

## **WORK-SHARING EMPLOYER INFORMATION KIT**

### **Work-Sharing is an Adjustment Program**

- Employers retain staff and adjust their work activity during temporary, unexpected and unavoidable work shortages.
- Employees retain their skills and jobs and are paid Employment Insurance benefits for the days they do not work each week.
- Work-Sharing is not intended to support declining establishments or to retain seasonal workers during the slow season.
- Return to normal working hours must be a realistic expectation before the end of the agreement and there must be a strong recovery plan to bring in more work over the period of the agreement.
- The Work-Sharing Program will not be approved repeatedly thus a viable recovery plan must be in place.

Please read all the information provided including the eligibility criteria and discuss it with your employees. Work-Sharing is a three-party agreement between employers, employees and Human Resources and Social Development Canada. **All Employees of the Work-Sharing Unit Must Agree to Participate.**

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### **To apply for Work-Sharing you must provide:**

1. **A completed application form** (including attachments and signatures of both employer representative and employee representative (s).)
2. **A recovery plan consisting of:**
  1. description of the business
    - length of time the company has been in business in Canada
    - head office location
    - number and location of branches
    - typical clients, customers and market served
    - history with the Work-Sharing and other HRSDC/Service Canada programs
    - comparison of sales/production/business over the last 2 years
  2. description of employees
    - number of union and non-union employees
    - full name of union and local number (if applicable)

### 3. description of plan for recovery

- the expected duration and the actual cause for the work shortage (Is it seasonal? Problems obtaining raw materials? Unexpected market shifts? Delayed contracts, as well as how this specifically affects the company?)
- an outline of steps that will be taken to generate business and thus alleviate work shortage. Include objectives, activities, realistic timeframes, milestones and expected outcomes. Examples of business generating steps may include:
  - cost cutting measures taken or planned
  - new types of business
  - new technology
  - new markets
  - new lines of business
  - scheduled shows, fairs etc.
  - incentives being offered to customers
  - readjustment of current products
- a description of employer initiated skills enhancement/upgrading (if applicable) to take place during the life of the Agreement. This could include enhancing computer skills using tutorials at the work place, off-site upgrading of skills, reviewing texts, viewing videos, etc.
- future sales / business projections
- a description of measures taken to overcome the downturn in business before applying for the WS program
- any work force adjustments to be made before or after that period of time for which you require the use of a Work-Sharing Agreement (e.g. layoffs, reducing hours to part time from full time)
- a description of what the company has identified as alternatives to a WS Agreement
- a description of the risks that may hinder the recovery of the business and what the alternative plan is (e.g. a contract may not come through so the company will increase the number of trade fairs attended, and engage in follow-up meetings with potential clients).

All of the above-mentioned information must be submitted in order to constitute a complete application. Any additional information which you think may be helpful should also be submitted. e.g. Annual reports, relevant Human Resources or financial records.

All information with respect to applications will be kept confidential.

**Incomplete applications cannot be processed**

The more detailed information that you provide, the easier it is to analyse your application and to make a decision. Complete information also avoids delays in processing.

A formal application for Work-Sharing must be received by the Service Canada Centre at least 30 days in advance of the proposed effective date of the agreement.

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## **Eligibility Criteria for Work-Sharing**

### **Employer Responsibilities**

- The employer must have been in business in Canada for two years;
- The employer must show that the need to reduce working hours is unavoidable;
- The Work-Sharing Unit must consist of 2 or more people. The program is intended to cover "core staff" only (the minimum number of year round permanent full-time/part-time employees who are required to carry out the functions that will lead to a full recovery within the time frame of the agreement);
- Work-Sharing applications can not be put in place in instances where there is a labour dispute;
- Outside sales staff, managers and those who assign workloads are generally not eligible for inclusion in the Work-Sharing Unit;
- Employers must show that the work shortage is temporary and unexpected. (This is because the program is not intended to subsidize declining establishments, or to cover companies during an expected seasonal slowdown.);
- The shortage of work must be significant enough to warrant support of the program. The initial reduction in working time must be at least 20 % or one day;
- The maximum permissible reduction in the working time is 60 % or 3 days;
- The minimum duration of a Work-Sharing Agreement is 6 weeks and the maximum period for Work-Sharing is 26 weeks and is based on the length of time it takes for your recovery plan to generate enough new work to get your firm back to normal. Extensions beyond the maximum of 26 weeks may be considered in extenuating circumstances for up to a maximum of 12 weeks. A letter of request for these extensions with a revised recovery plan must be signed by the employer and the employee representative and received at least one month prior to the termination of the normal 26 week Work-Sharing Agreement;
- Establishments are not allowed to increase their work force during a Work-Sharing Agreement, except for replacements of essential separating staff. This requires prior consent of the Commission;
- The employer must maintain all existing employee benefits for the duration of the Work-Sharing agreement;

- In order to minimize dependency on the Work-Sharing program, all second and subsequent applications will be critically reviewed. If it is determined that the work shortage has become permanent or seasonal in nature, the application may not be approved. It is unlikely that applications requesting a third successive time on the program will be approved.

### **Employee Conditions**

- The eligibility requirement for Work-Sharing is the same as for regular Employment Insurance Benefits. Employees must have 420 - 910 hours of insurable employment before the effective date of the agreement. The exact number of required hours depends on the unemployment rate in the EI economic region;
- The Work-Sharing benefits payable in any week is based on employees' loss in normal average weekly earnings. The benefit is also based on the regular weekly employment insurance benefit, as calculated at the start of the Work-Sharing Agreement. During the Work-Sharing Agreement, as work becomes available, the employer may request an employee to work on a Work-Sharing day and the employee is required to report to work;
- Earnings received in any week by a Work-Sharing claimant from sources other than Work-Sharing Employment, in excess of an amount equal to 25% of the claimant's rate of weekly benefit, shall be deducted from the Work-Sharing benefits payable in that week;
- If the Employment Insurance Benefit rates is \$200 per week or less, then the claimant can receive up to \$50.00 per week without any reduction in WS benefits;
- Specific statutory holidays occurring within a Work-Sharing period are not compensated by Employment Insurance benefits and are the responsibility of the employer.

### **Waiting Period**

Participants do not have to serve a two week waiting period for Work-Sharing Benefits. Benefits are processed through the EI payment system, meaning it will take up to 28 days for the first cheques to arrive.

**It is extremely important that you advise your employees of the time delay and the fact that weekly benefits are taxable and are often not taxed at source.** As a consequence, many Work-Sharing participants may have to pay income tax on benefits received on their annual income tax return.

**Employee Lay Offs :**

If the business does not recover as expected and an employee is laid off during or at the end of a Work-Sharing agreement, the employee can apply to transfer the claim to regular benefits. That claim duration would be extended by the number of weeks of Work-Sharing. The benefit rate and the normal duration of the claim is not reduced by Work-Sharing.

If you have questions regarding the Work-Sharing Program or the application, please contact your local Service Canada Centre:

[http://www1.servicecanada.gc.ca/en/gateways/where\\_you\\_live/menu.shtml](http://www1.servicecanada.gc.ca/en/gateways/where_you_live/menu.shtml)



**Box 19**      **Total Number of Employees in Canada** – indicate the number of employees in Canada under the noted CRA Number (Box 16). This number is not to include employees of subsidiaries and other spin-offs (data purposes for identification of small or medium size company).

## **Part 2 Employment History**

**Box 31 - 37**    In the event that the WS application is not approved, explain how the number of employees who will be laid off has been determined (Box 33), the estimated start date of layoff (Box 37), the number of employees to be laid off (Box 35), the estimated return of all employees to normal employment (Box 32), the number of weeks of layoff (Box 36) and the average weekly earning of the unit (Box 34). Also include any information of what the employer and employees are doing in order to avert layoffs (i.e. used all their vacation time, cut back on overtime etc.) (Box 33 – if not enough room, attach the details).

**Box 38**        If the WS application is approved, indicate the number of employees in the WS unit. A WS unit is defined as any group of EI eligible employees in a particular establishment (and generally include everyone in a single job description) but may not necessarily include all of the employees in that establishment.

**In addition to a complete application, an employer must provide a detailed recovery plan (with benchmarks and measurable milestones – Attachment B) and an Attachment A (EMP 5101B) naming each proposed WS unit and the names of the employees who will be included.**

## **ATTACHMENT A, THE WS UNIT**

The Work-Sharing Application (EMP 5100B) shall include a completed Attachment A (EMP 5101B) which must identify all WS Unit members. Although members of the WS Unit must be qualified for EI benefits, eligibility cannot normally be determined until after members have actually filed for benefits. Therefore, all members of a WS Unit will be automatically considered to be qualified until such time as an Insurance Officer notifies the WS Program Officer.

Only those core workers that will be retained following the implementation of the recovery plan will be included in the WS Unit.

# PLAIN LANGUAGE INTERPRETATION OF THE WORK-SHARING AGREEMENT

This document is designed to help you understand your Work-Sharing agreement, should your application be approved.

## Parties to the Work-Sharing agreement:

1. This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**BETWEEN**

2. \_\_\_\_\_  
(Hereinafter called the "EMPLOYER")

**AND**

3. \_\_\_\_\_  
(Hereinafter called the "EMPLOYEE REPRESENTATIVE"), representing the employees listed in Attachment A to this Agreement (hereinafter alternatively referred to as the "EMPLOYEES")

**AND**

4. The Canada Employment Insurance Commission  
(Hereinafter called the "COMMISSION")

## Understanding and completing this Section:

1. The date will be the date the signatures are applied to the agreement.
2. The legal name of the Company. In addition to the legal name of the company, it is permissible to write "O.A. (operating as) and the common name of the company" for ease of reference. Such a comment will be initialed by all parties.
3. The name of the employee representative (as stated on the application) or the union representative for the employees.

## Whereas Statements

1. Whereas the EMPLOYER is experiencing a temporary reduction in business activity and proposes to implement a recovery plan to address the problem;



2. Whereas to avoid a temporary lay-off of employees, the EMPLOYER proposes to implement a Work-Sharing project and has made a request to the COMMISSION to enter into a Work-Sharing Agreement with the COMMISSION under the Employment Insurance Act (hereinafter called the "Act");
3. Whereas the COMMISSION may, pursuant to regulations made under section 24 of the *Employment Insurance Act*, pay Work-Sharing benefits to persons employed under a Work-Sharing Agreement which has been approved by the COMMISSION for the purposes of section 24 of the Act;
4. Whereas the COMMISSION, is desirous in assisting the EMPLOYER while it implements its Recovery Plan and has agreed to enter into a Work-Sharing Agreement with the EMPLOYER and EMPLOYEE REPRESENTATIVE;
5. And Whereas the COMMISSION, in signing this Agreement, is signifying its approval of the agreement as a Work Sharing Agreement for the purposes of section 24 of the Act;

### **Understanding Whereas Statements:**

#### **1 and 2**

These paragraphs explain the intent and the objectives of the program, and also state that the employer has met the criteria for the program's implementation. The employer and the employee representative must comply with the plan of action as outlined in the recovery plan.

#### **3, 4 and 5**

These sections note that Section 24 of the Employment Insurance Act has provided the budget for this agreement, and monies for the employees EI claims will be allocated once the agreement is signed. This also exempts employees from normal EI regulations, such as looking for work, two week waiting period etc.

### **Sections 1-3**

Now, therefore, this Agreement witnesses that in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

#### **WORK-SHARING PROJECT**

1. The EMPLOYER and the EMPLOYEE REPRESENTATIVE agree to establish a Work-Sharing project as described in this Agreement covering the EMPLOYEES listed in Attachment A.
2. The regular weekly hours of work of the EMPLOYEES shall be reduced on average, over the duration of the Agreement by at least 20% but not more than 60%.
3. The EMPLOYER warrants and it is a condition of this Agreement, that the EMPLOYEES employed permanent full-time or permanent part-time in the EMPLOYER's establishment at:

### **Understanding and completing Section 1- 3:**

1. The Service Canada officer must ensure that the employer and the employee representative understand that Attachment A forms part of the agreement and all persons listed on the Attachment A make up the WS unit.
2. The employer agrees to reduce the hours of work available to the workers as listed on the WS Attachment A by a minimum of 20% to a maximum of 60% over the life of the agreement.
3. This section confirms the employer's location where the WS unit is based. Some occupations, such as sales, etc., may require travel from this site. This will be permitted under WS.

## **Section 4**

### **PERIOD OF AGREEMENT**

4. (1) Subject to subsection (2), this Agreement, unless terminated earlier under sections 10 or 11, or unless extended under section 12, shall remain in force and effect for a period of \_\_\_\_\_ consecutive weeks, commencing on Sunday, the \_\_\_ day of \_\_\_\_\_, \_\_\_ and ending on Saturday, the \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

### **Understanding Section 4:**

This section clarifies that the agreement period must be consecutive and must not "stop - start". It also clarifies that the agreement will **always** end on the Saturday following the decision to terminate the agreement, regardless of who makes the decision.

## **Section 5**

### **PAYMENT OF WORK-SHARING BENEFITS**

5. Subject to this Agreement, the COMMISSION shall pay Work-Sharing benefits to the EMPLOYEES during the period of this Agreement in accordance with section 24 of the Act and the regulations made pursuant thereto. It is understood that Work-Sharing Benefits cannot be paid to an EMPLOYEE pursuant to the Agreement if the EMPLOYEE does not qualify to receive benefits under the Act.

## Understanding Section 5:

This section states that the Commission will pay Work Sharing benefits only to those employees who qualify. Which employees qualify for benefits will not be known until after the agreement is signed and the employee's claim determined and/or established. Therefore, it is possible that individuals may have WS days off but not collect benefits.

## Section 6

### RESPONSIBILITIES OF EMPLOYER

6. The EMPLOYER shall

- (a) maintain all existing Employee benefits for the EMPLOYEES during the period of the Agreement.
- (b) maintain in respect of each EMPLOYEE, a record of:
  - i) the number of hours of work of the EMPLOYEE during the Agreement, and
  - ii) the wages and other remuneration paid to the EMPLOYEE each week during the period of the Agreement;
- c) during the period of the Agreement and for a period of six (6) years thereafter, make available upon request to representatives of the COMMISSION for inspection and audit the records referred to in paragraph (b);
- d) provide assistance to the EMPLOYEES in completing their employment insurance report cards;
- e) notify the COMMISSION of any changes in the agreed reduction of hours of work of the EMPLOYEES; and
- f) notify the COMMISSION of any changes to the EMPLOYEES listed in Attachment A;
- g) during the period of the Agreement, implement the recovery plan attached to this Agreement; and
- h) provide the COMMISSION with such reports concerning the progress of the Recovery Plan as the COMMISSION may, from time to time, request.

## Understanding Section 6:

Any questions regarding Service Canada's expectations of the employer during a Work-Sharing Agreement should be addressed with a Service Canada official prior to the signing of such an agreement.

The employer has the following responsibilities:

- a) and b) keeping records for each employee on the hours of work, hours of non-productive time, wages and other remuneration for each week of the agreement,
- c) storing the records for six years and making these records available to Service Canada upon request,
- d) assisting employees in the completion of their EI cards,
- e) notifying the Service Canada WS Official **before** making changes to their schedule of hours.
- f) notifying the Service Canada WS official **before** making changes to the Attachment A
- g) implementing the agreed upon Recovery Plan (Attachment B)
- h) providing progress reports on the implementation of the Recovery Plan.

## Section 7

### **RESPONSIBILITIES OF EMPLOYEE REPRESENTATIVE**

7. The EMPLOYEE REPRESENTATIVE shall ensure that the EMPLOYEES are properly informed of the provisions of this Agreement and of the provisions of the Act and regulations under which Work-Sharing benefits may be paid, including
- (a) the requirements with respect to qualifying for benefits;
  - (b) the requirements for the filing of claims for benefit; and
  - (c) the requirements with respect to the reporting of earnings from all sources so as to permit the calculation of the amount of Work-Sharing benefits payable to the EMPLOYEES.

## Understanding Section 7:

This section explains what duties the employee or union representative is required to perform during the period of the WS agreement.

It is particularly important to emphasize the method by which the employee or union representative will ensure that employees are properly informed of the provisions of this Agreement and of the provisions of the Act and regulations under which Work-Sharing benefits may be paid. Those methods may include:

- a) Posting the Agreement and Attachment A, the Employee kit and the EI Q's and A's sheet in a public area such as the lunch room.
- b) Posting the Agreement and Attachment A, the Employee kit and the EI Q's and A's sheet on the company's internal website.
- c) Distributing the Agreement and Attachment A, the Employee kit the EI Q's and A's sheet to employees via e-mail.
- d) Distributing individual paper copies of the agreement, the Employee kit and the EI Q's and A's sheet to each employee.

## **Section 8**

### **8. EVALUATION**

The COMMISSION may, in its discretion, carry out an evaluation of the Work-Sharing project. The EMPLOYER and EMPLOYEE REPRESENTATIVE agree to cooperate fully with the COMMISSION if it decides to conduct any such evaluation.

#### **Understanding Section 8:**

Employers must be willing to participate in the evaluation process, as must the participants. If an employer is not willing to participate in a post agreement evaluation, it could be cause for Service Canada not signing the agreement, or not entering into future agreements with the employer.

## **Section 9**

### **9. PUBLICITY**

The EMPLOYER agrees to permit the COMMISSION, if it wishes to do so, to release publicly the following information relating to the Work-Sharing project:

- a) the name of the EMPLOYER
- b) the location of the project,
- c) the start and termination dates of the Agreement,
- d) the number of employees participating in the project,
- e) the number of lay-offs averted by the project.

#### **Understanding Section 9:**

Service Canada may only release to the public the information noted above. It may not under any circumstances release information on the recovery plan, nor is this information available under The Access to Information Program.

This information is used in Service Canada press releases, often in a broad context, but on occasion the Minister or an MP may mention a specific employer and location in a speech or press release. Service Canada would not require any further approval from the employer to do so, as it has been agreed to in the agreement.

## **Section 10**

### **EARLY TERMINATION**

10. The COMMISSION may terminate this Agreement at any time if
  - a) the EMPLOYER or the EMPLOYEES are in breach of the performance of, or compliance with, any term, condition or obligation on their part to be observed or performed.
  - b) in the opinion of the COMMISSION, there is any material adverse change in the risk of the EMPLOYER'S ability to successfully carry out the Recovery Plan,
  - c) the EMPLOYER has provided and materially false or misleading information to the COMMISSION,
  - d) the EMPLOYEES are returned to regular full-time employment for a series of six (6) consecutive weeks, this agreement shall terminate automatically at the end of the sixth consecutive week of such regular full-time employment.
11. Any party may terminate this agreement at any time without cause, effective on the Saturday following the day on which notice of termination in writing is given to the other parties.

### **Understanding Section 10 and 11:**

10.
  - a) Service Canada may terminate the agreement at any time if it is felt that the employer is not meeting the expectations of the agreement.
  - b) Service Canada may terminate the agreement at any time if it is apparent that the Employer will not be able to carry out the recovery plan.

c) Service Canada may terminate the agreement at any time if the employer has provided wrong or misleading information.

d) Service Canada may terminate the agreement if the employees have been working full time for more than six weeks.

11. This statement explains the procedure for termination of the Agreement by any party.

## Section 12

### AMENDMENTS AND EXTENSIONS

12. This Agreement may be amended with the mutual written consent of the parties. In the case of an amendment to extend the period of the Agreement, any request by the EMPLOYER and EMPLOYEE REPRESENTATIVE for an extension shall be submitted to the COMMISSION at least four (4) weeks prior to the date of the expiry of the period of the Agreement.

### Understanding Section 12:

Any changes to the agreement i.e. changes in start and finish dates, additions, deletions, changes within the recovery plan etc., must be forwarded to Service Canada for approval **before** the amendment/extension is implemented. Failure to do so may result in the termination of the agreement. Requests for extensions must be submitted at least 4 weeks prior to the end date of the original agreement.

## Section 13, 14, 15 and 16

### GENERAL

13. No member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit arising there from.
14. Attachment A and B (the accompanying recovery plan) are an integral part of this Agreement.

### NOTICE

15. Any notice to a party under this Agreement shall be effectively given if delivered or sent by mail, email or facsimile. Any notice delivered shall be deemed to have been received on delivery. Any notice sent by mail shall be deemed to have been received eight (8) calendar days after being sent and any notice sent by email or facsimile shall be deemed to have been received one working day after being sent.

16. Where notice is given pursuant to this Agreement, it shall be addressed to:

(a) in the case of notice to the COMMISSION,

[TO COMPLETE]

or as otherwise specified in writing by the COMMISSION

b) in the case of notice to the EMPLOYER,

[TO COMPLETE]

or as otherwise specified in writing by the EMPLOYER, and

(c) in the case of notice to the EMPLOYEE REPRESENTATIVE,

[TO COMPLETE]

or as otherwise specified in writing by the EMPLOYEE REPRESENTATIVE.

### **Understanding Section 13, 14, 15 and 16:**

No member of the House of Commons will influence or benefit from a WS application or agreement, nor do they need to be informed of the approval of a WS application. A business within which an MP has decision making authority should not participate in WS.

The agreement is not complete without the inclusion of the work unit (Attachment A) and the recovery plan (Attachment B.)

Documents are deemed to have been received by Service Canada as is noted above. **This is very important** as it will determine the end date for the participants WS EI claims, the date of transfer to a regular claim, as well as eligibility of EI weeks.

This final section confirms who the point of contact is for Service Canada, the company and the employees for the agreement.

### **SIGNING THE AGREEMENT**

A WS Agreement (EMP 5102) is considered legally binding only when it has been signed by all three parties, e.g., the authorized employer representatives, employee representatives and lastly, Service Canada (for HRSDC) representatives.

WS agreements must be signed in advance of the actual start dates of the Agreement to be fully compliant with the Financial Administration Act.



- a) Normally, a WS Program Officer will make an on-site visit to witness the signing of the WS Agreement (EMP 5102). The WS Program Officer should normally be accompanied by an Insurance Officer to ensure that the parties have a clear understanding and reasonable expectations regarding the processing of benefits, qualifying conditions and the employer's and employees' rights and obligations.
- b) Records of Employment (ROE) will be issued **once the agreement has been signed and the start date of the WS activities is confirmed**. When the WS Program Officer receives the application for EI benefits and ROE; they should be reviewed against the Attachment A. This process will assure that a ROE has been or will be received for each employee, and that the employee has been approved for participation on WS.
  - i) One copy of the approved Agreement with a final signed Attachment A, and Attachment B must be provided to the employer and one copy to the union/employee representative;
  - ii) The originals must be affixed to the WS Agreement hard copy file;
  - iii) One signed photocopy must be retained by the responsible Local Service Canada Insurance Officer and one copy by the IPOC to ensure that the EI applications can be processed without delay.
- c) A WS Agreement shall become effective no earlier than the Sunday following the date of the signing of the WS Agreement (EMP 5102). It should be made clear to the employer that until such time as all parties concerned have signed the Agreement, WS may not commence.
- d) Agreements must be signed within 60 calendar days of the date of application approval, and Agreements must be implemented within 60 calendar days of signing or termination will result.