the purpose of proving that a claimant is available for work, the Commission may require the claimant to register for employment at an agency administered by the Government of Canada or a provincial government and to report to the agency at such reasonable times as the Commission or agency directs.
Proof of efforts to obtain employment	(8) For the purpose of proving that a claimant is available for work and unable to obtain suitable employment, the Commission may require the claimant to prove that the claimant is making reasonable and customary efforts to obtain suitable employment.
Mailing address	(9) A claimant shall provide the mailing address of their normal place of residence, unless otherwise permitted by the Commission.
Waiver or variation of requirements	(10) The Commission may waive or vary any of the conditions and requirements of this section or the regulations whenever in its opinion the circumstances warrant the waiver or variation for the benefit of a claimant or a class or group of claimants.

Information	<p>51. If, in considering a claim for benefits, the Commission finds an indication from the documents relating to the claim that the loss of employment resulted from the claimant's misconduct or that the claimant voluntarily left employment, the Commission shall</p> <ul style="list-style-type: none"> (a) give the claimant and the employer an opportunity to provide information as to the reasons for the loss of employment; and (b) if the information is provided, take it into account in determining the claim.
Reconsideration of claim	<p>52. (1) Notwithstanding section 120, but subject to subsection (5), the Commission may reconsider a claim for benefits within 36 months after the benefits have been paid or would have been payable.</p>
Decision	<p>(2) If the Commission decides that a person</p> <ul style="list-style-type: none"> (a) has received money by way of benefits for which the person was not qualified or to which the person was not entitled, or (b) has not received money for which the person was qualified and to which the person was entitled, the Commission shall calculate the amount of the money and notify the claimant of its decision and the decision is subject to appeal under section 114.
Amount repayable	<p>(3) If the Commission decides that a person has received money by way of benefits for which the person was not qualified or to which the person was not entitled,</p> <ul style="list-style-type: none"> (a) the amount calculated is repayable under section 43; and (b) the day that the Commission notifies the person of the amount is, for the purposes of subsection 47(3), the day on which the liability arises.
Amount payable	<p>(4) If the Commission decides that a person was qualified and entitled to receive money by way of benefits, and the money was not paid, the amount calculated is payable to the claimant.</p>
Extended time to reconsider claim	<p>(5) If, in the opinion of the Commission, a false or misleading statement or representation has been made in connection with a claim, the Commission has 72 months within which to reconsider the claim.</p>
Notification	<p>53. If the Commission is required to notify a person of a decision under this Part, it may have that person notified in such manner as it considers adequate.</p>

Regulations

Regulations

54. The Commission may, with the approval of the Governor in Council, make regulations

(a) prescribing the conditions on which the requirement of serving a waiting period may be waived;

(b) defining and determining what is a working day or working week in any employment;

(c) prescribing the conditions and circumstances under which a claimant

(i) while self-employed or employed in employment that is not insurable employment, or

(ii) whose pattern of full-time employment differs from the normal and customary employment pattern of employed persons generally, is to be considered to have worked or not worked a full working week;

(c.1) for determining the average number of weeks of regular benefits for the purposes of paragraph 7.1(6)(b);

(c.2) setting out circumstances for the purposes of paragraphs 10(5.1)(c) and 23.1(6)(c);

(d) defining and determining who are dependent children, prescribing low-income family eligibility criteria and determining the amount of family supplements for the purposes of section 16;

(d.1) determining for the purposes of subsection 19(3) the period for which benefits were claimed; (e) providing for the deduction under section 19 of earnings and allowances mentioned in subsection 19(4);

(f) determining the amount to be deducted under subsection 20(2) from weekly benefits paid if the claimant normally works other than a five day week;

(f.1) **[Not yet proclaimed in force]**

(f.2) prescribing classes of persons for the purposes of paragraph 23.1(1)(d);

(f.3) defining and determining what is care or support for the purposes of paragraph 23.1(2)(b);

(f.4) prescribing classes of medical practitioners for the purposes of subsection 23.1(3) and setting out the circumstances in which a certificate may be issued by them under subsection 23.1(2);

(f.5) prescribing a shorter period for the purposes of subsection 23.1(5) and prescribing a minimum number of weeks in relation to that shorter period for the purposes of subsection 12(4.3);

(f.6) prescribing requirements for the purposes of paragraph 23.1(7)(c);

(f.7) prescribing rules for the purposes of subsection 23.1(9);

(g) setting out the circumstances that constitute the commencement or termination of a stoppage of work for the purposes of section 36;

(g.1) for defining as a major contravention for the purposes of subsection 39(5) anything that constitutes an act mentioned in subsection 39(1) or (3) and for setting or calculating the amount or maximum amount of the penalty for the major contravention, up to a maximum of \$25,000;

(h) providing for the making of claims by, and the payment of benefits to, any person or agency on behalf of deceased or incapacitated persons or persons with mental disabilities;

(i) imposing additional conditions and terms with respect to the payment and receipt of benefits and restricting the amount or period of benefits in relation to persons who by custom of their occupation, trade or industry or under their agreement with an employer are paid in whole or in part by the piece or on a basis other than time;

(j) prohibiting the payment of benefits, in whole or in part, and restricting the amount of benefits payable, in relation to persons or to groups or classes of persons who work or have worked for any part of a year in an industry or occupation in which, in the opinion of the Commission, there is a period that occurs annually, at regular or irregular intervals, during which no work is performed by a significant number of persons engaged in that industry or occupation, for any or all weeks in that period;

(k) for the ratification of amounts paid to persons while they are not entitled to them and for writing off those amounts and any penalties under section 38, 39 or 65.1 and amounts owing under section 43, 45, 46, 46.1 or 65 and any costs recovered against those persons;

(l) respecting the proof of fulfilment of the conditions and the absence of the disqualification from receiving or continuing to receive benefits, and for that purpose requiring the attendance of insured persons at such offices or places and at such times as may be required;

(m) prescribing the manner in which claims for benefits shall be made and the information to be provided with those claims;

(n) prescribing the procedure to be followed for the consideration and the examination of claims and questions to be considered by officers of the Commission and the way in which a question may be raised as to the continuation of benefits in the case of a person in receipt of benefits;

(o) respecting the payment of benefits during any period intervening between an application for the determination of a question or a claim for benefits and the final determination of the question or claim;

(p) prescribing the time and manner of paying benefits;

(q) requiring employers to provide information about any matter on which the fulfilment of conditions for the qualification and entitlement for receiving or continuing to receive benefits depends, prescribing the time and manner in which the information shall be provided and requiring the certification or affirmation of the information;

(r) providing the manner of ascertaining a claimant's employment history if their employer has failed to provide a record of their employment on separation or the employer is not available or is unable to provide the necessary employment history because their records are destroyed or lost;

(s) defining and determining earnings for benefit purposes, determining the amount of those earnings and providing for the allocation of those earnings to weeks or other periods;

(t) establishing criteria for defining and determining what constitutes a supplemental unemployment benefit plan and providing for the making of those determinations, including the consideration of late applications, reconsidering determinations and appeals from determinations;

(u) defining and determining the circumstances in which and the time at which an interruption of earnings occurs;

(v) prescribing conditions under which benefits may be paid in advance;

(w) establishing regions appropriate for the purpose of applying this Part and Part VIII and delineating their boundaries based on geographical units established or used by Statistics Canada;

(x) determining the regional rates of unemployment produced by Statistics Canada or the averages of those rates that shall apply to a claimant for the purposes of this Part and Part VIII and incorporating in those rates an estimate of the rates for status Indians living on Indian reserves;

(y) prescribing the information and evidence to be provided by a claimant to prove

(i) inability to work because of illness, injury or quarantine, or

(ii) pregnancy or the expected date of confinement;

(z) for carrying out the purposes and provisions of section 14, including regulations

(i) respecting the circumstances under which, the criteria by which and the manner in which

(A) weeks are to be considered as weeks for which a claimant has insurable earnings during a rate calculation period, including the number of those weeks to be considered in that period, and

(B) amounts are to be considered as the insurable earnings for any week or number of weeks in that period, and

(ii) for allocating insurable earnings to a rate calculation period, for example by including them in that period or excluding them from that period;

(z.1) for allocating hours of insurable employment to a qualifying period, for example by including them in that period or excluding them from that period;

(z.2) prescribing

(i) the circumstances in which a claimant who leaves employment in accordance with an employer work-force reduction process that preserves the employment of coworkers may, notwithstanding section 30, be paid benefits, and

(ii) what constitutes an employer work-force reduction process for the purposes of the regulations;

(z.3) reducing the special benefits payable when allowances, money or other benefits are payable to a claimant under a plan other than one established under a provincial law; and

(z.4) prescribing anything that by section 2 or this Part is to be prescribed.

1996, c. 23, s.54; 2000, c. 12 s.109; 2003, c. 15, s. 20.

Hours of insurable employment

55. (1) The Commission may, with the approval of the Governor in Council, make regulations for establishing how many hours of insurable employment a person has, including regulations providing that persons whose earnings are not paid on an hourly basis are deemed to have hours of insurable employment as established in accordance with the regulations.

Alternative methods

(2) If the Commission considers that it is not possible to apply the provisions of the regulations, it may authorize an alternative method of establishing how many hours of insurable employment a person has.

Alteration or rescission of authorization (3) The Commission may at any time alter the authorized method or rescind the authorization, subject to any conditions that it considers appropriate.

Agreement to provide alternative methods (4) The Commission may enter into agreements with employers or employees to provide for alternative methods of establishing how many hours of insurable employment persons have and the Commission may at any time rescind the agreements.

PART II (Sections 56 to 65.2)

EMPLOYMENT BENEFITS AND NATIONAL EMPLOYMENT SERVICE

Purpose 56. The purpose of this Part is to help maintain a sustainable employment insurance system through the establishment of employment benefits for insured participants and the maintenance of a national employment service.

Guidelines 57. (1) Employment benefits and support measures under this Part shall be established in accordance with the following guidelines:

- (a) harmonization with provincial employment initiatives to ensure that there is no unnecessary overlap or duplication;
- (b) reduction of dependency on unemployment benefits by helping individuals obtain or keep employment;
- (c) co-operation and partnership with other governments, employers, community-based organizations and other interested organizations;
- (d) flexibility to allow significant decisions about implementation to be made at a local level;
- (d.1) availability of assistance under the benefits and measures in either official language where there is significant demand for that assistance in that language;
- (e) commitment by persons receiving assistance under the benefits and measures to
 - (i) achieving the goals of the assistance,
 - (ii) taking primary responsibility for identifying their employment needs and locating services necessary to allow them to meet those needs, and
 - (iii) if appropriate, sharing the cost of the assistance;and
- (f) implementation of the benefits and measures within a framework for evaluating their success in assisting persons to obtain or keep employment.

Working in concert with provincial governments (2) To give effect to the purpose and guidelines of this Part, the Commission shall work in concert with the government of each province in which employment benefits and support measures are to be implemented in designing the benefits and measures, determining how they are to be implemented and establishing the framework for evaluating their success.

Agreements with provinces (3) The Commission shall invite the government of each province to enter into agreements for the purposes of subsection (2) or any other agreements authorized by this Part.

Definition of "insured participant" 58. (1) In this Part, "insured participant" means an insured person who requests assistance under employment benefits and, when requesting the assistance, is an unemployed person

(a) for whom a benefit period is established or whose benefit period has ended within the previous 36 months; or

(b) for whom a benefit period has been established in the previous 60 months and who

(i) was paid special benefits under section 22 or 23 during the benefit period,

(ii) subsequently withdrew from active participation in the labour force to care for one or more of their new-born children or one or more children placed with them for the purpose of adoption, and

(iii) is seeking to re-enter the labour force.

Interpretation (2) For the purposes of subsection (1), "benefit period" includes a benefit period established under the *Unemployment Insurance Act* and "special benefits" includes benefits under sections 18 and 20 of that Act.

Employment benefits for insured participants 59. The Commission may establish employment benefits to enable insured participants to obtain employment, including benefits to

(a) encourage employers to hire them;

(b) encourage them to accept employment by offering incentives such as temporary earnings supplements;

(c) help them start businesses or become self-employed;

(d) provide them with employment opportunities through which they can gain work experience to improve their long-term employment prospects; and

(e) help them obtain skills for employment, ranging from basic to advanced skills.

National employment service	60. (1) The Commission shall maintain a national employment service to provide information on employment opportunities across Canada to help workers find suitable employment and help employers find suitable workers.
Duties of the Commission	<p>(2) The Commission shall</p> <p>(a) collect information concerning employment for workers and workers seeking employment and, to the extent the Commission considers necessary, make the information available with a view to assisting workers to obtain employment for which they are suited and assisting employers to obtain workers most suitable to their needs; and</p> <p>(b) ensure that in referring a worker seeking employment there will be no discrimination on a prohibited ground of discrimination within the meaning of the <i>Canadian Human Rights Act</i> or because of political affiliation, but nothing in this paragraph prohibits the national employment service from giving effect to</p> <p style="padding-left: 40px;">(i) any limitation, specification or preference based on a <i>bona fide</i> occupational requirement, or</p> <p style="padding-left: 40px;">(ii) any special program, plan or arrangement mentioned in section 16 of the <i>Canadian Human Rights Act</i>.</p>
Regulations	(3) The Commission may, with the approval of the Governor in Council, make regulations for the purposes of subsections (1) and (2).
Support measures	<p>(4) In support of the national employment service, the Commission may establish support measures to support</p> <p>(a) organizations that provide employment assistance services to unemployed persons;</p> <p>(b) employers, employee or employer associations, community groups and communities in developing and implementing strategies for dealing with labour force adjustments and meeting human resource requirements; and</p> <p>(c) research and innovative projects to identify better ways of helping persons prepare for, return to or keep employment and be productive participants in the labour force.</p>
Limitation	<p>(5) Support measures established under paragraph (4)(b) shall not</p> <p>(a) provide assistance for employed persons unless they are facing a loss of their employment; or</p> <p>(b) provide direct federal government assistance for the provision of labour market training without the agreement of the government of the province in which the assistance is provided.</p>

- Financial assistance** **61.** (1) For the purpose of implementing employment benefits and support measures, the Commission may, in accordance with terms and conditions approved by the Treasury Board, provide financial assistance in the form of
- (a) grants or contributions;
 - (b) loans, loan guarantees or suretyships;
 - (c) payments for any service provided at the request of the Commission; and
 - (d) vouchers to be exchanged for services and payments for the provision of the services.
- Provincial agreement** (2) The Commission may not provide any financial assistance in a province in support of employment benefits mentioned in paragraph 59(e) without the agreement of the government of the province.
- Transitional payments for educational institutions** (3) Payments under paragraph (1)(c) include the following transitional payments, which may not be made under this section more than three years after it comes into force:
- (a) payments to a public or private educational institution for providing a course or program of instruction or training at the request of the Commission under employment benefits authorized by paragraph 59(e); and
 - (b) payments to a province in respect of the course or program if it is provided by a public educational institution and there is an agreement between the government of the province and the Commission to remunerate the province for all or part of the cost of providing the course or program.
1996, c. 23, s. 61; 2001, c. 4, s. 75 (E)
- Agreements for administering employment benefits and support measures** **62.** The Commission may, with the approval of the Minister, enter into an agreement or arrangement for the administration of employment benefits or support measures on its behalf by a department, board or agency of the Government of Canada, another government or government agency in Canada or any other public or private organization.
- Agreements for paying costs of similar benefits and measures** **63.** The Commission may, with the approval of the Minister, enter into an agreement with a government or government agency in Canada or any other public or private organization to provide for the payment of contributions for all or a portion of
- (a) any costs of benefits or measures provided by the government, government agency or organization that are similar to employment benefits or support measures under this Part and are consistent with the purpose and guidelines of this Part; and
 - (b) any administration costs that the government, government agency or organization incurs in providing the benefits or measures.

No appeal	64. A decision of the Commission made in relation to employment benefits or support measures, other than a decision under section 65.1, is not subject to appeal under section 114 or 115.
Liability for repayments	<p>65. A person is liable to repay the following amounts paid under section</p> <ul style="list-style-type: none"> (a) principal and interest on a loan to the person; (b) an amount paid on a guarantee or suretyship of a loan made to the person; and (c) an amount paid to the person to which the person is not entitled. 1996, c. 23, s. 65; 2001, c 4, s. 76(E)
Penalties	<p>65.1 (1) The Commission may impose on a person to whom financial assistance has been provided under section 61 a penalty for each of the following acts or omissions if the Commission becomes aware of facts that in its opinion establish that the person has</p> <ul style="list-style-type: none"> (a) in relation to an application or request for the assistance, <ul style="list-style-type: none"> (i) made a representation that the person knew was false or misleading, or (ii) made a declaration that the person knew was false or misleading because of the non-disclosure of facts; or (b) without good cause failed to attend, carry out or complete the course, program or activity for which the assistance was provided or was expelled from it.
Maximum penalty	(2) The Commission may set the amount of the penalty for each act or omission at not more than the amount of the financial assistance that was provided.
Limitation on imposition of penalties	<p>(3) The penalty shall not be imposed if</p> <ul style="list-style-type: none"> (a) a prosecution for the act or omission has been initiated against the person; or (b) 36 months have passed since the day on which the act or omission occurred.
Rescission, etc., of penalty	<p>(4) The Commission may rescind the imposition of the penalty, or reduce the penalty, on the presentation of new facts or on being satisfied that the penalty was imposed without knowledge of, or on the basis of a mistake as to, some material fact. 1996, c. 23, s. 65.1; 1999, c. 31, s. 78(F).</p>
Debts due to the Crown	65.2 (1) Amounts repayable under section 65 and penalties under section 65.1 are debts due to Her Majesty and are recoverable in the Federal Court or any other court of competent jurisdiction or in any other manner provided by this Act.
Recovery by deduction	(2) If an amount becomes payable to the person under section 61, the amount of their indebtedness to Her Majesty may be recovered out of the amount payable.

Limitation (3) No amount due under this section may be recovered more than 72 months after the day on which the liability arose.

PART III (Sections 65.3 to 80)

PREMIUMS AND OTHER FINANCIAL MATTERS

Premiums

Chief actuary **65.3** (1) The chief actuary referred to in section 28 of the Department of Human Resources and Skills Development Act shall determine the premium rate for a year that, in the chief actuary's opinion, based on the information provided by the Minister of Finance under section 66.2 and taking into account any regulations made under section 69, should generate just enough premium revenue during that year to cover the payments that will be made under subsection 77(1) during that year.

Changes to payments (2) If the Minister has announced, on or before October 14 of the previous year, any changes to payments to be made under paragraph 77(1)(a), (b) or (c) for a year, the chief actuary shall, at the request of the Minister, take into account those changes and make another determination of the premium rate that, in the chief actuary's opinion, based on the information provided by the Minister of Finance under section 66.2 and taking into account any regulations made under section 69, should generate just enough premium revenue during that year to cover the payments that would be made under subsection 77(1) during that year if the changes were to commence on the date specified by the Minister.

Report to the Commission (3) The chief actuary shall provide to the Commission a report setting out the premium rate determined under subsection (1) or (2) for a year, on or before October 14 of the previous year, and the Commission shall, as soon as possible after receiving the report, make it available to the public.

Annual premium rate setting **66.** (1) Subject to subsection (2) and sections 66.1 and 66.3, the Commission shall set the premium rate for a year, taking into account

(a) the principle that the premium rate should generate just enough premium revenue during that year to cover the payments that will be made under subsection 77(1) during that year, based on the information provided by the Minister of Finance under section 66.2, taking into account any regulations made under section 69, and considering any changes to payments made under subsection 77(1) that have been announced by the Minister;

(a) the report of the chief actuary to the Commission for that year; and

(b) any public input.

Difference year to year (2) The premium rate for a year may not be increased or decreased by more than fifteen one-hundredths of one per cent (0.15%) relative to the premium rate for the previous year

Time limit	(3) The Commission shall set the premium rate for a year on or before November 14 in the previous year.
Cap on Rate	66.1 For 2006 and 2007, the premium rate in each year may not be greater than 1.95%.
Forecast values	66.2 The Minister of Finance shall, on or before September 30 of a year, provide to the chief actuary and the Commission the most current forecast values of the economic variables that are relevant to the determination, under section 65.3 or under subsection 66(1), as the case may be, of a premium rate for the following year.
Governor in Council	66.3 Subject to subsection 66(2) and section 66.1, on the joint recommendation of the Minister and the Minister of Finance, the Governor in Council may, on or before November 30 in a year, substitute a premium rate for the following year that is different from the one set by the Commission under subsection 66(1), if the Governor in Council considers it to be in the public interest.
Rounding percentage rates	66.4 If the calculation of a premium rate under section 65.3, 66 or 66.3 results in a rate that includes a fraction of one per cent, the resulting percentage is to be rounded to the nearest one-hundredth of one per cent or, if the resulting percentage is equidistant from two one-hundredths of one percent, to the higher of them.
Statutory Instruments Act	66.5 The <i>Statutory Instruments Act</i> does not apply in respect of a premium rate set under section 66 or 66.3 or the premiums determined under sections 67 and 68. However, the premium rates must, as soon as possible, be published by the Commission in Part I of the <i>Canada Gazette</i> .
User Fees Act	66.6 For greater certainty, the <i>User Fees Act</i> does not apply in respect of the premium rate set under section 66 or 66.3 or the premiums determined under sections 67 and 68.
Employee's premium	67. Subject to section 70, a person employed in insurable employment shall pay, by deduction as provided in subsection 82(1), a premium equal to their insurable earnings multiplied by the premium rate set under section 66 or 66.3, as the case may be. 1996, c. 23, s.66; 2001, c. 5, s.9.; 2003, c.15, s.21; 2004, c.22, s.25 and s. 26; 2005, c. 30, s. 126
Employer's premium	68. Subject to sections 69 and 70, an employer shall pay a premium equal to 1.4 times the employees' premiums that the employer is required to deduct under subsection 82(1).
Premium reduction — wage-loss plans	69. (1) The Commission shall, with the approval of the Governor in Council, make regulations to provide a system for reducing the employer's premium where (a) the payment of any allowances, money or other benefits because of illness, injury, quarantine, pregnancy, child care or compassionate care under a plan that covers insured persons employed by the employer, other than one established under provincial law, would have the effect of reducing the special benefits payable to the insured persons; and

(b) the insured persons will benefit from the reduction of the employer's premium in an amount at least equal to 5/12 of the reduction.

Provincial plans

(2) The Commission shall, with the approval of the Governor in Council, make regulations to provide a system for reducing the employer's and employee's premiums when the payment of any allowances, money or other benefits because of illness, injury, quarantine, pregnancy, child care or compassionate care under a provincial law to insured persons would have the effect of reducing or eliminating the special benefits payable to those insured persons.

Included provisions

(3) The regulations may include provisions

(a) prescribing the manner and time for making an application for a premium reduction;

(b) prescribing the standards that must be met by a plan to qualify for a premium reduction and the time during which the plan must be in effect;

(c) prescribing the method for determining the amount of reduction for plans that meet the prescribed standards and the use to be made of actuarial calculations and estimates;

(d) prescribing the manner in which insured persons are to benefit from the premium reduction;

(e) providing for the making of decisions relating to premium reduction and appeals in cases of dispute;

(f) prescribing how the insured earnings of insured persons will be reported by employers to the Canada Customs and Revenue Agency; and

(g) generally, providing for any other matters necessary for carrying out the purposes and provisions of subsections (1) and (2).

Late applications

(4) If an application for an employer's premium reduction is made within 36 months after the time prescribed for making it, the Commission may, subject to prescribed conditions, regard the application as having been made at the prescribed time if the applicant shows that there was good cause for the delay throughout the period beginning at the prescribed time and ending on the day when the application was made.

Reconsideration of application

(5) The Commission may reconsider any decision relating to an employer's premium reduction within 36 months after the date of the decision and any new decision that it makes shall apply in place of the reconsidered decision.

Definition

(6) The reference to the payment of allowances, money or other benefits because of compassionate care in subsections (1) and (2) means the payment of allowances, money or other benefits for the same or substantially the same reasons for which benefits are payable under section 23.1. 1996, c. 23, s. 69; 1999, c. 17, s. 135; 2003, c. 15, s. 22.

Overlapping pay periods

70. If insurable earnings are paid to a person after the end of the year in which their insurable employment occurred, the insurable employment is, for the purposes of determining insurable earnings and premiums payable, deemed to have occurred in the year in which the insurable earnings are paid.

Employment Insurance Account

Employment Insurance Account established

71. There shall be established in the accounts of Canada an account to be known as the Employment Insurance Account.

Payment into Consolidated Revenue Fund

72. There shall be paid into the Consolidated Revenue Fund

(a) all amounts received under Parts I and III to IX, as or on account of premiums, fines, penalties, interest, repayment of overpaid benefits and benefit repayment;

(b) all amounts collected by the Commission for services rendered to other government departments or agencies or to the public; and

(c) all amounts received on account of principal or interest on loans made by the Commission under Part II or as repayment of overpayments made by the Commission under that Part.

Credits to Employment Insurance Account

73. There shall be credited to the Employment Insurance Account and charged to the Consolidated Revenue Fund

(a) an amount in each year equal to the amount receivable as or on account of premiums payable for that year under this Act;

(b) any other amounts provided out of the Consolidated Revenue Fund appropriated by Parliament for any purpose related to employment insurance and administered by the Commission; and

(c) an amount equal to all benefit repayments receivable under Part VII.

Government premiums

74. There shall be credited to the Employment Insurance Account and charged to the Consolidated Revenue Fund an amount equal to the premiums required to be paid by Her Majesty in right of Canada as employer's premiums for persons employed in insurable employment by Her Majesty in right of Canada.

Other credits to Employment Insurance Account

75. There shall be credited to the Employment Insurance Account all amounts paid into the Consolidated Revenue Fund that are

(a) received as or on account of penalties imposed under section 38, 39 or 65.1 and repayments of overpaid benefits, except interest and penalties on benefit repayment;

(b) collected by the Commission for services rendered to other government departments or agencies or to the public;

(c) received on account of principal or interest on loans made by the Commission under Part II;

(d) received as repayments of overpayments by the Commission under section 61 for employment benefits and support measures authorized by Part II;

(e) received as repayments of overpayments by the Commission under agreements entered into under section 63; or

(f) received as interest under section 80.1.

Interest

76. The Minister of Finance may authorize the payment of interest on the balance in the Employment Insurance Account in accordance with such terms and conditions and at such rates as the Minister of Finance may establish and the interest shall be credited to the Employment Insurance Account and charged to the Consolidated Revenue Fund.

Charges to the Account

77. (1) There shall be paid out of the Consolidated Revenue Fund and charged to the Employment Insurance Account

(a) all amounts paid as or on account of benefits under this Act;

(b) all amounts paid under section 61 for employment benefits and support measures authorized by Part II;

(c) all amounts paid under paragraph 63(a); and

(d) the costs of administering this Act, including administration fees or costs paid under section 62 or paragraph 63(b).

Payment by special warrants

(2) Notwithstanding the *Financial Administration Act*, amounts mentioned in paragraph (1)(a) shall be paid by special warrants drawn on the Receiver General and issued by the Commission by electronic means or bearing the printed signature of the Chairperson and Vice-Chairperson of the Commission, and amounts mentioned in paragraphs (1)(b) and (c) may be paid by the special warrants.

No charge for negotiation

(3) The special warrants are negotiable without charge at any financial institution in Canada. 1996, c. 23, ss. 77, 189(E); 1999, c. 31, s. 79(E).

Maximum amount that may be paid under Part II

78. The total amount that may be paid out by the Commission under section 61 and paragraph 63(a) and charged to the Employment Insurance Account under this Part in a fiscal year must not exceed 0.8% of the insurable earnings of all insured persons from which the prescribed amount is deducted under subsection 82(1) in that year as or on account of employee's premiums, as estimated by the Commission and set out in the Main Estimates tabled in Parliament.

Plan	<p>79. The Minister shall, with the concurrence of the Minister of Finance,</p> <p style="padding-left: 40px;">(a) submit to the Treasury Board for approval a plan for each fiscal year estimating the amounts to be paid for that year under Part II; and</p> <p style="padding-left: 40px;">(b) have the plan included in the Main Estimates tabled in Parliament for the fiscal year.</p>
Advances	<p>80. (1) If the amount standing to the credit of the Employment Insurance Account is not sufficient for the payment of amounts authorized to be charged to that Account, the Minister of Finance, when requested by the Commission, may authorize the advance to the Account from the Consolidated Revenue Fund of an amount sufficient to make the payment.</p>
Advances repayable	<p>(2) The advance shall be credited to the Employment Insurance Account and be repaid in such manner and on such terms and conditions as the Minister of Finance may establish.</p>
Repayment	<p>(3) The repayment of the amount advanced and the interest on it, if any, shall be charged to the Employment Insurance Account.</p>
Regulations — payment of interest	<p>80.1 (1) The Commission may, with the approval of the Governor in Council, make regulations respecting the payment of interest on amounts owing to Her Majesty under this Act, other than Parts IV and VII, including regulations prescribing</p> <p style="padding-left: 40px;">(a) rates of interest, or the manner of calculating rates of interest, payable;</p> <p style="padding-left: 40px;">(b) terms and conditions for the imposition and payment of interest; and</p> <p style="padding-left: 40px;">(c) terms and conditions under which the Commission may waive, reduce or write off the interest payable.</p>
Debt due to Her Majesty	<p>(2) Interest payable under this section is a debt due to Her Majesty and may be recovered in the Federal Court or any other court of competent jurisdiction or in any other manner provided by this Act, including the manner in which an amount owing under Part I may be recovered under subsection 47(2) or section 126.</p>
Limitation	<p>(3) No interest due under this section may be recovered more than 72 months after the day on which the liability to pay it arose.</p>
Exclusion of Financial Administration Act	<p>(4) Section 155.1 of the <i>Financial Administration Act</i> does not apply in relation to amounts owing to Her Majesty under this Act, other than Parts IV and VII.</p>

PART IV (Sections 81 to 108)

INSURABLE EARNINGS AND COLLECTION OF PREMIUMS

Interpretation

Definitions

- "authorized person"** 81. In this Part, "authorized person" means a person authorized by the Minister for the purposes of this Part;
- " judge"** "judge" means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court;
- "Minister"** "Minister" means the Minister of National Revenue.

Payment of Premiums

- Deduction and payment of premiums** 82. (1) Every employer paying remuneration to a person they employ in insurable employment shall
- (a) deduct the prescribed amount from the remuneration as or on account of the employee's premium payable by that insured person under section 67 for any period for which the remuneration is paid; and
 - (b) remit the amount, together with the employer's premium payable by the employer under section 68 for that period, to the Receiver General at the prescribed time and in the prescribed manner.
- Maximum deduction by a particular employer** (2) The employer shall not make any deduction as or on account of the person's premium for a year if in that year the insurable earnings paid by the employer to the person have reached the maximum yearly insurable earnings.
- Payment at financial institution** (3) If the employer is a prescribed person at the prescribed time, the remittance shall be made to the account of the Receiver General at a financial institution, within the meaning that would be assigned by the definition "financial institution" in subsection 190(1) of the *Income Tax Act* if it were read without reference to paragraphs (d) and (e) of that subsection.
- Liability for failure to deduct** (4) Subject to subsection (5), an employer who fails to deduct and remit an amount from the remuneration of an insured person as and when required under subsection (1) is liable to pay to Her Majesty the whole amount that should have been deducted and remitted from the time it should have been deducted.
- Subsequent decision** (5) An employer is not liable for failing to make a deduction from the remuneration of an insured person or for any amount that should have been deducted if
- (a) the employer is informed in writing in a ruling under section 90 that the employer is not required to make the deduction,
 - (b) the ruling is not based on information provided by the employer to the Minister that was incorrect in a material particular, and
 - (c) it is subsequently decided under section 91 or 103 that the deduction should have been made,

but once the decision under section 91 or 103 is communicated to the employer, the employer is liable without interest or penalties under this Act to pay the premium required to be paid by the employer with respect to the insured person.

Deduction from subsequent payment of remuneration

(6) An employer who fails to deduct the employee's premium as required by subsection (1) from a payment of remuneration to an insured person may deduct an amount equal to it from any subsequent payment of remuneration made to the insured person within 12 months after making the payment from which the deduction was required, but the employer may not deduct, in addition to the premium required by subsection (1), more than one other such premium that the employer previously failed to deduct.

Amount deducted deemed received

(7) If an amount has been deducted under subsection (1), it is deemed for all purposes to have been received at that time by the insured person to whom the remuneration was payable.

Interest on amounts not remitted

(8) If an employer has failed to remit to the Receiver General an amount that the employer was required to remit at the time when it was required, the employer shall pay to the Receiver General interest on that amount at the prescribed rate computed from the day on which the employer was so required to remit the amount to the day of remittance of the amount to the Receiver General.

Penalty for failure to remit

(9) Every employer who in a year fails to remit to the Receiver General an amount that the employer is required to remit at the time when it is required is liable to a penalty of

(a) 10% of the amount; or

(b) 20% of the amount if at the time of the failure a penalty under this subsection was payable by the employer for an amount that the employer was required to remit during the year and the failure was made knowingly or under circumstances amounting to gross negligence.

Succession of employers

82.1 If, in a year after 2003, one employer immediately succeeds another as the employer of an employee as a result of the formation or dissolution of a corporation or the acquisition — with the agreement of the former employer or by operation of law — of all or part of an undertaking or business of the former employer, the successor employer may, for the application of section 82, take into account the amounts deducted, remitted or paid under this Act by the former employer in respect of the year in relation to the employment of the employee as if they had been deducted, remitted or paid by the successor employer. If the employer takes those amounts into account with respect to the employer's premium, the employer shall also take them into account with respect to the employee's premium. 1996, c. 23, s.82; 2004, c. 22, s. 27.

Liability of directors

83. (1) If an employer who fails to deduct or remit an amount as and when required under subsection 82(1) is a corporation, the persons who were the directors of the corporation at the time when the failure occurred are jointly and severally, or solidarily, liable, together with the corporation, to pay Her Majesty that amount and any related interest or penalties.

Application of Income Tax Act provisions	(2) Subsections 227.1(2) to (7) of the <i>Income Tax Act</i> apply, with such modifications as the circumstances require, to a director of the corporation.
Assessment provisions applicable to directors	(3) The provisions of this Part respecting the assessment of an employer for an amount payable under this Act and respecting the rights and obligations of an employer so assessed apply to a director of the corporation in respect of an amount payable by the director under subsection (1) in the same manner and to the same extent as if the director were the employer mentioned in those provisions. 1996, c. 23, s. 83; 2004, c. 25, s. 134 (E).
Employer's premium not recoverable	84. Despite any contract to the contrary, an employer is not entitled to recover from an insured person the employer's premium payable by the employer either by withholding the amount of the premium from the person's wages or otherwise.
Assessment	85. (1) The Minister may assess an employer for an amount payable by the employer under this Act, or may reassess the employer or make such additional assessments as the circumstances require, and the expression "assessment" when used in this Act with reference to any action so taken by the Minister under this section includes a reassessment or an additional assessment.
Notice of assessment and liability of employer	(2) After assessing an employer for an amount payable under this Act, the Minister shall send the employer a notice of assessment, and when the notice is sent the assessment is valid and binding subject to being vacated or varied on appeal under this Act, and the employer is liable to pay the amount to Her Majesty without delay.
Limitation on assessments	(3) No assessment, reassessment or additional assessment of an amount payable by an employer under this Act may be made by the Minister under this section after three years have elapsed after the end of the year in which any premium in relation to which that amount is payable should have been paid, unless the employer has made a misrepresentation or committed fraud in filing a return or in supplying information about the return under this Part.
Mailing date	(4) The day of mailing of a notice of assessment described in subsection (2) is, in the absence of any evidence to the contrary, deemed to be the day appearing from the notice to be the date of the notice unless called into question by the Minister or by a person acting for the Minister or for Her Majesty.
Recovery	86. (1) All premiums, interest, penalties and other amounts payable by an employer under this Act are debts due to Her Majesty and are recoverable in the Federal Court or any other court of competent jurisdiction or in any other manner provided for by this Act.
Amounts deducted and not remitted	(2) Where an employer has deducted an amount from the remuneration of an insured person as or on account of any employee's premium required to be paid by the insured person but has not remitted the amount to the Receiver General, the employer is deemed, notwithstanding any security interest (as defined in subsection 224(1.3) of the <i>Income Tax Act</i>) in the amount so deducted, to hold the amount separate and apart from the property of the employer and from property held by any secured creditor (as defined in subsection 224(1.3) of the <i>Income Tax Act</i>) of that employer that but for the security interest would be property of the employer, in trust for Her Majesty

and for payment to Her Majesty in the manner and at the time provided under this Act.

Extension of trust

(2.1) Notwithstanding the *Bankruptcy and Insolvency Act* (except sections 81.1 and 81.2 of that Act), any other enactment of Canada, any enactment of a province or any other law, where at any time an amount deemed by subsection (2) to be held by an employer in trust for Her Majesty in the manner and at the time provided under this Act, property of the employer and property held by any secured creditor (as defined in subsection 224(1.3) of the *Income Tax Act*) of that employer that but for a security interest (as defined in subsection 224(1.3) of the *Income Tax Act*) would be property of the employer, equal in value to the amount so deemed to be held in trust is deemed

(a) to be held, from the time the amount was deducted by the employer, separate and apart from the property of the employer, in trust for Her Majesty whether or not the property is subject to such a security interest, and

(b) to form no part of the estate or property of the employer from the time the amount was so deducted, whether or not the property has in fact been kept separate and apart from the estate or property of the employer and whether or not the property is subject to such a security interest

and is property beneficially owned by Her Majesty notwithstanding any security interest in such property or in the proceeds thereof, and the proceeds of such property shall be paid to the Receiver General in priority to all such security interests.

Meaning of security interest

(2.2) For the purposes of subsections (2) and (2.1), a security interest does not include a prescribed security interest.

Certificate before distribution

(3) Before distributing any property over which a responsible representative has control in that capacity, the responsible representative shall obtain a certificate from the Minister certifying the payment, or acceptance by the Minister of security for payment, of all amounts

(a) for which an employer is liable under this Act up to and including the date of distribution; and

(b) for the payment of which the responsible representative is or can reasonably be expected to become liable in that capacity.

Personal liability

(4) If the responsible representative distributes to one or more persons property over which the responsible representative has control in that capacity, without obtaining the certificate, the responsible representative is personally liable for the payment of the amounts to the extent of the value of the property distributed and the Minister may assess the responsible representative for the amounts in the same manner and with the same effect as an assessment made under section 85.

Security

(5) If the Minister considers it advisable in a particular case, the Minister may accept security for payment of premiums by way of mortgage, hypothec or other charge of any kind whatever on property of the employer or any other person or by way of guarantee from other persons.

Trustee in bankruptcy	(6) If an employer has become bankrupt, the trustee in bankruptcy is deemed to be the agent of the bankrupt for the purposes of this Act.
Definition of "responsible representative"	(7) For the purposes of this section, "responsible representative" means a person, other than a trustee in bankruptcy, who is an assignee, liquidator, receiver, receiver-manager, administrator, executor, liquidator of the succession or any other like person administering, winding up, controlling or otherwise dealing with a property, business or estate of another person. 1996, c. 23, s. 86; 1998, c. 19, s. 266; 2001, ch.4, art. 77(F).
Records and books	87. (1) An employer paying remuneration to a person they employ in insurable employment shall keep records and books of account at the employer's place of business or residence in Canada, or at such other place as may be designated by the Minister, in such form and containing such information, including the Social Insurance Number of each insured person, as will enable the determination of any premiums payable under this Act or any premiums or other amounts that should have been deducted or paid.
Specification of required books and records	(2) If the employer has failed to keep adequate records and books of account, the Minister may require the employer to keep such records and books of account as the Minister may specify, and the employer shall keep the required records and books of account.
Retention for six years	(3) The employer shall retain the records and books of account and every account and voucher necessary to verify the information contained in them for six years after the year for which they are kept, or until written permission for their prior disposal is given by the Minister.
Electronic records	(3.1) Every employer required by this section to keep records who does so electronically shall retain them in an electronically readable format for the retention period referred to in subsection (3).
Exemption	(3.2) The Minister may, on such terms and conditions as are acceptable to the Minister, exempt an employer or a class of employers from the requirement in subsection (3.1).
Retention for ruling or appeal	(4) If the employer or one of their employees is subject to a ruling under section 90 or has made an appeal to the Minister under section 91, the employer shall retain every record, book of account, account and voucher necessary for dealing with the ruling or the appeal until the ruling is made or the appeal is disposed of and any further appeal is disposed of or the time for filing a further appeal has expired. 1996, c. 23, s. 87; 1998, c. 19, s. 267.
Inspections	88. (1) An authorized person may, at any reasonable time, for any purpose relating to the administration or enforcement of this Act, inspect, audit or examine any document that relates or may relate to the information that is or should be contained in the records or books of account or to the amount of any premium payable under this Act and, for those purposes, the authorized person may <ul style="list-style-type: none"> (a) subject to subsection (2), enter any premises or place where any records or books of account are or should be kept; and (b) require the owner, occupant or person in charge of the premises or place to give the authorized person all reasonable assistance and to answer all proper questions relating to the administration or

enforcement of this Act and, for that purpose, require the owner, occupant or person in charge to attend at the premises or place with the authorized person.

Warrant required to enter dwelling-house

(2) If the premises or place is a dwelling-house, an authorized person may only enter with the consent of the occupant or under the authority of a warrant issued under subsection (3).

Warrant or order

(3) If, on *ex parte* application by the Minister, a judge is satisfied by information on oath that

(a) there are reasonable grounds for believing that a dwelling-house is a premises or place mentioned in subsection (1),

(b) entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(c) entry into the dwelling-house has been refused or there are reasonable grounds for believing that entry will be refused, the judge may issue a warrant authorizing an authorized person to enter the dwelling-house subject to such conditions as may be specified in the warrant.

Order for access to documents, etc.

(4) If the judge is not satisfied that entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, the judge may

(a) order the occupant of the dwelling-house to provide an authorized person with reasonable access to any document that is or should be kept in the dwelling-house, and

(b) make such other order as is appropriate in the circumstances to carry out the purposes of this Act,

to the extent that access has been or may be expected to be refused and that the document is or may be expected to be kept in the dwelling-house.

Requirement to provide documents and information

(5) Notwithstanding any other provision of this Act, but subject to subsection (6), the Minister may for any purpose relating to the administration or enforcement of this Part, by notice served personally or by confirmed delivery service, require that any person provide, within such reasonable time as is stated in the notice,

(a) any information or additional information, including any information return or supplementary return; or

(b) any document.

Unnamed persons

(6) The Minister shall not impose on any person, in this section referred to as a "third party", a requirement under subsection (5) to provide information or any document relating to one or more unnamed persons unless the Minister first obtains the authorization of a judge under subsection (7).

Judicial authorization

(7) On *ex parte* application by the Minister, a judge may, subject to such conditions as the judge considers appropriate, authorize the Minister to impose on a third party a requirement under subsection (5) relating to an unnamed person or more than one unnamed person, in this section referred to as the "group", if the judge is satisfied by information on oath that

- (a) the person or group is ascertainable;
- (b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Part;
- (c) it is reasonable to expect, based on any grounds, including statistical or other information or past experience relating to the group or any other persons, that the person or any person in the group may have failed or may be likely to fail to provide information that is sought under the requirement or to otherwise comply with this Act; and
- (d) the information or document is not otherwise more readily available.

- Service of authorization** (8) If the authorization is granted, it shall be served together with the notice mentioned in subsection (5).
- Review of authorization** (9) If the authorization is granted, a third party on whom it is served may, within 15 days after it is served, apply for a review of the authorization to the judge who granted it or, if the judge is unable to act, to another judge of the same court.
- Powers on review** (10) On hearing the application, a judge may cancel the authorization previously granted if the judge is not then satisfied that the conditions in paragraphs (7)(a) to (d) have been met and the judge may confirm or vary the authorization if satisfied that those conditions have been met.
- Additional remedy** (11) If a person is found guilty of an offence under subsection 106(2) for failing to comply with a requirement under subsection (5), the court may make such order as it considers proper in order to enforce compliance with the requirement.
- Copies as evidence** (12) If a document is inspected, audited, examined or provided in accordance with this section,
- (a) the person by whom it is inspected, audited, or examined or to whom it is provided, or any officer of the Canada Customs and Revenue Agency, may make one or more copies, or have them made; and
 - (b) any document appearing to be certified by the Minister or an authorized person to be a copy made under this subsection is evidence of the nature and content of the original document and has the same probative force as the original document would have if it were proven in the ordinary way.
- Compliance** (13) No person shall hinder, molest or interfere with any person doing anything that the person is authorized to do by or under this section or prevent or attempt to prevent any person from doing any such thing and, notwithstanding any other Act or law, every person shall, unless the person is unable to do so, do everything required by or under this section.
- 1996, c. 23, s. 88; 1999, c. 17, s. 135.

- Protection of employer** **89.** (1) No action lies against any person for deducting a sum of money in compliance or intended compliance with this Act.
- Discharge of liability** (2) The Minister's receipt for an amount deducted by a person as required by or under this Act is a good and sufficient discharge of the liability of any debtor to their creditor with respect to the deduction to the extent of the amount mentioned in the receipt.

Rulings and Appeals

- Request for ruling** **90.** (1) An employer, an employee, a person claiming to be an employer or an employee or the Commission may request an officer of the Canada Customs and Revenue Agency authorized by the Minister to make a ruling on any of the following questions:
- (a) whether an employment is insurable;
 - (b) how long an insurable employment lasts, including the dates on which it begins and ends;
 - (c) what is the amount of any insurable earnings;
 - (d) how many hours an insured person has had in insurable employment;
 - (e) whether a premium is payable;
 - (f) what is the amount of a premium payable;
 - (g) who is the employer of an insured person;
 - (h) whether employers are associated employers; and
 - (i) what amount shall be refunded under subsections 96(4) to (10).
- Time limit** (2) The Commission may request a ruling at any time, but a request by any other person must be made before the June 30 following the year to which the question relates.
- Ruling** (3) The authorized officer shall make the ruling within a reasonable time after receiving the request.
- Presumption** (4) Unless a ruling has been requested with respect to an insured person,
- (a) an amount deducted from the remuneration of the person or paid by an employer as a premium for the person is deemed to have been deducted or paid in accordance with this Act; or
 - (b) an amount that has not been so deducted or paid is deemed not to have been required to be deducted or paid in accordance with this Act. 1996, c. 23, s. 90; 1999, c. 17, s. 135, 1999, c. 31, s. 80.
- Appeal of rulings** **91.** An appeal to the Minister from a ruling may be made by the Commission at any time and by any other person concerned within 90 days after the person is notified of the ruling.

Appeal of assessments	92. An employer who has been assessed under section 85 may appeal to the Minister for a reconsideration of the assessment, either as to whether an amount should be assessed as payable or as to the amount assessed, within 90 days after being notified of the assessment.
Notification of appeal	93. (1) The Minister shall notify any person who may be affected by an appeal of the Minister's intention to decide the appeal, including the Commission in the case of an appeal of a ruling, and shall give them an opportunity to provide information and to make representations to protect their interests, as the circumstances require.
Where appeal to be sent	(2) An appeal shall be addressed to the Assistant Director of Appeals in a Tax Services Office of the Canada Customs and Revenue Agency and delivered or mailed to that office.
Decision	(3) The Minister shall decide the appeal within a reasonable time after receiving it and shall notify the affected persons of the decision.
Notification	(4) If the Minister is required to notify a person who may be or is affected by an appeal, the Minister may have the person notified in such manner as the Minister considers adequate. 1996, c. 23, s. 93; 1999, c. 17, s. 135.
Minister's authority not restricted	94. Nothing in sections 90 to 93 restricts the authority of the Minister to make a decision under this Part or Part VII on the Minister's own initiative or to make an assessment after the date mentioned in subsection 90(2).

Overpayments and Refunds

Employee overpayment	95. The total amount of any employee's premiums deducted during a year from the insurable earnings of a person in excess of the maximum yearly insurable earnings is an overpayment made by the person.
Refund — overpayments	96. (1) If a person has made an overpayment on account of their employee's premiums, or has made a payment of employee's premiums during a year when the person was not employed in insurable employment, the Minister shall refund to the person the amount of the overpayment or payment if the person applies in writing to the Minister within three years after the end of that year.
Refund — appeal decision	(2) If an amount on account of a premium has been deducted from the remuneration of a person during a year, or has been paid by an employer with respect to a person employed by the employer during a year, and by a decision on an appeal under section 91, 92 or 103 it is decided that the amount so deducted or paid exceeds the amount required to be deducted or paid, or should not have been deducted or paid, the Minister shall refund the excess amount or the amount that should not have been deducted or paid if the person or the employer applies in writing to the Minister within 30 days after the decision is communicated to the person or employer, as the case may be.
Refund — application to Minister	(3) Notwithstanding anything in this Part, if a person or employer applies to and satisfies the Minister that, for any year, the amount deducted from the remuneration of the person, or paid by the employer with respect to a person, as the case may be, is in excess of the amount required to be deducted or

paid for the year, or should not have been deducted or paid, the Minister may refund the excess amount or the amount that should not have been deducted or paid if the application is made within three years after the end of that year.

Refund — insurable earnings up to \$2,000

(4) If a person has insurable earnings of not more than \$2,000 in a year, the Minister shall refund to the person the aggregate of all amounts deducted as required from the insurable earnings, whether by one or more employers, on account of the person's employee's premiums for that year.

Refund — insurable earnings over \$2,000

(5) If a person has insurable earnings of more than \$2,000 in a year, but the insurable earnings minus the aggregate of all amounts mentioned in subsection (4) are less than \$2,000, the Minister shall refund to the person an amount calculated in accordance with the following formula if that amount is more than \$1:

$$\$2,000 - (IE - P)$$

where

P

is the aggregate of all deducted amounts mentioned in subsection (4); and

IE

is the person's insurable earnings in the year.

Temporary measure — employer's premium refund for 1997

(6) If an employer's premium is less than \$60,000 during 1996, the Minister shall refund to the employer a portion of the premium for 1997 determined by the following formula if that amount is more than \$1:

$$P2 - (P1 + \$250)$$

where

P1

is the amount of the employer's premium in 1996; and

P2

is the amount of the employer's premium in 1997.

Temporary measure — employer's premium refund for 1998

(7) If an employer's premium is less than \$60,000 during 1996, the Minister shall refund to the employer a portion of the premium for 1998 determined by the following formula if that amount is more than \$1:

$$\frac{P2 - (P1 + \$250)}{4}$$

4

where

P1

is the amount of the employer's premium in 1996; and

P2

is the amount of the employer's premium in 1998.

P1

can be equal to zero

(7.1) For the purposes of subsections (6) and (7), P1 is equal to zero where a person was not required to pay an employer's premium in 1996.

Maximum refund	(8) A refund under subsection (6) or (7) shall not exceed (a) \$10,000, if the amount of the employer's premium in 1996 is less than \$50,000; and (b) \$60,000 minus the amount of the employer's premium in 1996, if that amount is \$50,000 or more, but less than \$60,000.
Interpretation	(8.1) For the purposes of subsections (6) to (8), a reference to an employer's premium in 1996 includes the employer's premium required to be paid that year under the <i>Unemployment Insurance Act</i> .
Employer's premium refund for 1999	(8.2) With respect to 1999, the Minister shall refund to the employer the amount determined by the following formula if that amount is more than \$1: $(E2 - E1) \times P1999$ <p>where</p> <p>E1 is the total of all insurable earnings paid in 1998 by the employer, for which premiums were deductible, in respect of employees who were 18 years of age or older but younger than 25 at any time during 1998;</p> <p>E2 is the total of all insurable earnings paid in 1999 by the employer, for which premiums were deductible, in respect of employees who were 18 years of age or older but younger than 25 at any time during 1999; and</p> <p>P1999 is 1.4 times the premium rate for 1999.</p>
Employer's premium refund for 2000	(8.3) With respect to 2000, the Minister shall refund to the employer the amount determined by the following formula if that amount is more than \$1: $(E2 - E1) \times P2000$ <p>where</p> <p>E1 is the total of all insurable earnings paid in 1998 by the employer, for which premiums were deductible, in respect of employees who were 18 years of age or older but younger than 25 at any time during 1998;</p> <p>E2 is the total of all insurable earnings paid in 2000 by the employer, for which premiums were deductible, in respect of employees who were 18 years of age or older but younger than 25 at any time during 2000; and</p> <p>P2000 is 1.4 times the premium rate for 2000.</p>
Reduction or elimination of refund	(8.4) Where it is determined that an employer who has applied for or received a refund under subsection (8.2) or (8.3) has unduly terminated the employment of an employee or changed the conditions of employment of an employee in order to obtain or to increase the refund that would otherwise be payable to the employer, the Minister shall eliminate the refund, or reduce it by the sum the Minister considers appropriate in the circumstances.

Notice	(8.5) If the Minister eliminates or reduces a refund under subsection (8.4), the Minister shall notify the employer, as if the Minister were issuing a notice of assessment, that the employer is not entitled to the refund or that the refund has been reduced by the sum specified in the notice.
Reliance on decisions	(8.6) For the purpose of subsection (8.4), an employer shall be determined to have unduly terminated the employment of an employee or changed the conditions of employment of an employee in order to obtain or to increase the refund that would otherwise be payable to the employer if an order, decision or ruling of any competent body has so established.
Associated employers	(9) If at any time during a year for which a refund is sought two or more employers are associated, as defined by the regulations, they shall be considered a single employer for the purposes of subsections (6) to (8.4) and any refund shall be allocated to them in the prescribed manner.
Application for refund	(10) A refund under this section is payable only if an application is made in writing to the Minister within three years after the end of the year for which the premiums were deducted or required to be paid.
Recovery	(11) If a person applies under this section for a refund and, whether on the basis of incorrect or incomplete information contained in the application or otherwise, the Minister has <ul style="list-style-type: none"> (a) refunded an amount to the person, or (b) applied an amount to a liability of the person to Her Majesty in right of Canada, <p>in excess of the amount that should have been refunded or applied, the excess amount may be recovered at any time from the person as a debt due to Her Majesty.</p>
Application of refund to other debts	(12) If a person is liable or about to become liable to make a payment to Her Majesty in right of Canada and a refund under this section is otherwise payable to the person, the Minister may apply the amount of the refund to that liability and notify the person of that action instead of making the refund.
Interest	(13) If an amount for an overpayment is refunded or applied under this Act to any other liability, interest shall be paid or applied on the amount at a prescribed annual rate under the circumstances and for the period or periods determined as prescribed, except that no interest shall be paid or applied if the amount of the interest is less than \$1. 1996, c. 23, s. 96; 1997, c. 26, s. 90; 1998, c. 21, s. 104.

Administration

Minister's duty	97. (1) The Minister shall administer this Part, section 5 and any regulations made under section 5 or 55 and the Commissioner of Customs and Revenue may exercise all the powers and perform all the duties of the Minister under this Part.
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Administration of oaths (2) An officer or employee employed in connection with the administration of this Part, section 5 or any regulations made under section 5 or 55, if designated by the Minister for the purpose, may, in the course of their employment, administer oaths and take and receive affidavits, declarations and solemn affirmations for the purposes of or incidental to the administration or enforcement of this Act or the regulations, and every officer or employee so designated has for those purposes all the powers of a commissioner for administering oaths or taking affidavits.
1996, c. 23, s. 97; 1999, c. 17, s. 132.

Application of section 223 of the Income Tax Act 98. (1) Section 223 of the *Income Tax Act* applies, with such modifications as the circumstances require, in relation to amounts payable under this Part that have not been paid and to any parts of amounts payable under this Part that have not been paid.

Retroactive operation (2) Subject to subsection (3), subsection (1) applies with respect to

- (a) certificates made by the Minister of National Revenue under subsection (1), or under section 79 of the *Unemployment Insurance Act*, 1971, chapter 48 of the Statutes of Canada, 1970-71-72, after January 1, 1972; and
- (b) documents evidencing the certificates that were issued by the Federal Court and that were filed, registered or otherwise recorded after 1977 under the laws of a province.

Exception to retroactivity (3) If the certificate or document was the subject of an action pending in a court on February 10, 1988 or of a court decision given on or before that date, section 79 of the *Unemployment Insurance Act*, 1971, chapter 48 of the Statutes of Canada, 1970-71-72, as it read immediately before September 13, 1988, continues to apply with respect to that certificate or document.

Application of Income Tax Act provisions 99. Section 160, subsections 161(11) and 220(3.1), sections 221.1 and 224 to 224.3 and subsections 227(9.1) and (10) and 248(7) and (11) of the *Income Tax Act* apply to all premiums, interest, penalties and other amounts payable by a person under this Part, with such modifications as the circumstances require, and for the purposes of this section,

(a) the reference in subsection 224(1.2) of that Act to "subsection 227(10.1) or a similar provision" shall be read as a reference to "section 85 of the *Employment Insurance Act*"; and

(b) subsection 224(1.2) of the *Income Tax Act* shall apply to employer's premiums, employee's premiums, and related interest, penalties or other amounts, subject to subsections 69(1) and 69.1(1) of the *Bankruptcy and Insolvency Act* and section 11.4 of the *Companies' Creditors Arrangement Act*.
1996, c. 23, s.99; 2000, c.30, s.167.

Financial institutions to receive cheques 100. A financial institution shall receive for deposit, without charge for discount or commission, a cheque made payable to the Receiver General in payment of premiums, interest or penalties imposed by this Part, whether drawn on the financial institution receiving the cheque or on any other financial institution in Canada.

- Execution of documents by corporations** **101.** A return, certificate or other document made by a corporation under this Part or the regulations shall be signed for it by the president, secretary or treasurer of the corporation or by any other officer or person duly authorized by the board of directors or other governing body of the corporation.
- Information or complaint** **102.** (1) An information or complaint under this Part may be laid or made by an officer of the Canada Customs and Revenue Agency, by a member of the Royal Canadian Mounted Police or by an authorized person and, if an information or complaint appears to have been laid or made under this Part, it is deemed to have been laid or made by an authorized person and shall not be called into question for lack of authority of the informant or complainant except by the Minister or by a person acting for the Minister or for Her Majesty.
- Two or more offences** (2) An information or complaint about an offence under this Part may be for one or more offences and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Part is objectionable or insufficient because it relates to two or more offences.
- Territorial jurisdiction** (3) An information or complaint about an offence under this Part may be heard, tried or determined by a provincial court judge, as defined in section 2 of the *Criminal Code*, if the accused is resident, carrying on business, found, apprehended or in custody within the judge's territorial jurisdiction although the matter of the information or complaint did not arise within that jurisdiction.
- Limitation period** (4) An information or complaint for an offence under this Part may be laid or made within five years after the subject-matter of the information or complaint arose.
- Proof of service by mail** (5) If provision is made by this Part or the regulations for sending by mail a request for information, notice or demand, an affidavit of an officer of the Canada Customs and Revenue Agency stating that
- (a) the officer has charge of the appropriate records and has knowledge of the facts in the particular case,
 - (b) such a request, notice or demand was sent by registered letter on a named day to the person to whom it was addressed, indicating the address, and
 - (c) the officer identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion of the certificate and a true copy of the request, notice or demand, is evidence of the request, notice or demand and of its being sent.
- Proof of personal service** (6) If provision is made by this Part or the regulations for personal service of a request for information, notice or demand, an affidavit of an officer of the Canada Customs and Revenue Agency stating that
- (a) the officer has charge of the appropriate records and has knowledge of the facts in the particular case,
 - (b) such a request, notice or demand was served personally on a named day on the person to whom it was directed, and
 - (c) the officer identifies as an exhibit attached to the affidavit a true

copy of the request, notice or demand,

is evidence of the request, notice or demand and of its personal service.

- Proof of failure to comply** (7) If a person is required by this Part or the regulations to make a return, statement, answer or certificate, an affidavit of an officer of the Canada Customs and Revenue Agency stating that
- (a) the officer has charge of the appropriate records, and
 - (b) after a careful examination and search of the records the officer has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been filed or made by the person, is evidence that the person did not do so in that case.

- Proof of time of compliance** (8) If a person is required by this Part or the regulations to make a return, statement, answer or certificate, an affidavit of an officer of the Canada Customs and Revenue Agency stating that
- (a) the officer has charge of the appropriate records, and
 - (b) after careful examination of the records the officer has found that the return, statement, answer or certificate was filed or made on a particular day, is evidence that it was filed or made on that day and not before.

- Proof of documents** (9) An affidavit of an officer of the Canada Customs and Revenue Agency stating that
- (a) the officer has charge of the appropriate records, and
 - (b) a document annexed to it is a document or true copy of a document made by or for an employer, the Minister or a person exercising the powers of the Minister, is evidence of the nature and contents of the document and is admissible in evidence and has the same probative force as the original document would have if it were proven in the ordinary way.

- Proof of no appeal** (10) An affidavit of an officer of the Canada Customs and Revenue Agency stating that
- (a) the officer has charge of the appropriate records and has knowledge of the practice of the Agency,
 - (b) an examination of the records shows that a notice of assessment for a particular year was mailed or otherwise communicated to an employer on a particular day under this Part, and
 - (c) after careful examination and search of the records, the officer has been unable to find that a notice of appeal from the assessment was received within the time allowed, is evidence of the statements contained in it.

Presumption	<p>(11) If evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Canada Customs and Revenue Agency, it is not necessary to prove</p> <p style="padding-left: 40px;">(a) the person's signature;</p> <p style="padding-left: 40px;">(b) that the person is such an officer; or</p> <p style="padding-left: 40px;">(c) the signature or official character of the person before whom the affidavit was sworn.</p>
Judicial notice	<p>(12) Judicial notice shall be taken of all orders made under this Part without the orders being specially pleaded or proven.</p>
Proof of documents	<p>(13) Every document appearing to be an order, direction, demand, notice, certificate, requirement, decision, assessment, discharge of mortgage, release of hypothec or other document executed under, or in the course of the administration or enforcement of, this Part over the name in writing of the Minister, the Deputy Minister of National Revenue, the Commissioner of Customs and Revenue or an officer authorized to exercise the powers or perform the duties of the Minister under this Part, is deemed to be a document signed, made and issued by the Minister, the Deputy Minister, the Commissioner or the officer unless it has been called into question by the Minister or by a person acting for the Minister or for Her Majesty.</p>
Date when assessment made	<p>(14) If a notice of assessment has been sent by the Minister as required by this Part, the assessment is deemed to have been made on the day the notice is mailed.</p>
Authorized forms	<p>(15) A form that appears to be authorized by the Minister is deemed to be a form authorized by the Minister under this Part unless called into question by the Minister or by a person acting for the Minister or for Her Majesty.</p>
Proof of return in prosecution	<p>(16) In a prosecution for an offence under this Part, the production of a return, certificate, statement or answer required by or under this Part or the regulations, appearing to have been filed or delivered by or for the person charged with the offence or to have been made or signed by or for the person is, in the absence of evidence to the contrary, proof that the return, certificate, statement or answer was filed or delivered by or for that person or was made or signed by or for the person.</p>
Proof of return before Minister or Tax Court	<p>(17) In any proceedings before the Minister or the Tax Court of Canada under section 104, the production of a return, certificate, statement or answer required by or under this Part or the regulations, appearing to have been filed or delivered by or for an employer or to have been made or signed by or for the employer is, in the absence of evidence to the contrary, proof that the return, certificate, statement or answer was filed or delivered by or for the employer or was made or signed by or for the employer.</p>
Proof of records	<p>(18) In a prosecution for an offence under this Act, an affidavit of an officer of the Canada Customs and Revenue Agency stating that</p> <p style="padding-left: 40px;">(a) the officer has charge of the appropriate records, and</p> <p style="padding-left: 40px;">(b) an examination of the records shows that an amount required</p>

under this Act to be remitted to the Receiver General on account of premiums has not been received by the Receiver General, is evidence of the statements contained in the affidavit.

Members of partnerships (19) For the purposes of this Part,

(a) a reference in a notice or other document to the firm name of a partnership shall be read as a reference to all its members; and

(b) a notice or other document is deemed to have been provided to each member of a partnership if it is mailed to, served on or otherwise sent to the partnership

(i) at its latest known address or place of business, or

(ii) at the latest known address

(A) if it is a limited partnership, of any member of the partnership whose liability as a member is not limited, or

(B) in any other case, of any member of the partnership. 1996, c. 23, s. 102; 1999, c. 17, ss. 133, 135; 2001 c. 4, s.78(E)

Objection and Review

Appeal to the Tax Court of Canada 103. (1) The Commission or a person affected by a decision on an appeal to the Minister under section 91 or 92 may appeal from the decision to the Tax Court of Canada in accordance with the *Tax Court of Canada Act* and the applicable rules of court made thereunder within 90 days after the decision is communicated to the Commission or the person, or within such longer time as the Court allows on application made to it within 90 days after the expiration of those 90 days.

Extension of time to appeal (1.1) Section 167, except paragraph 167(5)(a), of the *Income Tax Act* applies, with such modifications as the circumstances require, in respect of applications made under subsection (1).

Communication of decision (2) The determination of the time at which a decision on an appeal to the Minister under section 91 or 92 is communicated to the Commission or to a person shall be made in accordance with the rule, if any, made under paragraph 20(1.1)(h.1) of the *Tax Court of Canada Act*.

Decision (3) On an appeal, the Tax Court of Canada

(a) may vacate, confirm or vary a decision on an appeal under section 91 or an assessment that is the subject of an appeal under section 92;
(b) in the case of an appeal under section 92, may refer the matter back to the Minister for reconsideration and reassessment;

(c) shall notify in writing the parties to the appeal of its decision; and

(d) give reasons for its decision but, except where the Court deems it advisable in a particular case to give reasons in writing, the reasons given by it need not be in writing. 1996, c. 23, s. 103; 1998, c. 19, s. 268.

Authority to decide questions	104. (1) The Tax Court of Canada and the Minister have authority to decide any question of fact or law necessary to be decided in the course of an appeal under section 91 or 103 or to reconsider an assessment under section 92 and to decide whether a person may be or is affected by the decision or assessment.
Decisions and rulings final	(2) Except as otherwise provided in this Act, a decision of the Tax Court of Canada or the Minister and a ruling of an authorized officer under section 90 are final and binding for all purposes of this Act.
Allowance for attending appeal	(3) If, on an appeal to the Tax Court of Canada from a decision of the Minister, a person affected by the decision is requested by the Court to attend before it on the consideration of the appeal and so attends, the person shall be paid such travel and other allowances, including compensation for loss of remunerative time, as are approved by the Treasury Board.
Decision final	105. The decision of the Tax Court of Canada under section 103 is final and, except for judicial review under the <i>Federal Courts Act</i> , is not subject to appeal to or review by any court. 1996, c. 23, s. 105; 2002, c.8, s.182.

Offences

Offence and punishment	106. (1) Every employer who contravenes subsection 82(1) or 86(2) is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to <ul style="list-style-type: none"> (a) a fine of not more than \$5,000; or (b) both the fine and imprisonment for a term of not more than six months.
Offence and punishment	(2) Every person who contravenes section 87 or 88 is guilty of an offence punishable on summary conviction.
Offence and punishment	(3) Every person who contravenes regulations made under paragraph 108(1)(a) or (b) is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to a fine of not less than \$25 a day for each day of default, but not more than \$1,000 in all.
Offence	(4) Every person is guilty of an offence who <ul style="list-style-type: none"> (a) makes, or participates in, assents to or acquiesces in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Part or the regulations; (b) to evade payment of a premium imposed by this Act, destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of an employer; (c) makes false or deceptive entries in records or books of account of an employer, omits to enter a material particular in the records or books of account or assents to or acquiesces in the making or omission of the entries; (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or payment of premiums imposed by this Act; or

(e) conspires with any person to commit an offence described in paragraphs (a) to (d).

Punishment

(5) In addition to any penalty otherwise provided, the person is liable on summary conviction to

(a) a fine of not less than \$25 and not more than \$5,000 plus, in an appropriate case, not more than double the amount of the premium that should have been shown to be payable or that was sought to be evaded; or

(b) both the fine and imprisonment for a term of not more than six months.

Liability to pay penalty

(6) If a person has been convicted under this Part for contravening subsection 82(1) or regulations made under paragraph 108(1)(a) or (b), the person is not liable to pay a penalty imposed under section 82 or under any regulation made under section 108 for the same contravention unless the person was assessed for that penalty or it was demanded from them before the information or complaint giving rise to the conviction was laid or made.

Officers, etc., of corporations

107. If a corporation commits an offence under this Part, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

Regulations

Regulations

108. (1) The Minister may, with the approval of the Governor in Council, make regulations

(a) requiring any class of persons to file information returns respecting any class of information required in connection with premiums under this Act, including information respecting premiums of persons employed by any of those persons identified by the province in which those persons were employed;

(b) requiring a person who is, by regulations made under paragraph (a), required to file an information return to supply a copy of the return or a prescribed portion of it to the person or persons in respect of whose premiums the return or portion relates;

(c) prescribing a penalty for non-compliance with regulations made under paragraph (a) or (b) equal to the greater of \$100 and the product obtained when \$25 is multiplied by the number of days during which the non-compliance occurs, to a maximum of \$2,500;

(d) respecting the manner in which any provision of this Act that applies or extends to an employer of an insured person shall apply or extend to

(i) a person by whom the remuneration of an insured person for services performed in insurable employment is paid either wholly or in part, and

(ii) the employer of that person;

(e) for permitting an employer to deduct premiums paid on behalf of insured persons otherwise than from the remuneration for the period for which the premiums were payable;

(f) providing that, in any case or class of cases where insured persons work

(ii) under the general control or direct supervision of or are paid by a person other than their actual employer, or

(ii) with the concurrence of a person other than their actual employer on premises or property with respect to which that person has any rights or privileges under a licence, permit or agreement,

the other person is, for the purposes of paying premiums, deemed to be the employer of the insured persons in addition to the actual employer, and providing for the payment and recovery of premiums paid for the insured persons;

(g) for defining and determining earnings, pay periods and the amount of insurable earnings of insured persons and for allocating their earnings to any period of insurable employment;

(h) for determining the amount of premiums payable;

(i) for prescribing and regulating the manner, conditions and times for paying and recording premiums;

(j) for determining the earnings and premiums paid or payable for one or more insured persons employed by an employer who has failed to keep books, records or accounts as required under this Act;

(k) for regulating the possession, custody or control of documents or things used in the administration of this Act;

(l) for the registration of employers;

(m) for allocating to particular insured persons payments of premiums made by an employer;

(n) regulating the procedure to be followed in making rulings or deciding appeals under sections 90 to 92;

(o) for defining and determining whether employers are associated and determining how any refund under section 96 is to be allocated to them; and

(p) prescribing or providing for anything that, by this Part, is to be prescribed or is to be provided for by regulations.

Delegation

(1.1) The Minister may authorize an officer or a class of officers to exercise powers or perform duties of the Minister under this Part.

Alternative method of calculation	(2) If the Minister considers that it is not possible to apply any of the regulations, the Minister may, on his or her own initiative or on the request of an employer, approve another method or methods of defining and determining insurable earnings and determining the premiums payable for them.
Minister may alter or rescind method	(3) The Minister may at any time alter or rescind the approved method, subject to such conditions, if any, as the Minister considers appropriate.
Effective date of certain regulations	(4) Regulations made under paragraph (1)(p) prescribing or providing for anything mentioned in subsection 82(1) take effect on the day they are published in the <i>Canada Gazette</i> or on any later or earlier day specified in the regulations. 1996, c. 23, s. 108; 1998, c. 19, s. 269.

PART V (Sections 109 to 110)

PILOT PROJECTS

Regulations	<p>109. Notwithstanding anything in this Act, the Commission may, with the approval of the Governor in Council, make such regulations as it deems necessary respecting the establishment and operation of pilot projects for testing whether or which possible amendments to this Act or the regulations would make this Act or the regulations more consistent with current industry employment practices, trends or patterns or would improve service to the public, including regulations</p> <ul style="list-style-type: none"> (a) respecting the time and manner in which employers are to supply their employees or former employees or the Commission with information on their employment history; (b) providing for the use in a pilot project <ul style="list-style-type: none"> (i) of gross earnings, as defined by regulation, or prescribed amounts that are functions of gross earnings, as so defined, for any purpose for which insurable earnings, maximum insurable earnings or weekly insurable earnings are relevant to the operation of this Act, or (ii) of periods other than weeks, for any purpose for which a period of weeks or a number of weeks is relevant to the operation of this Act; (c) providing for the application of a pilot project in respect of one or more of the following: <ul style="list-style-type: none"> (i) prescribed employers or groups or classes of employers, including groups or classes consisting of randomly selected employers, (ii) prescribed areas, or (iii) prescribed claimants, employees, former employees or groups or classes of claimants, employees or former employees, including groups or classes consisting of randomly selected claimants, employees or former employees; and
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(d) respecting the manner in which and the extent to which any provision of this Act or the regulations applies to a pilot project, and adapting any such provision for the purposes of that application.

Expiration of regulations

110. Regulations made under this Part that are not repealed cease to have effect three years after they come into force.

PART VI (Sections 111 to 143)

ADMINISTRATIVE PROVISIONS

Boards of Referees

Boards to be established

111. (1) There shall be boards of referees, consisting of a chairperson and one or more members chosen from employers or representatives of employers and an equal number of members chosen from insured persons or representatives of insured persons.

Chairpersons

(2) The chairperson of a board of referees shall be appointed by the Governor in Council for a renewable term of three years and may be removed at any time by the Governor in Council for cause.

Panels

(3) Panels of employers and their representatives and insured persons and their representatives shall be established by the Commission, and the members of the boards of referees shall be selected from those panels in the prescribed manner.

Remuneration and allowances

(4) The following amounts, as approved by the Treasury Board, shall be paid:

- (a) remuneration to the chairperson and members of a board of referees;
- (b) travel, subsistence and other allowances, including compensation for loss of remunerative time, to the chairperson and members and to any other person required to attend before the board; and
- (c) any other expenses in connection with the operation of the board.

Regulations

(5) The Commission may, with the approval of the Governor in Council, make regulations

- (a) for the constitution of boards of referees, including the appointment of the members, the number of members constituting a quorum;
 - (a.1) respecting the practice and procedure for proceedings before a board of referees, including authorizing the chairperson of a board of referees to determine the practice and procedure;
 - (b) authorizing the chairperson of a board of referees to exclude from a hearing before the board any claimant or employer, or any of their representatives, or any person who is or may be a witness at the hearing, when oral evidence concerning a circumstance of sexual or other harassment mentioned in subparagraph 29(c)(i) is being given;
- (c) requiring the oral evidence given in the absence of a claimant or employer to be made available, in the specified manner and time, to the claimant or employer; and

(d) governing the time and manner in which a claimant or employer to whom the oral evidence is made available may respond to the evidence.

Umpires

Appointment	112. (1) The Governor in Council may appoint from among the judges of the Federal Court such number of umpires as the Governor in Council considers necessary for the purposes of this Act and, subject to this Act, may prescribe their jurisdiction.
Judges acting as umpires	(2) Subject to subsection (4), a judge or former judge of a superior, county or district court or a judge or former judge appointed under an Act of Parliament or the legislature of a province may, at the request of the chief umpire made with the approval of the Governor in Council, act as an umpire and, while so acting, the judge or former judge has all the powers of an umpire.
Consent required	(3) No request may be made to a judge without the consent of the chief justice or chief judge of the court of which the judge is a member, or, in the case of a judge of the court of a province, the consent of the attorney general of the province.
Approval of Governor in Council	(4) The Governor in Council may approve the making of the requests in general terms or for particular periods or purposes, and may limit the number of persons who may act under subsection (2).
Salary and travel allowance	(5) A judge or former judge who acts as an umpire shall be paid (a) a salary for the period the person acts at the rate fixed by the <i>Judges Act</i> for a judge of the Federal Court, other than the Chief Justice of that Court, less any amount otherwise payable to the person under that Act for the period; and (b) the travel allowances that a judge is entitled to be paid under that Act.
Appeals	(6) An umpire may sit and hear appeals under this Act at any place in Canada.
Chief umpire	(7) The Governor in Council may designate one of the umpires to be the chief umpire.
Duty	8) The chief umpire has supervision over and direction of the work of the umpires, subject to such rules as the chief umpire may, with the approval of the Governor in Council, make to regulate their work. 1996, c. 23, s. 112; 1998, c. 19, s. 270; 1999, c. 31, s. 81(F); 2002, c.8, s. 135.
Hearings	113. (1) An umpire is not bound by any legal or technical rules of evidence in conducting hearings for the purposes of this Act and all appeals shall be dealt with by the umpire as informally and expeditiously as the circumstances and fairness will permit.
Significant matters	(2) If in the opinion of the chief umpire an appeal concerns a matter of significant importance to the administration of this Act, the chief umpire may direct that the appeal be reviewed or heard jointly by the chief umpire and one or more other umpires.

Appeals

- Appeal to board of referees** 114. (1) A claimant or other person who is the subject of a decision of the Commission, or the employer of the claimant, may appeal to the board of referees in the prescribed manner at any time within
- (a) 30 days after the day on which a decision is communicated to them; or
 - (b) such further time as the Commission may in any particular case for special reasons allow.
- Privacy** (2) If a circumstance of sexual or other harassment mentioned in subparagraph 29(c)(i) is being considered by a board of referees, the chairperson of the board may, on application by the claimant, direct that the hearing be held in private or that details concerning the circumstance not be published in any document or broadcast in any way, if the chairperson is satisfied that personal or other matters may be disclosed of such a nature that the desirability of avoiding public disclosure of those matters in the interest of the claimant or in the public interest outweighs the desirability of the access by the public to information about those matters.
- Decision to be recorded** (3) A decision of a board of referees shall be recorded in writing and shall include a statement of the findings of the board on questions of fact material to the decision.
- Appeal to umpire** 115. (1) An appeal as of right to an umpire from a decision of a board of referees may be brought by
- (a) the Commission;
 - (b) a claimant or other person who is the subject of a decision of the Commission;
 - (c) the employer of the claimant; or
 - (d) an association of which the claimant or employer is a member.
- Grounds of appeal** (2) The only grounds of appeal are that
- (a) the board of referees failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
 - (b) the board of referees erred in law in making its decision or order, whether or not the error appears on the face of the record; or
 - (c) the board of referees based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.
- Procedure for appeal** 116. The appeal must be brought in the prescribed manner within 60 days after the decision is communicated to the person bringing the appeal, or any longer period that the umpire may allow for special reasons.
- Powers of umpire** 117. An umpire may decide any question of law or fact that is necessary for the disposition of an appeal and may

- (a) dismiss the appeal;
- (b) give the decision that the board of referees should have given;
- (c) refer the matter back to the board of referees for re-hearing or re-determination in accordance with such directions as the umpire considers appropriate; or
- (d) confirm, rescind or vary the decision of the board of referees in whole or in part.

Decision final	118. The decision of the umpire on an appeal is final and, except for judicial review under the <i>Federal Courts Act</i> , is not subject to appeal to or review by any court. 1996, c. 23, s. 118; 2002. c. 8, s. 182.
Attendance of witnesses	119. If a person affected by a decision under appeal attends before the umpire on the consideration of the appeal at the umpire's request, the person shall be paid such travel and other allowances, including compensation for loss of remunerative time, as are approved by the Treasury Board.
Amendment of decision	120. The Commission, a board of referees or the umpire may rescind or amend a decision given in any particular claim for benefit if new facts are presented or if it is satisfied that the decision was given without knowledge of, or was based on a mistake as to, some material fact.
Payment of benefit pending appeal	121. (1) If a claim for benefits is allowed by a board of referees, benefits are payable in accordance with the decision of the board even though an appeal is pending, and any benefits paid under this section after the decision of the board of referees shall be treated as having been duly paid and are not recoverable from the claimant, even if the final determination of the question is adverse to the claimant.
Exception	(2) Subsection (1) does not apply <ul style="list-style-type: none"> (a) if the appeal was brought within 21 days after the day on which the decision of the board of referees was given and on the ground that the claimant ought to be disentitled under section 36; and (b) in any other cases that the Commission may, with the approval of the Governor in Council, prescribe.
Determination of questions	122. If a question specified in section 90 arises in the consideration of a claim for benefits, it shall be determined by an authorized officer of the Canada Customs and Revenue Agency, as provided by that section. 1996, c. 23, s. 122; 1999, c. 17, s. 135.
Regulations	123. The Commission may, with the approval of the Governor in Council, make regulations prescribing the procedure to be followed in appeals.

Investigations

Investigation by Commission	124. (1) The Governor in Council may direct the Commission to investigate and report on all matters that the Governor in Council deems advisable or necessary.
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Powers	(2) The Commission has all the powers of a commissioner under Part I of the <i>Inquiries Act</i> for the purpose of conducting an investigation under this Act.
Notice	(3) The Commission shall give such public notice as it considers sufficient of its intention to investigate any matters that under this Act it is empowered to investigate, and it shall receive representations submitted to it by persons or associations of persons appearing to the Commission to have an interest in the matters under investigation.
Report	(4) The Minister shall lay every report made under this section before Parliament within 30 days after it is submitted to the Governor in Council or, if Parliament is not then sitting, on any of the first 30 days that either House of Parliament is sitting after its submission.

Enforcement

Information or complaint	125. (1) An information or complaint under this Act, other than Part IV, may be laid or made by a member of the Royal Canadian Mounted Police or by a person acting for the Commission and, if an information or complaint appears to have been laid or made under this Act, other than Part IV, it is deemed to have been laid or made by a person acting for the Commission and shall not be called into question for lack of authority of the informant or complainant except by the Commission or by a person acting for it or for Her Majesty.
Two or more offences	(2) An information or complaint about an offence under this Act, other than Part IV, may be for one or more offences and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act, other than Part IV, is objectionable or insufficient because it relates to two or more offences.
Territorial jurisdiction	(3) An information or complaint about an offence under this Act, other than Part IV, may be heard, tried or determined by any provincial court judge, as defined in section 2 of the <i>Criminal Code</i> , if the accused is resident, carrying on business, found, apprehended or in custody within the judge's territorial jurisdiction although the matter of the information or complaint did not arise within that jurisdiction.
Limitation of prosecutions	(4) A prosecution for an offence under this Act, other than Part IV, may be commenced at any time within five years after the Commission became aware of the subject-matter of the prosecution.
Certificate	(5) A document appearing to have been issued by the Commission, certifying the day on which it became aware of the subject-matter of the prosecution, is admissible in evidence and shall be considered conclusive proof of that fact without proof of the signature or the official character of the person appearing to have signed the document and without any other proof.
Proof of personal service	(6) If provision is made by this Act, other than Part IV, or the regulations for personal service of a request for information, notice or demand, an affidavit of a person acting for the Commission stating that <ul style="list-style-type: none"> (a) the person has charge of the appropriate records and has knowledge of the facts in the particular case,

(b) such a request, notice or demand was served personally on a named day on the person to whom it was directed, and

(c) the person identifies as an exhibit attached to the affidavit a true copy of the request, notice or demand,

is evidence of the personal service and of the request, notice or demand.

Proof of failure to comply (7) If a person is required by this Act, other than Part IV, or the regulations to make a return, statement, answer or certificate, an affidavit of a person acting for the Commission stating that the person

(a) has charge of the appropriate records, and

(b) after a careful examination and search of the records, has been unable to find in a given case that the return, statement, answer or certificate, as the case may be, has been filed or made by the person required to do so,

is evidence that in that case the person did not do so.

Proof of time of compliance (8) If a person is required by this Act, other than Part IV, or the regulations to make a return, statement, answer or certificate, an affidavit of a person acting for the Commission stating that the person

(a) has charge of the appropriate records, and

(b) after careful examination of the records, has found that the return, statement, answer or certificate was filed or made on a particular day, is evidence that it was filed or made on that day and not before.

Proof of documents (9) An affidavit of a person acting for the Commission stating that

(a) the person has charge of the appropriate records, and

(b) a document annexed to the affidavit is a document or true copy of a document made by or for an employer, the Commission or a person acting for the Commission,

is evidence of the nature and contents of the document and is admissible in evidence and has the same probative force as the original document would have if it were proven in the ordinary way.

Presumption (10) If evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is acting for the Commission, it is not necessary to prove

(a) the person's signature;

(b) that the person is acting for the Commission; or

(c) the signature or official character of the person before whom the affidavit was sworn.

Judicial notice (11) Judicial notice shall be taken of all orders made under this Act, other than Part IV, without the orders being specially pleaded or proven.

Proof of documents	(12) Every document appearing to be an order, direction, demand, notice, certificate, requirement, decision or other document executed under, or in the course of, the administration or enforcement of this Act, other than Part IV, over the name in writing of the Commission, or a person acting for the Commission under this Act, other than Part IV, is deemed to be a document signed, made and issued by the Commission or the person unless it has been called into question by the Commission or by a person acting for it or for Her Majesty.
Forms authorized	(13) A form that appears to be authorized by the Commission is deemed to be a form authorized by the Commission under this Act, other than Part IV, unless called into question by the Commission or a person acting for it or for Her Majesty.
Proof of return in prosecution	(14) In a prosecution for an offence under this Act, other than Part IV, the production of a return, certificate, statement or answer required by or under this Act, other than Part IV, or the regulations appearing to have been filed or delivered by or for the person charged with the offence or to have been made or signed by or for the person is, in the absence of evidence to the contrary, proof that the return, certificate, statement or answer was filed or delivered by or for that person or was made or signed by or for them.
Proof of return in other proceedings	(15) In any proceedings before a board of referees or an umpire under this Act, other than Part IV, the production of a return, certificate, statement or answer required by or under this Act, other than Part IV, or the regulations appearing to have been filed or delivered by or for any person or to have been made or signed by or for the person is, in the absence of evidence to the contrary, proof that the return, certificate, statement or answer was filed or delivered by or for that person or was made or signed by or for them.
Proof of records	(16) In a prosecution for an offence under this Act, an affidavit of a person acting for the Commission stating that <ul style="list-style-type: none"> (a) the person has charge of the appropriate records, and (b) an examination of the records shows that an amount required under this Act to be remitted to the Receiver General on account of fines, penalties, interest and repayment of overpayments of benefits has not been received by the Receiver General, is evidence of the statements contained in the affidavit.
Officers, etc., of corporations	(17) If a corporation commits an offence under this Act, other than Part IV, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.
Certificates	126. (1) An amount or part of an amount payable under Part I or II that has not been paid may be certified by the Commission <ul style="list-style-type: none"> (a) without delay, if in the opinion of the Commission the person liable to pay the amount is attempting to avoid payment; and (b) in any other case, on the expiration of 30 days after the default.

Judgments	(2) On production to the Federal Court, the resulting certificate shall be registered in the Court and when registered has the same force and effect, and all proceedings may be taken, as if the certificate were a judgment obtained in the Court for a debt of the amount specified in the certificate plus interest to the day of payment as provided for in this Act.
Costs	(3) All reasonable costs and charges attendant on the registration of the certificate are recoverable in like manner as if they had been certified and the certificate had been registered under this section.
Garnishment	(4) If the Commission has knowledge or suspects that a person is or is about to become indebted or liable to make a payment to a person liable to make a payment under Part I or II or under subsection (7), it may, by a notice served personally or sent by a confirmed delivery service, require the first person to pay the money otherwise payable to the second person in whole or in part to the Receiver General on account of the second person's liability.
Applicability to future payments	(5) If the Commission has, under subsection (4), required an employer to pay to the Receiver General on account of an insured person's liability under Part I or II money otherwise payable by the employer to the employee as remuneration, <ul style="list-style-type: none"> (a) the requirement is applicable to all future payments by the employer to the insured person as remuneration until the liability under that Part is satisfied; and (b) the employer shall make payments to the Receiver General out of each payment of remuneration of such amount as may be stipulated by the Commission in the notice mentioned in subsection (4).
Discharge of liability	(6) The receipt of the Commission for money paid as required under subsection (4) or (5) is a good and sufficient discharge of the original liability to the extent of the payment.
Debt due to the Crown	(7) An amount not paid as required by a notice under subsection (4) or (5) is a debt due to Her Majesty.
Service of person carrying on business under another name	(8) A notice mentioned in subsection (4) may be addressed to the name or style under which a person carries on business if the person carries on business under a name or style other than their own name and, in the case of personal service, the notice is validly served if it is left with an adult person employed at the place of business of the addressee.
Service of partnership	(9) A notice mentioned in subsection (4) may be addressed to a partnership name if the person who is to receive it carries on business in partnership under that name and, in the case of personal service, the notice is validly served if it is served on one of the partners or left with an adult person employed at the place of business of the partnership.

Inspections	<p>(10) An authorized person may, at any reasonable time, for any purpose relating to the administration or enforcement of this Act, other than Part IV, inspect or examine any document that relates or may relate to the information that is or should be contained in the records or books of account or to the amount of any benefits payable under this Act and, for those purposes, the authorized person may</p> <p style="padding-left: 40px;">(a) subject to subsection (11), enter any premises or place where the authorized person believes, on reasonable grounds, that persons are or were employed or where any records or books of account are or should be kept; and</p> <p style="padding-left: 40px;">(b) require the owner, occupant or person in charge of the premises or place to give the authorized person all reasonable assistance and to answer all proper questions relating to the administration or enforcement of this Act, other than Part IV, and, for that purpose, require the owner, occupant or person in charge to attend at the premises or place with the authorized person.</p>
Warrant required to enter dwelling-house	<p>(11) If the premises or place is a dwelling-house, an authorized person may only enter with the consent of the occupant or under the authority of a warrant issued under subsection (12).</p>
Warrant or order	<p>(12) If, on <i>ex parte</i> application by the Commission, a judge is satisfied by information on oath that</p> <p style="padding-left: 40px;">(a) there are reasonable grounds for believing that a dwelling-house is a premises or place mentioned in subsection (10),</p> <p style="padding-left: 40px;">(b) entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, other than Part IV, and</p> <p style="padding-left: 40px;">(c) entry into the dwelling-house has been refused or there are reasonable grounds for believing that entry will be refused,</p> <p>the judge may issue a warrant authorizing an authorized person to enter the dwelling-house subject to such conditions as may be specified in the warrant.</p>
Order for access to documents, etc.	<p>(13) If the judge is not satisfied that entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, other than Part IV, the judge may</p> <p style="padding-left: 40px;">(a) order the occupant of the dwelling-house to provide an authorized person with reasonable access to any document that is or should be kept in the dwelling-house, and</p> <p style="padding-left: 40px;">(b) make such other order as is appropriate in the circumstances to carry out the purposes of this Act, other than Part IV,</p> <p>to the extent that access has been or may be expected to be refused and that the document is or may be expected to be kept in the dwelling-house.</p>
Requirement to provide documents and information	<p>(14) Notwithstanding any other provision of this Act, but subject to subsection (15), the Commission may for any purpose relating to the administration or enforcement of this Act, other than Part IV, by notice served personally or by confirmed delivery service, require that any person provide, within such reasonable time as is stated in the notice,</p>

(a) any information or additional information, including any information return or supplementary return; or

(b) any document.

Unnamed persons (15) The Commission shall not impose on any person, in this section referred to as a "third party", a requirement under subsection (14) to provide information or any document relating to one or more unnamed persons unless it first obtains the authorization of a judge under subsection (16).

Judicial authorization (16) On *ex parte* application by the Commission, a judge may, subject to such conditions as the judge considers appropriate, authorize the Commission to impose on a third party a requirement under subsection (14) relating to an unnamed person or more than one unnamed person, in this section referred to as the "group", if the judge is satisfied by information on oath that

(a) the person or group is ascertainable; and

(b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Act, other than Part IV.

(c) and (d) [Repealed, 1998, c. 19, s. 271]

Service of authorization (17) If the authorization is granted, it shall be served together with the notice mentioned in subsection (14).

Review of authorization (18) If the authorization is granted, a third party on whom it is served may, within 15 days after it is served, apply for a review of the authorization to the judge who granted it or, if the judge is unable to act, to another judge of the same court.

Powers on review (19) On hearing the application, the judge may cancel the authorization previously granted if the judge is not then satisfied that the conditions in paragraphs (16)(a) and (b) have been met and the judge may confirm or vary the authorization if satisfied that those conditions have been met.

Copies as evidence (20) If a document is inspected, examined or provided in accordance with subsection (10) or (14),

(a) the person by whom it is inspected or examined or to whom it is provided, or any other person acting for the Commission, may make one or more copies, or have them made; and

(b) any document appearing to be certified by the Commission or an authorized person to be a copy made under this subsection is evidence of the nature and content of the original document and has the same probative force as the original document would have if it were proven in the ordinary way.

Compliance (21) No person shall hinder, molest or interfere with any person doing anything that the person is authorized to do by or under this section or prevent or attempt to prevent any person from doing any such thing and, notwithstanding any other Act or law, every person shall, unless unable to do so, do everything required by or under this section.

Definitions	(22) In this section,
"authorized person"	"authorized person" means a person authorized in writing by the Commission for the purposes of this section;
"judge"	"judge" means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court. 1996, c. 23, s. 126; 1998, c. 19, s. 271.
Confidential information	127. [Repealed, 2005, c. 34, s. 64] 1996, c. 23, ss. 127, 189; 2005, c. 34, s. 64
Exception for war crimes	128. [Repealed, 2005, c. 34, s. 64] 1996, c. 23, s. 128; 2005, c. 34, s. 64
Privilege	129. When an employer, claimant or other person gives the Commission, a board of referees or an umpire written, oral or documentary evidence required for the proper determination of the entitlement of a claimant to benefits, the giving of the evidence is an occasion of qualified privilege.
Default	130. If, because of the failure or neglect of any person to comply with this Act or the regulations, another person loses the right to claim, in whole or in part, any benefits to which the person would otherwise be entitled, the Commission may nevertheless pay the benefits.
Question under section 90	131. (1) If a question specified in section 90 arises in any legal proceedings, the justice, judge or court before whom it arises shall <ul style="list-style-type: none"> (a) refer the question to an authorized officer of the Canada Customs and Revenue Agency under that section and defer further proceedings until the officer's ruling is received, if the question has not been decided by the authorized officer; and (b) on receipt of the ruling, proceed with the hearing and judgment of the legal proceedings.
Deferral of judgment	(2) If an appeal has been made under section 91 or 103, the justice, judge or court shall defer judgment until <ul style="list-style-type: none"> (a) a decision of the Minister of National Revenue is received, in the case of an appeal under section 91; or (b) a decision of the Tax Court of Canada is received, in the case of an appeal under section 103. 1996, c. 23, s. 131; 1999, c. 17, s. 135.
Question for Commission	132. (1) If a question that could be decided by the Commission arises in any legal proceedings, the justice, judge or court before whom the question arises shall refer the question to the Commission and defer further proceedings until the Commission's decision is received.
Appeal pending	(2) If an appeal from a decision of the Commission, or a person authorized by the Commission, is pending on the question arising in any legal proceedings, the justice, judge or court before whom the question arises shall defer further proceedings until the appeal decision is received.

Receipt of decision	(3) On receipt of the decision, the justice, judge or court shall proceed with the hearing and judgment and, in any proceedings under this Act, the decision is conclusive except in accordance with the Federal Courts Act. 1996, c. 23, s. 132; 2002, c. 8, s. 182.
Spouse as witness	133. Subject to subsections 4(3), (5) and (6) of the <i>Canada Evidence Act</i> , the spouse of a person charged with an offence in respect of a statement or representation as to dependency is a competent and compellable witness for the prosecution without the consent of the person charged.
Evidence of documents, etc.	<p>134. (1) In any proceedings under this Act,</p> <p>(a) a document appearing to be a resolution, record or other proceeding of the Commission or other proceeding under this Act or a copy of it, and appearing to be certified by a Commissioner or the Secretary of the Commission,</p> <p>(b) a document appearing to be, or appearing to be a copy of or extract from,</p> <p style="padding-left: 40px;">(i) a document in the custody of the Commission or a document issued under this Act, or</p> <p style="padding-left: 40px;">(ii) an entry in any books or records in the custody of the Commission,</p> <p>and appearing to be certified by the Commission or a person employed in the administration of this Act,</p> <p>(c) a document appearing to be certified by the Commission or a person employed in the administration of this Act and stating the amount of any contributions paid, payable or owing or the amount of any benefits or other amount paid to or owing by any person, or</p> <p>(d) a document appearing</p> <p style="padding-left: 40px;">(i) to be, or to be a copy of or extract from, any of the following, namely, an employer's register, books, pay sheets, records of wages, ledgers, accounts or other documents, and</p> <p style="padding-left: 40px;">(ii) to be certified by an inspector or other person employed in the administration of this Act to whom the documents mentioned in subparagraph (i) were produced under this Act,</p> <p>is evidence of the facts appearing in the document without proof of the signature or official character of the person appearing to have signed the certificate and without further proof.</p>
Documents sent by mail	(2) For the purposes of this Act and the regulations and any proceedings under them, a document appearing to be a certificate of the Commission or a person authorized by the Commission to the effect that a notice, request, demand or other document was sent by mail is evidence that the notice, request, demand or other document was received by the addressee in the ordinary course of the mails.

Filmed or electronic evidence

- (3) In any proceedings under this Act or the regulations, a print that is
- (a) made from a photographic film or from a document in electronic form made by the Commission for the purpose of keeping a permanent record of a document, and
 - (b) certified by the Commission or a person employed in the administration of this Act

is admissible in evidence for all purposes for which the recorded document would be admitted as evidence in the proceedings without proof of the signature or official character of the person appearing to have signed the certificate.

Documents in electronic form

- (4) For greater certainty, a reference to a document in this section includes a document in electronic form.

Offences and Punishment

Offence

- 135.** (1) Every person is guilty of an offence punishable on summary conviction who
- (a) in relation to a claim for benefits, makes a representation that the person knows to be false or misleading;
 - (b) being required under this Act or the regulations to provide information, provides information or makes a representation the person knows to be false or misleading;
 - (b.1) knowingly fails to declare to the Commission all or some of their earnings for a period determined under the regulations for which they claimed benefits;
 - (c) makes a claim or declaration that the person knows is false or misleading because of the non-disclosure of facts;
 - (d) being the payee of a special warrant, knowingly negotiates or attempts to negotiate it for benefits to which the person is not entitled;
 - (e) knowingly fails to return a special warrant, or the amount or any excess amounts, as required by section 44;
 - (f) imports or exports a document issued by the Commission, or has it imported or exported, for the purpose of defrauding or deceiving the Commission; or
 - (g) participates in, assents to or acquiesces in an act or omission mentioned in paragraphs (a) to (f).

Saving

- (2) No prosecution for an offence under this section shall be instituted if a penalty for that offence has been imposed under section 38, 39 or 65.1.

Punishment

- (3) Every person who commits an offence under this section is liable to
- (a) a fine of not less than \$200 and not more than \$5,000 plus,

(i) in a case mentioned in paragraph (1)(b.1), an amount of not more than double the total of the amount by which the person's benefits were reduced under subsection 19(3) and the amount of the benefits that would have been paid to the claimant for the period mentioned in that paragraph if the benefits had not been reduced or the claimant had not been disentitled or disqualified from receiving benefits, or

(ii) in any other appropriate case, an amount of not more than double the amount of any benefits that may have been paid as a result of committing the offence; or

(b) both the fine and imprisonment for a term of not more than six months.

Contravention of Act or regulations	136. (1) Every person who contravenes this Act or the regulations is guilty of an offence.
Obstructing person authorized by Commission	(2) Every person who delays or obstructs a person authorized by the Commission in exercising their powers or performing their duties under this Act or the regulations is guilty of an offence.
General penalty for offences	137. Every person who is guilty of an offence under this Act for which no penalty is provided is liable on summary conviction to a fine of not less than \$100 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Social Insurance Number

Registration	138. (1) Every person employed in insurable employment shall be registered with the Commission.
Register	(2) The Commission shall maintain a register containing the names of all insured persons registered with the Commission and such other information as it determines is required to identify accurately all persons so registered.
Social Insurance Number	(3) The Commission shall assign to each person registered with it a number that is suitable for use as a file number or account number or for data processing purposes and the number so assigned to a person by the Commission under this section is the person's Social Insurance Number for any purpose for which a Social Insurance Number is required.
Social Insurance Number card	(4) The Commission shall issue to each person registered with it a card containing the person's name and Social Insurance Number.
Social Insurance Register	139. (1) Subject to and in accordance with the regulations, the Commission may maintain a Social Insurance Register containing <ul style="list-style-type: none">(a) the names of individuals registered under section 138;(b) the names of individuals to whom a Social Insurance Number has been issued under the <i>Canada Pension Plan</i>; and(c) the names of individuals for whom application has been made to the Commission for a Social Insurance Number.

Additional information	(2) The Social Insurance Register may, subject to such regulations as the Governor in Council may make in that behalf, contain such other information in addition to the names and Social Insurance Numbers of individuals as is necessary to identify accurately all individuals so registered.
Issuing number and card	(3) If a Social Insurance Number is assigned to an individual by the Commission in the course of maintaining the registers mentioned in this section and section 138, the Commission shall issue a Social Insurance Number card to the individual so registered and that number is the individual's Social Insurance Number for all purposes for which a Social Insurance Number is required.
Regulations	(4) The Commission may, with the approval of the Governor in Council, make regulations respecting the registration of individuals under this section and section 138, the application for that registration, the issuance, custody, production and use of Social Insurance Number cards and the replacement of cards that have been lost, destroyed or defaced.
Providing information	(5) The Commission may, subject to such regulations as the Governor in Council may make in that behalf, make available such information contained in the registers maintained under this section and section 138 as the Commission deems necessary for the accurate identification of individuals and for the effective use by those individuals of Social Insurance Numbers and Social Insurance Number cards, to such persons as the Commission thinks appropriate to accomplish that purpose.
New Social Insurance Number	(6) A person who has been assigned a Social Insurance Number may subsequently be assigned another Social Insurance Number, in accordance with and subject to such regulations as the Commission may prescribe, if <ul style="list-style-type: none"> (a) the number first assigned has been assigned to another person; (b) wrongful use by another person of the number first assigned has created a situation in which the person to whom the number was first assigned is or may be caused embarrassment or hardship; or (c) there are other special or unusual circumstances that would make the issuance of another number desirable.
Voiding	(7) When a new Social Insurance Number is assigned to a person, any number previously assigned to that person becomes void.
More than one number assigned	(8) If a person has inadvertently been assigned more than one Social Insurance Number, the Commission shall determine which number is the official number and shall void the others.
Change of name	140. If the name of a person to whom a Social Insurance Number has been assigned is changed because of marriage or otherwise, the person shall apply to the Commission within 60 days after the change of name becomes effective for a Social Insurance Number card in the person's new name, unless the person has already made an application for a new Social Insurance Number card to another authority empowered to receive the application.

Prohibitions 141. (1) No person

(a) who has been assigned a Social Insurance Number shall knowingly make an application to be again assigned a Social Insurance Number, whether the person gives information that is the same as or different from that contained in their previous application on which the Social Insurance Number had been assigned;

(b) shall, with intent to defraud or deceive any person, present, loan or use a Social Insurance Number or Social Insurance Number card;

(c) shall, without the authority of the Commission, manufacture a Social Insurance Number card or a substantially similar card, or duplicate a Social Insurance Number card, except by making a paper photocopy for record purposes only; or

(d) shall, without the authority of the Commission, sell a Social Insurance Number, a Social Insurance Number card or a substantially similar card.

Offence and punishment

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both.

Reports

Reports

142. All reports, recommendations and submissions required to be made to the Governor in Council under this Act, whether by the Commission or otherwise, shall be submitted through the Minister.

Electronic Systems

Regulations

143. (1) Notwithstanding anything in this Act, the Commission may, with the approval of the Governor in Council, make regulations as it deems necessary for the establishment and operation of electronic systems or any other technology to be used in the administration of this Act, including regulations respecting

(a) the keeping of documents and their admissibility in proceedings under this Act;

(b) the supplying of information for claims for benefits or for other purposes under this Act, the making of claims for benefits, in electronic or other form, the notification of persons and the transmission of any other information under this Act, including

(i) the information that may be supplied in electronic or other form,

(ii) the persons or groups or classes of persons by whom it may be supplied,

(iii) the signature in electronic or other form of documents or the execution, adoption or authorization of documents in a manner that under the regulations is to have the same effect for the purposes of this Act as a signature, and

(ii) (iv) the time and date when information supplied in electronic or other form is deemed to be received;

(c) the payment of amounts under this Act by electronic instructions; and

(d) the manner in which and the extent to which any provision of this Act or the regulations applies to the electronic systems, and adapting any such provision for the purpose of applying it.

Trial basis (2) Regulations made under this section may apply on a trial basis.

PART VII (Sections 144 to 152)

Benefit Repayment

Definitions 144. In this Part,

"benefit repayment" "benefit repayment" means an amount determined under section 145;

"benefits" "benefits" means benefits under this Act, read without reference to this Part;

"income" "income" of a person for a period means the amount that would be their income for the period determined under the *Income Tax Act* if no amount were

(a) deductible under paragraphs 60(v.1) and (w) of that Act, or

(b) included in respect of a gain from a disposition of property to which section 79 of that Act applies;

"Minister" "Minister" means the Minister of National Revenue;

"person" "person" has the meaning given that term in subsection 248(1) of the *Income Tax Act*;

"taxation year" "taxation year" means a taxation year within the meaning of the *Income Tax Act*.

Benefit repayment 145. (1) If a claimant's income for a taxation year exceeds 1.25 times the maximum yearly insurable earnings, the claimant shall repay to the Receiver General 30% of the lesser of

(a) the total benefits, other than special benefits, paid to the claimant in the taxation year, and

(b) the amount by which the claimant's income for the taxation year exceeds 1.25 times the maximum yearly insurable earnings.

Exception (2) Subsection (1) does not apply in respect of a claimant who was paid regular benefits for less than one week in the ten years before the taxation year referred to in that subsection.

Excluded benefits (3) Regular benefits paid for weeks beginning before June 30, 1996 shall not be taken into account when applying subsection (2).

Time for repayment	<p>(4) A repayment must be made</p> <p style="padding-left: 40px;">(a) in the case of a claimant who dies after October in the year and before May in the next year, within six months after the day of death; and</p> <p style="padding-left: 40px;">(b) in any other case, on or before April 30 in the next year.</p>
Limitation	<p>(5) For greater certainty, repayments under this section do not affect the determination under subsection (2) of regular benefits paid to a claimant.</p>
Excluded benefits	<p>(6) [Repealed 2001, c. 5. s. 11]</p>
Time for repayment	<p>(7) [Repealed 2001, c. 5. s. 11]</p>
Limitation	<p>(8) [Repealed 2001, c. 5. s. 11] 1996, c. 23, s. 145; 1998, c. 19, s. 272; 2001, c. 5, s.11.</p>
Returns	<p>146. If a claimant is required to make a benefit repayment for a taxation year, a return in a form, and containing information, authorized by the Minister shall, without notice or demand, be filed with the Minister as part of the claimant's return of income under Part I of the <i>Income Tax Act</i>,</p> <p style="padding-left: 40px;">(a) in the case of a claimant who dies after October 31 in the year and before May 1 in the next year, by the claimant's legal representative within six months after the day of death;</p> <p style="padding-left: 40px;">(b) in the case of any other claimant, on or before the claimant's filing-due date (as defined in subsection 248(1) of the <i>Income Tax Act</i>) for the year, by that claimant or, if for any reason the claimant is unable to file the return, by their guardian, curator, tutor, committee or other legal representative; or</p> <p style="padding-left: 40px;">(c) if the claimant or their legal representative has not filed the return, by such person as is required by notice in writing from the Minister to file the return, within such reasonable time as the notice specifies. 1996, c. 23, s. 146; 1998, c. 19, s. 273.</p>
Estimate of benefit repayment	<p>147. Every claimant or other person required by section 146 to file a return shall, in the return, estimate the amount of benefit repayment payable by them.</p>
Responsible Minister	<p>148. The Minister shall administer and enforce the provisions of this Part.</p>
Application of Income Tax Act provisions	<p>149. For the purposes of this Part, subsections 150(2) and (3), section 152 (except subsections 152(1.1) to (1.3) and (6)), section 158, subsections 159(1) to (3), sections 160 (except paragraph 160(1)(d)) and 160.1, subsections 161(1) and (11), sections 162 to 167, Division J of Part I, sections 220 to 226, subsection 227(10), sections 229, 239, 243 and 244 and subsections 248(7) and (11) of the <i>Income Tax Act</i> apply, with such modifications as the circumstances require, except that, in the application of those provisions,</p> <p style="padding-left: 40px;">(a) "Act" shall be read as "Part VII of the <i>Employment Insurance Act</i>";</p> <p style="padding-left: 40px;">(b) "person" and "taxpayer" shall be read as "claimant";</p>

(c) "tax" and "taxes" shall be read as "benefit repayment";

(d) "under this Part" shall be read as "under Part VII of the *Employment Insurance Act*"; and

(e) paragraph 163(2)(a) of the *Income Tax Act* shall be read as follows:

"(a) the benefit repayment payable by him for the year as determined under section 145 of the *Employment Insurance Act*;"

Debts due Her Majesty 150. All benefit repayments, interest, penalties and other amounts payable by a claimant under this Part and under the provisions of the *Income Tax Act* as they apply for the purposes of this Part are debts due to Her Majesty and recoverable in the Federal Court or any other court of competent jurisdiction or in any other manner provided by the *Income Tax Act*.

Communication of information 151. (1) Notwithstanding subsection 241(1) of the *Income Tax Act*, the Minister may communicate, or allow to be communicated, to the Commission, or a person authorized by the Commission, such information obtained under that Act as is necessary for the administration and enforcement of this Part and section 43 of this Act.

Authorized person (2) In relation to any information obtained under subsection (1), a person authorized by the Commission is an official or authorized person within the meaning of subsection 241(10) of the *Income Tax Act* and is subject to subsections 239(2.2) and 241(1) and (2) of that Act.

Regulations 152. The Minister may, with the approval of the Governor in Council, make regulations

(a) prescribing anything that by this Part is to be prescribed; and

(b) generally, to carry out the purposes and provisions of this Part.

PART VIII (Section 153)

SELF-EMPLOYED PERSONS ENGAGED IN FISHING

Regulations 153. (1) Notwithstanding anything in this Act, the Commission may, with the approval of the Governor in Council, make such regulations as it deems necessary respecting the establishment and operation of a scheme of employment insurance for self-employed persons engaged in fishing, including regulations

(a) including as a self-employed person engaged in fishing any person engaged in an activity or occupation related to or incidental to fishing; and

(b) including as an employer of a self-employed person engaged in fishing any person with whom the self-employed person enters into a contractual or other commercial relationship in respect of their occupation as a self-employed person engaged in fishing.

Scheme may be different	(2) The scheme established by the regulations may, with respect to any matter, be different from the provisions of this Act relating to that matter.
Tabling of regulation	(3) The Minister shall table the regulations in the House of Commons within three sitting days after the day on which they are made.
Motion to repeal	(4) The regulations come into force on the 10th sitting day after the day on which they are tabled, or on any later day specified in the regulations, unless a motion to repeal them, signed by not fewer than 30 members of the House of Commons, is filed with the Speaker of the House of Commons before the 10th sitting day.
Consideration	(5) If a motion to repeal the regulations is filed with the Speaker of the House of Commons in accordance with subsection (4), it shall be taken up and considered by the House of Commons within five sitting days after the day on which it is filed.
Time for disposition of motion	(6) The motion shall be taken up after the ordinary hour of daily adjournment, for a period of not more than four hours, and at the end of the debate the Speaker of the House of Commons shall, without delay or further debate or amendment, put every question necessary for the disposition of the motion.
Adoption or defeat of motion	(7) If the motion is adopted, the regulations are repealed, and if the motion is defeated, the regulations come into force on the day after the day on which the motion is defeated or on any later day specified in the regulations.
Regulation repealed	(8) The regulations are repealed if Parliament is prorogued or dissolved before the motion is disposed of or, if no motion has been filed, before the end of the period mentioned in subsection (4).
Definition of "sitting day"	(9) For the purpose of this section, "sitting day" means a day on which the House of Commons is sitting.

PART VIII.1 (Section 153.1)

ALTERNATE ACCESS TO SPECIAL BENEFITS

Regulations	<p>153.1 (1) Despite anything in this Act, the Commission shall, with the approval of the Governor in Council, make any regulations it considers necessary respecting the establishment and operation of a scheme to ensure that special benefits are provided to insured persons who have at least 600 hours of insurable employment in their qualifying period but who do not qualify to receive benefits under section 7, including regulations</p> <p style="margin-left: 40px;">(a) for establishing requirements to qualify to receive the benefits, the duration of entitlement to the benefits, benefit rates, disentitlement and disqualification from receiving the benefits and benefit repayment requirements; and</p> <p style="margin-left: 40px;">(b) varying the application of any other provision of this Act in relation to persons who have made claims under this Part and who subsequently make claims under Part I or VIII.</p>
Scheme may be different	(2) The scheme established by the regulations may, with respect to any matter, be different from the provisions of this Act relating to that matter.

Limitation

(3) The scheme established by the regulations may not provide special benefits to persons who are subject to an increase under section 7.1 in the number of hours of insurable employment required to qualify for benefits.
1996 c. 23, .s. 153.1; 2000, c. 14, s.5 & 6

PART VIII.2 (Section 153.2)**REGULATIONS — PROVINCIAL PLANS****Regulations**

153.2 (1) Despite any other provisions of this Act, if the Government of Canada has entered into an agreement with a province in respect of a provincial law that has the effect of reducing or eliminating special benefits payable as described in subsection 69(2), the Commission may, with the approval of the Governor in Council, for the purposes of implementing the agreement and taking into account the application or effect of the provincial law, make any regulations that it considers necessary, including regulations

(a) respecting the manner in which and the extent to which any provision of this Act or the regulations applies; and

(b) adapting any provision of this Act or the regulations.

Regulations

(2) The regulations may provide for

(a) the making of any financial adjustments and for the crediting or charging of the amount of any of those adjustments to the Employment Insurance Account, including

(i) refunds of overpayments with respect to employees' premiums,

(ii) adjustment payments between the province and the Government of Canada with respect to premiums, and

(iii) reimbursement by the province of benefits paid by the Government of Canada in accordance with any administrative agreement between the province and the Government of Canada;

(b) the exchange of any information obtained under the provincial law or this Act; and

(c) the administration of benefits payable under this Act to persons employed or residing in the province or who have made a claim under the provincial law, and the increase or decrease in the amount of benefits payable and in the number of weeks for which benefits may be paid under this Act to and in respect of those persons.
1996 c. 23, .s. 153.1; 2005, c. 30, s. 131

PART IX (Sections 154 to 190)

REPEALS, TRANSITIONAL PROVISIONS, RELATED AND CONDITIONAL AMENDMENTS AND COMING INTO FORCE

Repeals

154. and 155. [Repeals]

TRANSITIONAL PROVISIONS

National Training Act

Allowances	156. A training allowance being paid under section 5 of the <i>National Training Act</i> when it is repealed may continue to be paid in accordance with that Act and the regulations made under it, as they read immediately before the repeal of that Act, until the conclusion of the course to which the allowance relates.
Agreements	157. An agreement under section 7 of the <i>National Training Act</i> in effect when it is repealed continues in effect according to the terms of the agreement.
Charge to Employment Insurance Account	158. (1) Amounts paid under sections 156 and 157 in relation to persons who are insured participants, as defined in section 58, shall be charged to the Employment Insurance Account of the Consolidated Revenue Fund.
Appropriation	(2) Other amounts paid under sections 156 and 157 shall be paid out of money to be appropriated by Parliament.

Unemployment Insurance Act

Benefit periods beginning before this section comes into force	159. (1) Except as otherwise provided in this section, all matters relating to a claim for benefits during a benefit period beginning before the <i>Unemployment Insurance Act</i> (the "former Act") is repealed shall be dealt with under that Act, including any amendments that may be made by Bill C-31, introduced in the second session of the 35th Parliament and entitled <i>An Act to implement certain provisions of the budget tabled in Parliament on March 6, 1996</i> .
Appeals - written reasons not required	(1.01) Subsection 70(2) of the former Act applies in respect of appeals under that Act except that the Tax Court of Canada need not give reasons in writing for its decision but may give reasons in writing where, in a particular case, the Court deems it advisable.
Deductions for undeclared earnings	(1.1) Subsection 19(3) of this Act applies to claimants who fail to declare all or some of their earnings in a period determined under the regulations beginning on or after January 5, 1997, but the Commission may make deductions under subparagraph 19(3)(a)(i) on or after that date in respect of any failure to declare earnings for such a period beginning after June 30, 1996.

Deductions under subsection 19(4)	(1.2) Subsection 19(4) of this Act applies to claimants who begin attending a course or program after the former Act is repealed.
Parental benefits	(2) Section 23 of this Act applies in place of section 20 of the former Act to claimants claiming benefits for the care of children born or placed for adoption after that Act is repealed.
Job creation projects	(3) Section 25 of the former Act applies only to claimants employed on job creation projects under that section when that Act is repealed.
Training	(4) Section 26 of the former Act applies only to claimants in a course or program to which they are referred under that section before that Act is repealed.
Assistance	(5) Regulations made under section 26.1 of the former Act apply only to claimants receiving assistance under them when that Act is repealed and amounts paid under those regulations shall be charged to the Employment Insurance Account of the Consolidated Revenue Fund.
Disentitlement and disqualification	(6) Sections 27 to 33 of this Act apply in place of sections 27 to 28.3 of the former Act in respect of events occurring after that Act is repealed that give rise to a disentitlement or disqualification under those sections and, for the purpose of applying those sections, a reference in the former Act to <ul style="list-style-type: none"> (a) section 27 shall be read as a reference to section 27 of this Act; (b) section 28 shall be read as a reference to section 29 of this Act; (c) section 28.1 shall be read as a reference to section 31 of this Act; (d) section 28.2 shall be read as a reference to section 32 of this Act; and (e) section 28.3 shall be read as a reference to section 33 of this Act.
Application of section 145	(7) Section 145 of this Act applies in place of section 123 of the former Act in respect of benefits paid after December 31, 1995. 1996, c. 23, s. 159; 1998, c. 19, s. 274; 1999, c. 31, s. 82(F).
Hours of insurable employment and earnings before 1997	160. For the purpose of calculating after 1996 how many hours of insurable employment and the amount of insurable earnings a claimant has under this Act, other than Part VIII, insurable employment and insurable earnings occurring <ul style="list-style-type: none"> (a) before June 30, 1996 shall be determined in accordance with the former Act; and (b) on or after June 30, 1996 but before January 5, 1997 shall be determined in accordance with this Act, as it applies on June 30, 1996.
Premiums	161. All matters relating to the payment of premiums under the former Act shall be dealt with under that Act.
Employment Insurance Account	162. An amount owing to or by Her Majesty under the former Act shall, when paid, be credited or charged to the Employment Insurance Account.

Estimated insurable earnings for 1996-97	163. (1) For the purposes of section 78, the Commission's estimate of the insurable earnings of all insured persons in the fiscal year 1996-97 shall be published in the <i>Canada Gazette</i> if it is not set out in the Main Estimates tabled in Parliament for that year.
Plan for 1996-97	(2) The plan mentioned in section 79 shall be published in the <i>Canada Gazette</i> for the fiscal year 1996-97 if it is not included in the Main Estimates tabled in Parliament for that year.
Powers and functions	164. (1) The powers or functions of any person under the former Act shall be exercised or performed by the person who exercises the corresponding powers or performs the corresponding functions under this Act.
Boards of referees, etc.	(2) Boards of referees, panels, chairpersons, umpires and the chief umpire established, appointed or designated under the former Act continue as if they had been established, appointed or designated under this Act.
Waivers and agreements	165. Waivers and agreements made under paragraph 4(1)(d) of the former Act and in effect when that Act is repealed continue in effect as though they had been made under paragraph 5(4)(d) of this Act.

Employment Insurance Account

Deemed pay-out and charge	166. For the purposes of section 78, amounts paid out and charged to the Employment Insurance Account under the following provisions are deemed to be paid out and charged to that Account under Part III: <ul style="list-style-type: none"> (a) subsection 158(1); and (b) subsection 159(5), except self-employment benefits paid under section 120 of the <i>Unemployment Insurance Regulations</i>.
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Transitional Regulations

Regulations	167. The Commission may, with the approval of the Governor in Council, make regulations providing for any other transitional matters, including regulations <ul style="list-style-type: none"> (a) providing for the transition from weeks of insurable employment to hours of insurable employment, or from any other basis to another under Part VIII; and (b) for establishing requirements to qualify to receive benefits, the duration of entitlement to benefits, benefit rates and disqualification or disqualification from receiving benefits.
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Consequential and Related Amendments

168. to 186. [Amendments]

Changes in Terminology

187. [Amendments]

Conditional Amendments

188. and 189. [Amendments]

Coming into Force

Coming into force 190. (1) Except as otherwise provided in this section, this Act comes into force on June 30, 1996.

Certain provisions in force on January 1, 1997 (2) Section 4, subsection 5(6), sections 66 and 67, subsections 82(1) and (2), paragraphs 90(1)(d), (h) and (i), section 95 and subsections 96(4) and (5) come into force on January 1, 1997.

Certain provisions in force on January 5, 1997 (3) The following provisions come into force on January 5, 1997:

(a) the definitions "major attachment claimant" and "minor attachment claimant" in subsection 6(1);

(b) section 7;

(c) subsection 12(2);

(d) sections 14 to 17;

(e) subsection 19(2);

(f) subsection 28(4);

(g) paragraph 30(1)(a) and subsections 30(5) and (6);

(h) paragraph 31(c);

(i) paragraph 32(2)(c);

(j) subsection 38(3);

(k) section 55;

(l) paragraph 108(1)(h);

(l.1) subsection 153.1(3); and

(m) Schedule I.

- Certain provisions in force on January 5, 1997** (3.1) Subsections 7.1(1) to (3) come into force on January 5, 1997, but in applying them the Commission may take into account notices issued under subsection 7.1(4) on or after June 30, 1996.
- Subsection 19(3) in force on January 5, 1997** (3.2) Subsection 19(3) comes into force on January 5, 1997, but the Commission may make deductions under subparagraph 19(3)(a)(i) on and after that date in respect of any failure to declare earnings for a period beginning on or after June 30, 1996.
- Interim provisions** (4) The provisions set out in Schedule II apply in place of the provisions listed in subsections (2) and (3) from June 30, 1996 until the coming into force of those provisions.
- Continuing application of benefit rate provision** (5) The provisions enacted by section 6 of Schedule II continue to apply in place of sections 14, 16 and 17 of this Act to claimants whose benefit periods begin on or after June 30, 1996 and before January 5, 1997.
- Certain provisions in force in January 1, 1998** (6) Sections 172 to 175 come into force on January 1, 1998.

Employment Insurance

SCHEDULE I

(Subsection 12(2))												
TABLE OF WEEKS OF BENEFIT												
Regional Rate of Unemployment												
Number of hours of insurable employment in qualifying period	6% and under	More than 6% but not more than 7%	More than 7% but not more than 8%	More than 8% but not more than 9%	More than 9% but not more than 10%	More than 10% but not more than 11%	More than 11% but not more than 12%	More than 12% but not more than 13%	More than 13% but not more than 14%	More than 14% but not more than 15%	More than 15% but not more than 16%	More than 16%
420-454									26	28	30	32
455-489								24	26	28	30	32
490-524							23	25	27	29	31	33
525-559						21	23	25	27	29	31	33
560-594					20	22	24	26	28	30	32	34
595-629				18	20	22	24	26	28	30	32	34
630-664			17	19	21	23	25	27	29	31	33	35
665-699		15	17	19	21	23	25	27	29	31	33	35
700-734	14	16	18	20	22	24	26	28	30	32	34	36
735-769	14	16	18	20	22	24	26	28	30	32	34	36
770-804	15	17	19	21	23	25	27	29	31	33	35	37
805-839	15	17	19	21	23	25	27	29	31	33	35	37
840-874	16	18	20	22	24	26	28	30	32	34	36	38
875-909	16	18	20	22	24	26	28	30	32	34	36	38
910-944	17	19	21	23	25	27	29	31	33	35	37	39
945-979	17	19	21	23	25	27	29	31	33	35	37	39
980-1014	18	20	22	24	26	28	30	32	34	36	38	40
1015-1049	18	20	22	24	26	28	30	32	34	36	38	40
1050-1084	19	21	23	25	27	29	31	33	35	37	39	41
1085-1119	19	21	23	25	27	29	31	33	35	37	39	41
1120-1154	20	22	24	26	28	30	32	34	36	38	40	42
1155-1189	20	22	24	26	28	30	32	34	36	38	40	42
1190-1224	21	23	25	27	29	31	33	35	37	39	41	43
1225-1259	21	23	25	27	29	31	33	35	37	39	41	43
1260-1294	22	24	26	28	30	32	34	36	38	40	42	44
1295-1329	22	24	26	28	30	32	34	36	38	40	42	44
1330-1364	23	25	27	29	31	33	35	37	39	41	43	45
1365-1399	23	25	27	29	31	33	35	37	39	41	43	45
1400-1434	24	26	28	30	32	34	36	38	40	42	44	45
1435-1469	25	27	29	31	33	35	37	39	41	43	45	45

(Subsection 12(2))

TABLE OF WEEKS OF BENEFIT
Regional Rate of Unemployment

Number of hours of insurable employment in qualifying period	6% and under	More than 6% but not more than 7%	More than 7% but not more than 8%	More than 8% but not more than 9%	More than 9% but not more than 10%	More than 10% but not more than 11%	More than 11% but not more than 12%	More than 12% but not more than 13%	More than 13% but not more than 14%	More than 14% but not more than 15%	More than 15% but not more than 16%	More than 16%
1470-1504	26	28	30	32	34	36	38	40	42	44	45	45
1505-1539	27	29	31	33	35	37	39	41	43	45	45	45
1540-1574	28	30	32	34	36	38	40	42	44	45	45	45
1575-1609	29	31	33	35	37	39	42	43	45	45	45	45
1610-1644	30	32	34	36	38	40	42	44	45	45	45	45
1645-1679	31	33	35	37	39	41	43	45	45	45	45	45
1680-1714	32	34	36	38	40	42	44	45	45	45	45	45
1715-1749	33	35	37	39	41	43	45	45	45	45	45	45
1750-1784	34	36	38	40	42	44	45	45	45	45	45	45
1785-1819	35	37	39	41	43	45	45	45	45	45	45	45
1820-	36	38	40	42	44	45	45	45	45	45	45	45

SCHEDULE II

(Section 190)

INTERIM PROVISIONS

1. The following applies in place of section 4:

Maximum yearly insurable earnings 4. (1) For the purposes of section 17, subsection 82(2) and sections 95 and 145, the maximum yearly insurable earnings is \$39,000 for 1996.

Maximum weekly insurable earnings (2) For the purposes of this Act, the maximum weekly insurable earnings is \$750.

2. The following applies in place of subsection 5(6):

Regulations to exclude employment (6) The Commission may, with the approval of the Governor in Council, make regulations for excluding from insurable employment

(a) any employment if it appears to the Commission that because of the laws of a country other than Canada a duplication of contributions or benefits will result;

(b) the entire employment of a person who is employed by one employer partly in insurable employment and partly in other employment;

(c) any employment if it appears to the Commission that the nature of the work performed by persons employed in that employment is similar to the nature of the work performed by persons employed in employment that is not insurable employment;

(d) the employment of a member of a religious order who has taken a vow of poverty and whose remuneration is paid directly or by the member to the order;

(e) any employment in which persons are employed to an inconsiderable extent or for an inconsiderable consideration;

(f) any employment provided under regulations made under section 24 or employment measures authorized by subsection 58(1); and

(g) any employment with an employer in which persons are employed for fewer than 20 hours in a week or in which the earnings of persons are less than 30% of the maximum weekly insurable earnings.

3. The following apply in place of the definitions "major attachment claimant" and "minor attachment claimant" in subsection 6(1):

"major attachment claimant" "major attachment claimant" means a claimant who qualifies to receive benefits and has been employed in insurable employment for 20 or more weeks in the claimant's qualifying period;

"minor attachment claimant" "minor attachment claimant" means a claimant who qualifies to receive benefits and has been employed in insurable employment for fewer than 20 weeks in the claimant's qualifying period;

4. The following applies in place of section 7:

When benefits payable 7. (1) Unemployment benefits are payable as provided in this Part to an insured person who qualifies to receive them.

Qualification requirement (2) An insured person, other than a new entrant or a re-entrant to the labour force, qualifies if the person

(a) has had an interruption of earnings from employment; and

(b) has had during their qualifying period at least the number of weeks of insurable employment set out in the following table in relation to the regional rate of unemployment that applies to the person.

Table	
Regional Rate of Unemployment	Required Number of Weeks of Insurable Employment
6% and under	20
more than 6% but not more than 7%	19
more than 7% but not more than 8%	18
more than 8% but not more than 9%	17
more than 9% but not more than 10%	16
more than 10% but not more than 11%	15
more than 11% but not more than 12%	14
more than 12% but not more than 13%	13
more than 13%	12

Qualification requirement for new entrants and re-entrants (3) An insured person who is a new entrant or a re-entrant to the labour force qualifies if the person

(a) has had an interruption of earnings from employment; and

(b) has had 26 or more weeks of insurable employment during their qualifying period.

New entrants and re-entrants (4) An insured person is a new entrant or a re-entrant to the labour force if, during the last 52 weeks before their qualifying period, the person has had fewer than 14

(a) weeks of insurable employment;

(b) weeks for which benefits have been paid or were payable to the person;

(c) prescribed weeks that relate to employment in the labour force; or

(d) weeks comprised of any combination of those weeks.

Computation of weeks (5) For the purposes of subsection (4), a week that is taken into account under any of paragraphs (4)(a), (b) or (c) may not be taken into account under the other.

Exhaustion or termination of entitlement to U.S. benefits (6) A claimant is not qualified to receive benefits if it is jointly determined that the claimant must first exhaust or terminate benefit rights under the laws of another jurisdiction, as provided by Article VI of the *Agreement Between Canada and the United States Respecting Unemployment Insurance*, signed on March 6 and 12, 1942.

5. The following applies in place of subsection 12(2):

General maximum (2) The maximum number of weeks for which benefits may be paid in a benefit period because of any reasons other than those referred to in subsection (3) shall be determined in accordance with the table in Schedule I by reference to the regional rate of unemployment that applies to the claimant and the number of weeks of insurable employment of the claimant in their qualifying period.

6. The following applies in place of section 14:

Rate of weekly benefits 14. (1) The rate of weekly benefits payable to a claimant is an amount calculated as follows, to a maximum of \$413:

(a) 55% of the claimant's average weekly insurable earnings, in the case of a claimant in respect of whom paragraph (b) does not apply; or

(b) in any case where it is established, in such manner as the Commission may direct, that the prescribed circumstances exist in relation to one or more persons who are dependants of the claimant or their spouse or that, in the opinion of the Commission, even though the prescribed circumstances do not exist, the claimant or their spouse supports one or more persons who are dependants of the claimant or of their spouse,

(i) 60% of the claimant's average weekly insurable earnings, if those earnings do not exceed 50% of the maximum weekly insurable earnings for the year in which the benefit period is established, or

(ii) the greater of 55% of the claimant's average weekly insurable earnings and \$225, if the claimant's average weekly insurable earnings exceed 50% of the maximum weekly insurable earnings for that year.

Average weekly insurable earnings - major attachment claimant (2) The average weekly insurable earnings of a major attachment claimant are the insurable earnings in the last 20 weeks of insurable employment in their qualifying period divided by 20.

Average weekly insurable earnings - minor attachment claimant (3) The average weekly insurable earnings of a minor attachment claimant are the insurable earnings in their qualifying period divided by the larger of the following divisors:

(a) the divisor that equals the number of weeks of insurable employment in their qualifying period, and

(b) the divisor determined in accordance with the following table by reference to the applicable regional rate of unemployment.

Regional Rate of Unemployment	Divisor
not more than 8%	20
more than 8% but not more than 9%	19
more than 9% but not more than 10%	18
more than 10% but not more than 11%	17
more than 11% but not more than 12%	16
more than 12% but not more than 13%	15
more than 13%	14

Regulations (4) The Commission may, with the approval of the Governor in Council, make regulations

(a) defining and determining who is a dependant of a claimant or a spouse of a claimant, or who is a spouse of a claimant;

(b) determining the weekly insurable earnings of claimants; and

(c) where earnings are paid or payable in the qualifying period for a period, whether on a weekly basis or otherwise, for calculating and establishing for the purposes of this Part

(i) the weeks or number of weeks that are to be taken as weeks of insurable employment in that period, and

(ii) the amount to be taken as the insurable earnings or average weekly insurable earnings for any weeks or number of weeks in that period.

7. The following applies in place of subsection 19(2):

Earnings in unemployed periods

(2) Subject to subsections (3) and (4), if a claimant has earnings during any other week of unemployment, there shall be deducted from the benefits payable to the claimant in that week the amount, if any, of the earnings that exceeds 25% of their weekly rate of benefit.

8. The following applies in place of subsection 28(4):

Limitation

(4) No weeks of disqualification shall be carried forward against a claimant who has had 20 or more weeks of insurable employment since the event giving rise to the disqualification.

9. (1) The following applies in place of paragraph 30(1)(a):

(a) the claimant has, since losing or leaving the employment, been employed in insurable employment for the number of weeks required by section 7 to qualify for benefits; or

(2) The following applies in place of subsections 30(5) and (6):

Restriction on qualifying for benefits

(5) Where a claimant who has lost or left an employment as described in subsection (1) makes an initial claim for benefits, the following weeks of insurable employment may not be used for the purposes of subsection 7(2) or (3):

(a) weeks of insurable employment from that or any other employment before the day on which that employment was lost or left; and

(b) weeks of insurable employment in any employment that the claimant subsequently loses or leaves, as described in subsection (1).

Restriction on number of weeks and rate of benefits

(6) No weeks of insurable employment in any employment that a claimant loses or leaves as described in subsection (1) may be used for the purposes of subsection 12(2) or section 14.

10. The following applies in place of paragraph 31(c):

(c) the claimant, after the beginning of the period of suspension, accumulates with another employer the number of weeks of insurable employment required under section 7 in order to qualify to receive benefits under this Act.

11. The following applies in place of paragraph 32(2)(c):

(c) the claimant, after the beginning of the period of leave, accumulates with another employer the number of weeks of insurable employment required under section 7 in order to qualify to receive benefits under this Act.

12. The following applies in place of section 66:

Premium rate

66. The premium rate for 1996 is the rate established for that year under section 48.1 of the Unemployment Insurance Act immediately before its repeal.

13. The following applies in place of section 67:

Employee's premium

67. (1) For every week during which a person is employed in insurable employment, the person shall pay, by deduction as provided in Part IV, an amount equal to such percentage of their insurable earnings as is fixed by the Commission as the employee's premium for the year in which that week occurs.

Payment of employer's premium (2) For every week during which an employer employs a person in insurable employment, the employer shall pay, in respect of that person and in the manner provided in Part IV, an amount equal to such percentage of that person's insurable earnings as is fixed by the Commission as the employer's premium payable by employers or a class of employers of which the employer is a member, as the case may be, for the year in which that week occurs.

Overlapping pay periods (3) Notwithstanding subsections (1) and (2), where insurable earnings are paid to a person in a year after the year in which their insurable employment occurred, all that insurable employment is, for the purposes of calculating insurable earnings and premiums payable in respect of them, deemed to have occurred in the year in which the insurable earnings are paid.

14. The following applies in place of subsection 82(1):

Deduction and payment of premiums 82. (1) Every employer paying remuneration to a person employed by the employer in insurable employment shall (a) deduct the prescribed amount from that remuneration as or on account of the employee's premium payable by that insured person under section 67 for any weeks in respect of which that remuneration is paid; and (b) remit that amount, together with the employer's premium payable by the employer under that section for those weeks, to the Receiver General at the prescribed time and in the prescribed manner.

15. The following applies in place of section 95:

Employee overpayment 95. (1) Where the aggregate of all amounts deducted as required from the insurable earnings of an insured person for a year, whether by one or more employers, on account of that person's employee's premiums for that year under this Act exceeds an amount equal to such percentage of the person's maximum yearly insurable earnings for the year as is fixed by the Commission, the excess is an overpayment made by the person.

Limitation - remuneration for more than 52 weeks (2) Notwithstanding subsection (1) and section 3, an overpayment is not created when amounts are deducted and remitted as required from the insurable earnings of an insured person in excess of the percentage of the maximum yearly insurable earnings for the year, if the excess occurs by reason only that the remuneration paid to the person in that year is in respect of more than 52 calendar weeks.

16. The following applies in place of paragraph 108(1)(h):

(h) for the allocation of the hours a person is employed with an employer and earnings to weeks or to pay periods;

(h.1) for calculating and determining the hours a person is employed with an employer, the amount of insurable earnings of insured persons and the amount of premiums payable;

(h.2) where earnings are paid or payable for a period otherwise than in respect of weeks, for calculating and establishing

(i) the weeks or number of weeks to be taken as weeks of insurable employment in that period, and

(ii) the amount to be taken as insurable earnings in any of those weeks or number of weeks in that period;

17. The following applies in place of subsection 153.1(3):

Limitation

(3) The scheme established by the regulations may not provide special benefits to persons who

(a) have less than 20 weeks of insurable employment in their qualifying period; or

(b) are subject to an increase under section 7.1 in the number of hours of insurable employment required to qualify for benefits.

18. The following applies in place of Schedule I:

**SCHEDULE I
(Subsection 12(2))**

TABLE OF WEEKS OF BENEFIT

Regional Rate of Unemployment

Number of Weeks of Insurable Employment	Regional Rate of Unemployment											
	6% and under	More than 6% but not more than 7%	More than 7% but not more than 8%	More than 8% but not more than 9%	More than 9% but not more than 10%	More than 10% but not more than 11%	More than 11% but not more than 12%	More than 12% but not more than 13%	More than 13% but not more than 14%	More than 14% but not more than 15%	More than 15% but not more than 16%	More than 16%
12									26	28	30	32
13								24	26	28	30	32
14							23	25	27	29	31	33
15						21	23	25	27	29	31	33
16					20	22	24	26	28	30	32	34
17				18	20	22	24	26	28	30	32	34
18			17	19	21	23	25	27	29	31	33	35
19		15	17	19	21	23	25	27	29	31	33	35
20	14	16	18	20	22	24	26	28	30	32	34	36
21	14	16	18	20	22	24	26	28	30	32	34	36
22	15	17	19	21	23	25	27	29	31	33	35	37
23	15	17	19	21	23	25	27	29	31	33	35	37
24	16	18	20	22	24	26	28	30	32	34	36	38
25	16	18	20	22	24	26	28	30	32	34	36	38
26	17	19	21	23	25	27	29	31	33	35	37	39
27	17	19	21	23	25	27	29	31	33	35	37	39
28	18	20	22	24	26	28	30	32	34	36	38	40
29	18	20	22	24	26	28	30	32	34	36	38	40
30	19	21	23	25	27	29	31	33	35	37	39	41
31	19	21	23	25	27	29	31	33	35	37	39	41
32	20	22	24	26	28	30	32	34	36	38	40	42
33	20	22	24	26	28	30	32	34	36	38	40	42

Number of Weeks of Insurable Employment	6% and under	More than 6% but not more than 7%	More than 7% but not more than 8%	More than 8% but not more than 9%	More than 9% but not more than 10%	More than 10% but not more than 11%	More than 11% but not more than 12%	More than 12% but not more than 13%	More than 13% but not more than 14%	More than 14% but not more than 15%	More than 15% but not more than 16%	More than 16%
34	21	23	25	27	29	31	33	35	37	39	41	43
35	21	23	25	27	29	31	33	35	37	39	41	43
36	22	24	26	28	30	32	34	36	38	40	42	44
37	22	24	26	28	30	32	34	36	38	40	42	44
38	23	25	27	29	31	33	35	37	39	41	43	45
39	23	25	27	29	31	33	35	37	39	41	43	45
40	24	26	28	30	32	34	36	38	40	42	44	45
41	25	27	29	31	33	35	37	39	41	43	45	45
42	26	28	30	32	34	36	38	40	42	44	45	45
43	27	29	31	33	35	37	39	41	43	45	45	45
44	28	30	32	34	36	38	40	42	44	45	45	45
45	29	31	33	35	37	39	42	43	45	45	45	45
46	30	32	34	36	38	40	42	44	45	45	45	45
47	31	33	35	37	39	41	43	45	45	45	45	45
48	32	34	36	38	40	42	44	45	45	45	45	45
49	33	35	37	39	41	43	45	45	45	45	45	45
50	34	36	38	40	42	44	45	45	45	45	45	45
51	35	37	39	41	43	45	45	45	45	45	45	45
52	36	38	40	42	44	45	45	45	45	45	45	45

RELATED PROVISIONS

— 1997, c. 26, s. 91:

Retroactive effect of regulations 91. For the purpose of implementing the amendments to the *Employment Insurance Act* enacted by section 90, a regulation or any provisions of a regulation made under paragraph 108(1)(o) of that Act may, if the regulation so provides, be retroactive and have effect with respect to any period before it is made that begins on or after January 1, 1997.

— 1998, c. 19, s. 266(2):

(2) Subsection (1) applies after June 29, 1996.

—1998, c. 19, s. 268(3):

(3) Subsection (1) applies in respect of appeals instituted after the fourth month after the month in which this Act is assented to.

— 1998, c. 19, s. 269(2):

(2) Any power or duty of the Minister of National Revenue delegated to an officer or a class of officers by a regulation made under subsection 75(2) of the *Unemployment Insurance Act* before June 30, 1996 continues to be delegated to that officer or that class of officers until an authorization by the Minister made under subsection 108(1.1) of the *Employment Insurance Act*, as enacted by subsection (1), changes the delegation of that power or duty.