
Employment Insurance Act

Loi sur l'assurance-emploi

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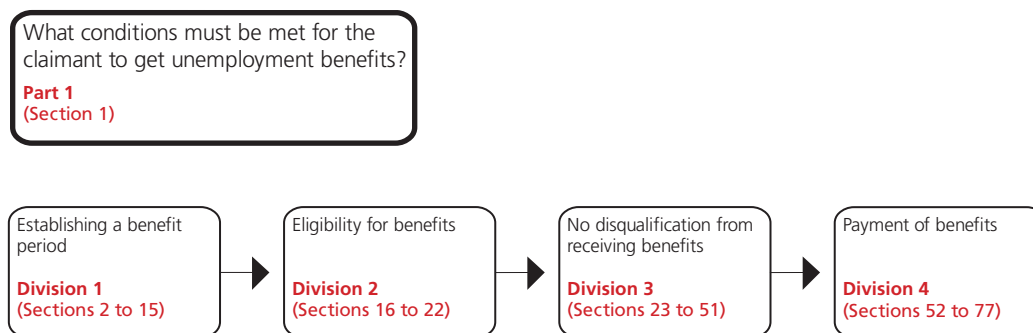
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Part 1

Unemployment Benefits

Diagram of the process for the payment of unemployment benefits



What conditions must be met for the claimant to get unemployment benefits?

1 Commission's obligation to pay benefits

The Commission must pay a claimant unemployment benefits, according to and subject to the limitations in Division 4, if the claimant

- (a) has had a benefit period set up for them by the Commission;
- (b) proves their eligibility for benefits;
- (c) proves that no circumstances or conditions exist that would disqualify them from receiving benefits; and
- (d) submits a weekly claim for benefits.

Note 1: Division 1 sets out the requirements for setting up a benefit period.

Note 2: Division 2 sets out the requirements to be eligible for benefits.

Note 3: Division 3 sets out the reasons for disqualification.

Note 4: Section x of the *Employment Insurance Regulations*, made under [paragraph 54(l) of the current Act], explains how a claimant must prove their entitlement to benefits.

Division 1

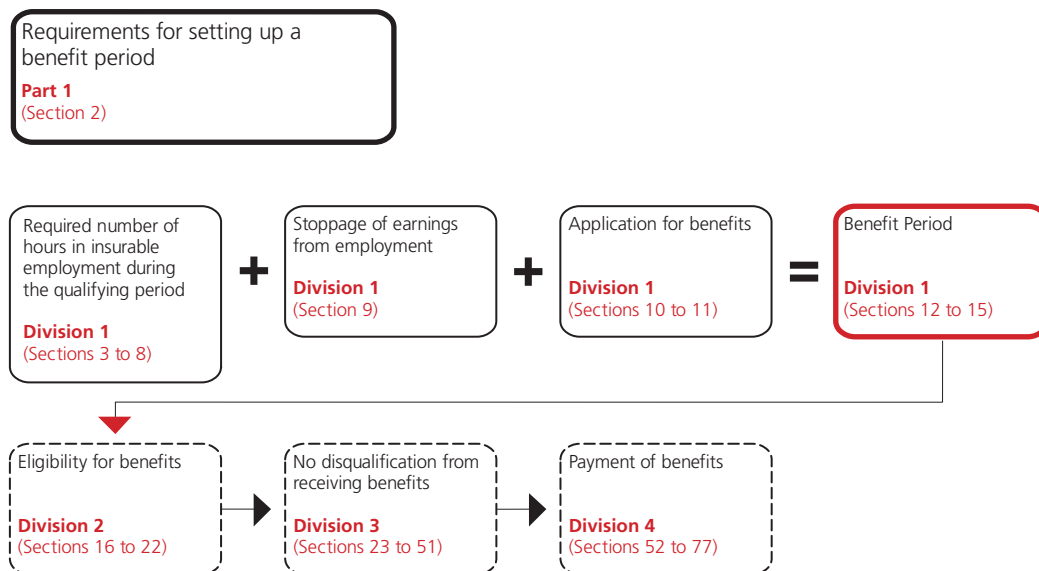
Setting up a benefit period

Guide

This Division sets out:

- the requirements for setting up a benefit period
- a definition of that period

Diagram showing Division 1 in the process for the payment of unemployment benefits



Subdivision 1

Requirements for setting up a benefit period

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2 What are the requirements for setting up a benefit period?

- (1) Setting up a benefit period
- The Commission must set up a benefit period for a claimant who proves that:
- they have worked in insurable employment;
 - they have worked the required number of hours in that employment during their qualifying period;
 - their earnings from that employment have stopped; and
 - they have made an application for benefits as required under section 10.
- Note 1: Sections 3 to 5 explain what the qualifying period is.
Note 2: Sections 6 to 8 set out how many hours a claimant must have worked.
Note 3: Section 9 sets out when a claimant's earnings have stopped.
- (2) Exception – previous benefit period
- The Commission cannot set up a benefit period for a claimant unless the previous benefit period has ended or has been cancelled.
- Note: Sections 13 sets out when a benefit period ends; section 15 sets out when it is cancelled.
- (3) Exception – benefits from Canada and the United States
- The Commission cannot set up a benefit period for a claimant if the Commission and the competent authority in the United States determine that the claimant must first use up or end their right to receive unemployment benefits from the United States.
- Note: This subsection implements Article VI of the *Agreement Between Canada and the United States Respecting Unemployment Insurance*, signed in March 1942.

Topic 1 – Hours of insurable employment required during qualifying period

What is a claimant's qualifying period?

3 Qualifying period

- (1) Definition Subject to sections 4 and 5, a claimant's qualifying period is the 52-week period before
- (a) the week in which their earnings stop; or
 - (b) the week in which their application for benefits is made, if that week is later.
- (2) Back-dating of application The Commission must back-date an application for benefits if the claimant:
- (a) asks that it be dated as if it were made on an earlier date;
 - (b) submitted the application after the day on which the claimant met the requirements referred to in paragraphs 2(1)(a) to (c);
 - (c) proves that they would have met those requirements on the earlier date; and
 - (d) proves that there was a good reason, that continued from the earlier date until the day on which the claimant submitted the application, for not applying for benefits before.

4 Reducing qualifying period

- (1) If previous benefit period in qualifying period If the Commission has set up a benefit period for a claimant that begins during their qualifying period, the qualifying period is reduced so that it begins on the first day of that benefit period.

Note: See sections 12 to 15 for more on benefit periods.

- (2) No extension of qualifying period A qualifying period that has been reduced cannot be extended under section 5.

5 Extending qualifying period

- (1) If claimant prevented from working in insurable employment The Commission must extend a qualifying period by the number of weeks in that period during which a claimant proves that they did not work in insurable employment because they were:

- (a) unable to work because of sickness, quarantine, injury or pregnancy, as set out in the regulations;
- (b) held in a prison, penitentiary or similar institution;
- (c) receiving assistance from an employment program described in section [59 of the current Act]; or
- (d) receiving payments under provincial law for having stopped work because continuing to work would be dangerous to the claimant, their unborn child or a child they were breast-feeding.

Note: Subsections 40(4) and 41(2) of the *Employment Insurance Regulations*, made under [paragraph 54 (y) of the current Act], describe the circumstances concerning sickness, quarantine, injury or pregnancy that would make a claimant incapable of working.

- (2) If claimant's earnings have not stopped

The Commission must extend a qualifying period by the number of weeks in that period during which a claimant proves that

- (a) earnings paid because of the complete ending of the claimant's relationship with their former employer were allocated according to the regulations; and
- (b) the allocation prevented their earnings from stopping.

Note: Allocation of earnings paid because of the ending of the claimant's relationship with their employer is dealt with in subsections 36 (9), (10) and (11) of the *Employment Insurance Regulations*, made under [paragraph 54(s) of the current Act].

- (3) Weeks not taken into account for an extension

For the purposes of an extension under subsection (1) or (2), the Commission cannot take into account a week for which the claimant received unemployment benefits.

- (4) Weeks not taken into account for extension under subsection (2)

For the purposes of an extension under subsection (2), the Commission cannot take into account a week during which the claimant was employed in insurable employment.

- (5) Proof of eligibility for extension

The Commission may direct how to prove eligibility for an extension.

- (6) Multiple extensions permitted

A qualifying period can be extended more than once.

- (7) Maximum extension

The maximum length of a qualifying period, including extensions, is 104 weeks.

How long must a claimant have worked in insurable employment during their qualifying period?

6 Required number of hours

- (1) Based on work-related hours in pre-qualifying period
- The number of hours required for the Commission to set up a benefit period for a claimant is based on their number of work-related hours during the 52 weeks before their qualifying period.
- Note: A claimant who has committed a violation described in section [7.1 of the current Act] may require more hours of insurable employment. See section [7.1 of the current Act].
- (2) Less than 490 work-related hours
- A claimant who has less than 490 work-related hours in the 52-week pre-qualifying period, must have worked at least 910 hours of insurable employment in their qualifying period.
- Note 1: Section [153.1 of the current Act] contains an exception to this rule. A person claiming sickness, maternity or parental benefits may require less than 910 hours of insurable employment.
- Note 2: See section 1 of Schedule 1 for an example of how this subsection applies.
- (3) 490 or more work-related hours
- A claimant who has at least 490 work-related hours in the 52-week pre-qualifying period, must have worked in their qualifying period at least the number of hours of insurable employment in the following table that corresponds to the regional rate of unemployment that applies to the claimant under the regulations.
- Note 1: See sections 17 and 18 of the *Employment Insurance Regulations*, made under [paragraphs 54(w) and (x) of the current Act], for the regional rates of unemployment.
- Note 2: See section 2 of Schedule 1 for an example of how this subsection applies.

Regional Rate of Unemployment	Minimum Number of Hours of Insurable Employment
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

- (4) Definition of work-related hour
- In this section, a work-related hour is any of the following:
- an hour of insurable employment;
 - an hour for which unemployment benefits were paid or payable, counted on the basis of 35 hours for each week of benefits;
 - an hour related to participation in the labour force, as described in the regulations.
- Note: Section 12 of the *Employment Insurance Regulations*, made under the [paragraph 54(z.4) of the current Act], defines to hours related to participation in the labour force.
- (5) Counting work-related hours
- In counting work-related hours, the Commission cannot count an hour under more than one category in subsection (4).

How does the Commission determine a claimant's hours of insurable employment?

7 Method for determining hours

- (1) Method in regulations
- The hours of insurable employment in any period are determined by the method in the regulations, subject to any regulations made under [paragraph 54(z.1) of the current Act] that allocate the hours to the qualifying period.
- Note 1: Sections 9.1 to 11 of the *Employment Insurance Regulations*, made under [paragraph 54(new) of the current Act], set out the methods for determination of hours of insurable employment.
- Note 2: See section 22 of the *Employment Insurance Regulations*, made under [paragraph 54 (z.1) of the current Act] concerning the allocation of hours to the reference period.
- (2) Authorized alternate method
- If the Commission finds that hours of insurable employment cannot be determined under the regulations, it may authorize an alternate method. However, it can withdraw the authorization or change the method at any time, subject to any conditions that it considers appropriate.
- (3) Agreements about alternate methods
- The Commission may enter into agreements with employers or employees on other methods to be used in determining hours of insurable employment, but it can unilaterally end the agreements at any time.

8 Unusable hours

- (1) If claimant reapplies for benefits after being disqualified

If a claimant reapplies for benefits after being disqualified from receiving benefits because of leaving or losing their employment in the circumstances described in sections 23 or 29, as the case may be, the Commission cannot count the following hours in determining the claimant's hours of insurable employment:

- (a) the hours worked before leaving or losing the employment in that employment or any other employment;
- (b) the hours worked after leaving or losing the employment in any employment that the claimant later leaves or loses in the same circumstances.

Note: A claimant is disqualified from receiving benefits under section 23 for voluntarily leaving their employment without just cause and under section 29 for losing their employment because of their misconduct.

- (2) Exception

Subsection (1) does not apply if the claimant left or lost the employment in the 3 weeks before

- (a) the end of their term of employment, in the case of a fixed term of employment; or
- (b) the lay-off date in a notice that the employer has already given the claimant.

Topic 2 – Stoppage of earnings

9 When do a claimant's earnings stop?

A claimant's earnings stop at the time and in the circumstances set out in the regulations.

Note: See section 14 of the Regulations, made under [paragraph 54(u) of the current Act], for the time when and circumstances in which earnings stop.

Topic 3 – Application for benefits

10 How to apply for benefits?

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| (1) Application for benefits | An application for benefits must be made as indicated by the <u>Commission</u> or in the regulations, and be submitted <ul style="list-style-type: none"> (a) at the office of the <u>Commission</u> that serves the area of the claimant's residence; or (b) at any other place indicated by the <u>Commission</u> or in the regulations. <p>Note 1: Sections 19, 20, 90 and 91 of the <i>Employment Insurance Regulations</i>, made under [paragraph 54(m) of the current Act], explain how to apply for benefits and the information to be provided.</p> <p>Note 2: The date the application is submitted may affect when a claimant's benefit period begins. (See section 12).</p> |
| (2) Information required on application | The application must be on a form approved by the <u>Commission</u> and must contain any information that the <u>Commission</u> asks for, including information about a claimant's employment and the reason why their earnings stopped. |
| (3) Additional information | The <u>Commission</u> may require a claimant to provide additional information about their application for benefits, in the manner indicated by <u>Commission</u> . |
| (4) Attendance in person | The <u>Commission</u> may require a claimant to submit their application, or to provide any additional information about it, in person at any reasonable time and place that the <u>Commission</u> indicates. The <u>Commission</u> may require the same of a class of claimants. |
| (5) Mailing address | A claimant must provide the mailing address of their normal place of residence and any changes to that address to the <u>Commission</u> . |
| (6) Suspending or changing requirements | The <u>Commission</u> may suspend or change any requirement of this section, or the regulations referred to in it, if in its opinion it is justified in the circumstances for the benefit of a claimant or a class of claimants. |

11 What happens when the Commission receives an application?

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| (1) Decision | After it receives an application, the <u>Commission</u> must decide whether the claimant meets the requirements for setting up a benefit period. |
| (2) Notification | The <u>Commission</u> must notify the claimant of its decision in the manner that it considers reasonable. |

Subdivision 2

Benefit period

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14	Extending benefit period
15	Cancelling all or part of benefit period

What is a claimant's benefit period?

12 Definition

Subject to sections 13 and 14, a claimant's benefit period is the 52-week period after their qualifying period.

Note: Section 3 sets out the beginning and ending of a qualifying period.

13 End of benefit period

- (1) When period ends A claimant's benefit period ends when
- (a) no further benefits are payable to the claimant in the period; or
 - (b) the claimant has asked the Commission to end it and has made a new application for benefits, and the Commission has decided that the claimant meets the requirements for setting up a new benefit period.
- (2) Back-dating request to end a period The Commission must back-date a request to end a claimant's benefit period, whether or not it has ended, if the claimant
- (a) asks the Commission to date it as if it were made on an earlier date; and
 - (b) proves that there was a good reason, that continued from the earlier date until the day of the request, why the claimant did not ask before.

14 Extending benefit period

- (1) Reasons for extension The Commission must extend a benefit period by the number of weeks in that period for which a claimant proves that they were not entitled to benefits because they were:
- (a) held in a prison, penitentiary or similar institution;
 - (b) receiving earnings paid because of the complete ending of the claimant's relationship with their former employer;
 - (c) receiving workers' compensation payments for an illness or injury; or
 - (d) receiving payments under provincial law for having stopped work because continuing to work would have been dangerous to the claimant, their unborn child or a child they were breast-feeding.
- Note: Section 45 disqualifies a claimant from receiving benefits while in a prison, penitentiary or similar institution.
- (2) Proof of eligibility for an extension The Commission may direct how a claimant proves that they are entitled to an extension.

- | | | |
|-----|-------------------------------|---|
| (3) | Multiple extensions permitted | A benefit period can be extended more than once. |
| (4) | Maximum extension | The maximum length of a benefit period, including extensions, is 104 <u>weeks</u> . |

15 Cancelling all or part of benefit period

- | | | |
|-----|---|--|
| (1) | If no benefits were paid or payable during period | The <u>Commission</u> may cancel a benefit period if it has ended and no benefits were paid or payable during the period. |
| (2) | If a new benefit period is set up | Whether or not a claimant's benefit period has ended, the <u>Commission</u> may cancel the part of the period before the first <u>week</u> for which benefits were paid or payable, and may set up a new benefit period for the claimant beginning on the first day of that <u>week</u> , if they <ul style="list-style-type: none"> (a) ask the <u>Commission</u> to cancel it; (b) prove that there was a good reason, that continued from that day until the day of the request, why the claimant did not ask for the cancellation before; and (c) have submitted a new application for benefits and the <u>Commission</u> has decided that the claimant meets the requirements for setting up a new period. |
| (3) | Effect of cancellation | A benefit period or part of one that is cancelled is considered never to have existed. |

Division 2 Eligibility for benefits

Guide

This Division sets out:

- the different types of benefits offered
- the eligibility requirements for each type of benefit

Diagram showing Division 2 in the process for the payment of unemployment benefits

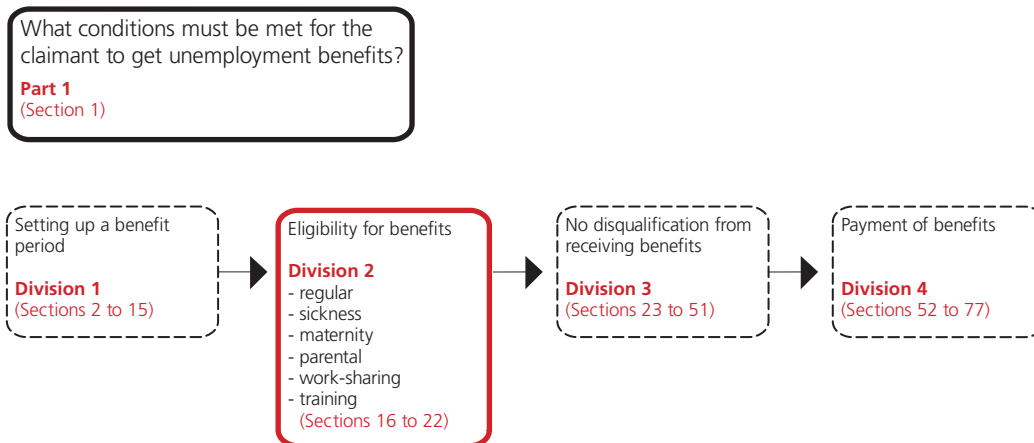


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16 **Types of benefits**

What are the eligibility requirements for each type of benefit?

17 **Regular benefits**

18 **Sickness benefits**

19 **Maternity benefits**

20 **Parental benefits**

21 **Work-sharing benefits**

22 **Training benefits**

What are the various types of benefits?

16 Types of benefits

A claimant is eligible for the following benefits if they meet the eligibility requirements, in sections 17 to 22:

- (a) regular benefits;
- (b) sickness benefits;
- (c) maternity benefits;
- (d) parental benefits;
- (e) work-sharing benefits;
- (f) training benefits.

Note : Eligibility requirements for benefits are set out in the following sections: section 17 (regular); section 18 (sickness); section 19 (maternity); section 20 (parental); section 21 (work-sharing); and section 22 (training).

What are the eligibility requirements for each type of benefit?

17 Regular benefits

(1) Eligibility

A claimant is eligible for regular benefits if they are capable of work, available for work and unable to get suitable employment.

Note 1: Section 42 describes what employment is not “suitable employment”.

Note 2: Section 48 establishes a disqualification for each working day that a claimant fails to prove their eligibility for regular benefits.

(2) Proof required

The Commission may require a claimant, in order to prove their availability for work or inability to get suitable employment, to do any or all of the following:

- (a) register for employment at an agency administered by the government of Canada or of a province;
- (b) report to that agency at any reasonable times that the Commission or agency directs;
- (c) prove that they are making reasonable and usual efforts to get suitable employment.

(3) Jury service

For the purposes of this section and section 48, proof that a claimant is serving on a jury is proof that they are capable of work, available for work and unable to get suitable employment.

18 Sickness benefits**(1) Eligibility**

A claimant is eligible for sickness benefits if

- (a) they are unable to work because of sickness, injury or quarantine, as set out in the regulations; and
- (b) they would otherwise be available for work.

Note: Section 48 establishes a disqualification for each working day that a claimant fails to prove their eligibility for regular benefits.

(2) Additional requirement – stopping work

However, a claimant who stops work because of sickness, injury or quarantine is only eligible for sickness benefits if, in addition to meeting the requirements of subsection (1), they have 700 hours or more of insurable employment in their qualifying period.

19 Maternity benefits

A claimant is eligible for maternity benefits if

- (a) they are pregnant; and
- (b) they have 700 hours or more of insurable employment in their qualifying period.

20 Parental benefits

A claimant is eligible for parental benefits if

- (a) they are caring for
 - (i) their new-born child or children, or
 - (ii) one or more children that have been placed with the claimant, at the same time or about the same time, for adoption under the laws of the province of their residence; and
- (b) they have 700 hours or more of insurable employment in their qualifying period.

21 Work-sharing benefits**(1) Eligibility**

A claimant is eligible for work-sharing benefits if they are employed under a work-sharing agreement approved, by directive, by the Commission.

(2) Decision to approve agreement is final

There is no appeal under sections [114 and 115 of the current Act] of the decision of the Commission to approve or not to approve a work-sharing agreement.

22 Training benefits

- (1) Eligibility
- A claimant is eligible for training benefits if they are either
- (a) attending a course or program of instruction or training
 - (i) at their expense, or
 - (ii) which is paid for under an employment program referred to in or under a similar program that is subject to an agreement referred to in [section 63 of the current Act]; or
 - (b) participating in any other employment activity with assistance provided
 - (i) under an employment program designated by the regulations, or
 - (ii) under a similar program that is subject to an agreement under [section 63 of the current Act].
- (2) Referral required
- However, the claimant is only eligible for training benefits if the Commission, or an authority designated by it, refers them to the course, program or other employment activity and the claimant accepts the referral.
- Note: A claimant who fails to keep their training commitments is disqualified under section 41.
- (3) Decision to approve agreement is final
- There is no appeal under sections [114 and 115 of the current Act] of a decision of the Commission to refer or not to refer a claimant to a course, program or other employment activity.

Division 3

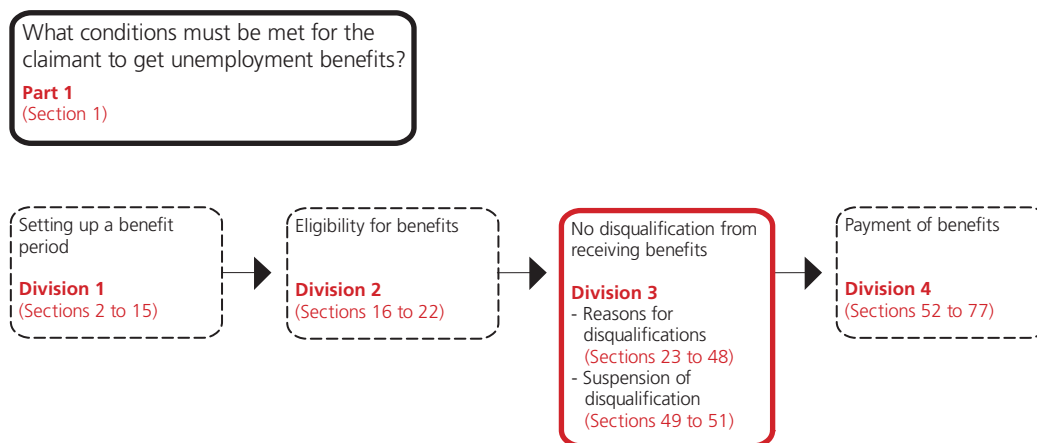
Disqualification from receiving benefits

Guide

This Division sets out:

- the reasons why a claimant is disqualified from receiving benefits, even if they have met the requirements for setting up a benefit period
- how long the disqualification lasts
- when a disqualification is suspended

Diagram showing Division 3 in the process for the payment of unemployment benefits



Subdivision 1

Reasons for disqualification

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Loss of employment because of misconduct

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Suspension from employment because of misconduct

- 32 **Disqualification**
- 33 **Duration of disqualification**
- 34 **Exception – right to belong to a union**

Loss of employment because of labour dispute

- 35 **Disqualification**
- 36 **Duration of disqualification**
- 37 **Exception – not participating in labour dispute**

Insufficient efforts to get work

- 38 **Disqualification for refusing or not applying for employment**
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Being in prison

- 45 **Disqualification**

- 46** **Disqualification**
 Being outside Canada
- 47** **Disqualification**
 Improper submission of claims
- 48** **Disqualification**
 **Failure to prove your eligibility for regular or
 sickness benefits**

Leaving voluntarily without just cause

23 Disqualification

- (1) For leaving employment without just cause
- A claimant is disqualified from receiving benefits if they voluntarily leave their employment without just cause.
- Note: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.
- (2) Situations included as leaving
- Leaving an employment includes all of the following:
- refusing an employment offered as an alternative to an expected loss of employment, in which case the leaving occurs when the claimant loses their employment;
 - refusing to resume employment, in which case the leaving occurs when the claimant is supposed to resume their employment;
 - refusing to continue in the employment after the employer's work, undertaking or business is transferred to another employer, in which case the leaving occurs when the work, undertaking or business is transferred.
- (3) Application
- This section applies to employment in a claimant's qualifying period or benefit period.
- (4) Disqualification even if last job not the one left
- The claimant may be disqualified even if the last employment before their application or claim for benefits was not the one that the claimant left without just cause.
- (5) Just cause
- A claimant has "just cause" for leaving an employment if they had no reasonable alternative to leaving, considering all the circumstances, including any of the following:
- sexual or other harassment;
 - the obligation to accompany the claimant's spouse or a dependent child to another residence;
 - discrimination prohibited under the *Canadian Human Rights Act*;
 - working conditions that are a danger to a claimant's health or safety;
 - the obligation to care for a child or a member of a claimant's immediate family;
 - reasonable assurance of another employment in the immediate future;
 - a significant change in the terms and conditions concerning the claimant's pay;
 - excessive overtime work or the employer's refusal to pay for overtime work;
 - a significant change in the claimant's work duties;

- (j) antagonism between the claimant and a supervisor, if the claimant is not primarily responsible for the antagonism;
- (k) any unlawful practice of the claimant's employer;
- (l) discrimination concerning the claimant's employment because of their membership in an association, organization or union of workers;
- (m) undue pressure on the claimant from their employer to leave their employment;
- (n) any other circumstances that are in the regulations.

24 Duration of disqualification

- | | |
|---|--|
| (1) For weeks in benefit period following waiting period | The disqualification is for every <u>week</u> of the claimant's benefit period following their <u>waiting period</u> , and its duration is not affected by any later loss of employment during the benefit period. |
| (2) Leaving employment after waiting period | If a claimant leaves their employment after their <u>waiting period</u> , the claimant's disqualification is for the rest of their benefit period, including the <u>week</u> in which they leave. |
| (3) Shortened disqualification – term employment or lay-off | The disqualification does not continue past the end of a claimant's term of employment or lay-off date, if they leave in the 3 <u>weeks</u> before either <ul style="list-style-type: none"> (a) the end of the term of employment, in the case of a fixed term of employment; or (b) the lay-off date in a notice that the employer has already given the claimant. |

25 Exceptions

- | | |
|---|---|
| (1) Working required hours after leaving | Subsection 23(1) does not apply if a claimant becomes employed, after leaving their employment, in <u>insurable employment</u> for the number of hours required for setting up a benefit period.

Note 1: See section 6 for the number of hours required to be eligible for regular benefits. |
| (2) Leaving to maintain the right to be part of a union | Subsection 23(1) does not apply if, in order to accept or keep the employment, a claimant would have lost the right to <ul style="list-style-type: none"> (a) join or not join an association, organization or union of workers; or (b) continue to be a member and observe the lawful rules of an association, organization or union of workers. |

Leave of absence without just cause

26 Disqualification

- (1) Taking leave without just cause A claimant is disqualified from receiving benefits if they voluntarily take a leave of absence from their employment without just cause.
- Note: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.
- (2) Conditions that apply to leave Subsection (1) only applies if, before or after the leave starts,
- (a) the employer has authorized it; and
 - (b) the claimant and the employer have agreed on the day for resuming the employment.
- (3) Application This section applies to any employment in a claimant's qualifying period or benefit period.
- (4) Meaning of "just cause" A claimant has just cause for taking leave of absence from an employment if they have no reasonable alternative to taking it, considering all the circumstances, including any listed in subsection 23(5).

27 Duration of disqualification

The disqualification lasts until the claimant does one of the following:

- (a) resumes their employment;
- (b) loses or voluntarily leaves their employment;
- (c) gains the number of hours of insurable employment required for setting up another benefit period, if those hours are gained with another employer during the leave of absence.

28 Exception – right to belong to a union

Subsection 26(1) does not apply if, by remaining in the employment, the claimant would have lost the right to

- (a) join or not join an association, organization or union of workers; or
- (b) continue to be a member and observe the lawful rules of an association, organization or union of workers.

Loss of employment because of misconduct

29 Disqualification

- | | |
|--|--|
| (1) Losing employment because of misconduct | A claimant is disqualified from receiving benefits if they lose their employment because of their misconduct.

Note: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended. |
| (2) Application | This section applies to any employment in a claimant's qualifying period or benefit period. |
| (3) Disqualification even if last job not the one lost | A claimant may be disqualified even if the last employment before their application or claim for benefits was not the employment that they lost. |

30 Duration of disqualification

- | | |
|---|--|
| (1) Duration | The disqualification is for each <u>week</u> of a claimant's benefit period after their <u>waiting period</u> , and its duration is not affected by another loss of employment during the benefit period. |
| (2) Loss of employment after waiting period | If a claimant loses their employment after their <u>waiting period</u> , the disqualification is for the rest of the claimant's benefit period, including the <u>week</u> in which they lost the employment. |
| (3) Shortened disqualification – term employment or lay-off | The disqualification does not continue past the end of a claimant's term of employment or lay-off date if they lost their employment for misconduct in the 3 <u>weeks</u> before either <ol style="list-style-type: none"> (a) the end of the term of employment, in the case of a fixed term of employment; or (b) the lay-off date in a notice that the employer has already given the claimant. |

31 Exceptions

- | | |
|---|--|
| (1) Becoming employed after losing the employment | Subsection 29(1) does not apply if a claimant becomes employed, after losing their employment, in <u>insurable employment</u> for the number of hours required for setting up a benefit period.

Note: See section 6 for the number of hours required to be eligible for regular benefits. |
| (2) Right to belong to a union | Subsection 29(1) does not apply if a claimant loses their employment because of membership in, or lawful activity in relation to, an association, organization or union of workers. |

Suspension from employment because of misconduct

32 Disqualification

- (1) Suspension because of misconduct A claimant is disqualified from receiving benefits if they are suspended from employment because of their misconduct.

Note: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

- (2) Application This section applies to any employment in a claimant's qualifying period or benefit period.

33 Duration of disqualification

The disqualification lasts until one of the following happens:

- (a) the suspension expires;
- (b) the claimant loses or voluntarily leaves their employment;
- (c) the claimant gains the number of hours of insurable employment required for setting up a benefit period, if those hours are gained with another employer, during the leave of absence.

34 Exception – right to belong to a union

Subsection 32(1) does not apply if the claimant was suspended from employment because of their membership in or lawful activity in relation to an association, organization or union of workers.

Loss of employment because of a labour dispute

35 Disqualification

- (1) Loss of employment because of labour dispute Subject to the regulations, a claimant is disqualified from receiving benefits if they lose an employment, or are unable to resume an employment, because of a work stoppage caused by a labour dispute at their workplace.

Note: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

- (2) Meaning of "labour dispute" A labour dispute means a dispute between employers and employees or between employees and employees related to the employment or non-employment, or the terms or conditions of employment, of any persons.

- (3) Separate work places Each department is considered to be a separate work place 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.

36 Duration of disqualification

Subject to the regulations, the disqualification lasts until either

- (a) the day that the work stoppage ends; or
- (b) the day that the claimant gets regular insurable employment elsewhere, if that day is earlier.

Note 1: Section 52 of the *Employment Insurance Regulations*, made under [subsection 36(2) of the current Act], sets out the number of days per week that a claimant is disqualified if they lose a part-time employment or are unable to resume their employment.

Note 2: Section 53 of the *Employment Insurance Regulations*, made under [paragraph 54(g) of the current Act], sets out the circumstances that constitute the end of a work stoppage.

37 Exception – not participating in labour dispute

Subsection 35(1) does not apply if the claimant proves that they are not participating in, financing, or directly interested in the labour dispute that caused the work stoppage.

Insufficient efforts to get work

38 Disqualification for refusing or not applying for employment

- (1) Disqualification A claimant is disqualified from receiving benefits if, after the stoppage of earnings that caused the claimant to apply for them, the claimant fails, without good reason, to take advantage of an opportunity to get suitable employment, including
- (a) refusing an offer of suitable employment; or
 - (b) not applying for suitable employment that the claimant knows is available or becoming available.

Note 1: Section 9 sets out when earnings stop.

Note 2: Section 42 describes what employment is not suitable.

Note 3: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

- (2) Duration of disqualification The disqualification is for the number of weeks set by the Commission, but cannot be less than 7 weeks or more than 12 weeks.

Note: Section 43 sets out when weeks of disqualification are served.

- (3) Exception – right to belong to a union
- Subsection (1) does not apply if, in accepting the employment, a claimant would have lost the right to
- (a) join or not join an association, organization or union of workers; or
 - (b) continue to be a member and observe the lawful rules of an association, organization or union of workers.

39 Disqualification for not following the Commission's directions

- (1) Disqualification
- A claimant is disqualified from receiving benefits if, after the stoppage of earnings that caused the claimant to apply for them, the claimant fails, without good reason, to carry out a direction by the Commission to help them get suitable employment.

Note 1: Section 9 sets out when earnings stop.

Note 2: Section 42 describes what employment is not suitable.

Note 3: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

- (2) Direction must be reasonable and in writing
- The direction must be in writing and must be reasonable, considering the claimant's circumstances and the usual means of getting that employment.
- (3) Duration of disqualification
- The disqualification is for the number of weeks set by the Commission but cannot be more than 6 weeks.

Note: Section 43 sets out when weeks of disqualification are served.

40 Disqualification for not attending interviews

- (1) Disqualification
- A claimant is disqualified from receiving benefits if, after the stoppage of earnings that caused the claimant to apply for them, they fail without good reason to attend an interview when directed to do so by the Commission, to enable it or another appropriate agency
- (a) to provide information and instruction to help the claimant get employment; or
 - (b) to decide whether the claimant needs job training or other employment assistance.

Note 1: Section 9 sets out when earnings stop.

Note 2: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

- (2) Duration of disqualification
- The disqualification is for the number of weeks set by the Commission but cannot be more than 6 weeks.

Note: Section 43 sets out when weeks of disqualification are served.

41 Disqualification for not keeping training commitments

- (1) Disqualification A claimant is disqualified from receiving benefits if the Commission ends their placement in a course, program or employment activity referred to in subsection 22(1) because the claimant:
- (a) failed to participate in the course, program or employment activity without good reason and, in the Commission's opinion, the claimant is not likely to successfully complete it;
 - (b) withdrew from the course, program or employment activity for no good reason; or
 - (c) was expelled from the course, program or employment activity.

Note 1: The Commission's authority to refer a claimant to a course, program or employment activity is found in Subsection 22(2) of this Act.

Note 2: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

- (2) Duration of disqualification The disqualification is for the number of weeks set by the Commission but cannot be more than 6 weeks.

Note: Section 43 sets out when weeks of disqualification are served.

42 Unsuitable employment

- (1) Application Employment described in subsections (2) to (4) is not suitable employment for the purposes of sections 38 to 41.
- (2) Employment arising from a work stoppage Employment is not suitable if it is available because of a work stoppage caused by a labour dispute defined in subsection 35(2).
- (3) Employment in a claimant's usual occupation Employment is not suitable if it is
- (a) in a claimant's usual occupation; and
 - (b) at a lower rate of pay, or on conditions less favourable, than either
 - (i) provided by agreement between employers and employees in the claimant's occupation; or
 - (ii) those recognized by good employers, if there is no such agreement.
- (4) Employment not in a claimant's usual occupation Employment is not suitable, for a reasonable period of time from the date on which a claimant becomes unemployed, if it is
- (a) not in the claimant's usual occupation; but

- (b) at a lower rate of pay, or on conditions less favourable, than the claimant might reasonably expect to get, considering
 - (i) what they generally got in their usual occupation; or
 - (ii) what they would have gotten if they had continued to be employed in that occupation.

43 When disqualification to be served

- | | |
|---|--|
| (1) When the weeks are to be served | A claimant must serve a disqualification under sections 38 to 41 during the <u>weeks</u> after their <u>waiting period</u> for which benefits would be payable if they were not disqualified. The duration of a claimant's disqualification is not affected by another loss of employment during their benefit period. |
| (2) Weeks cannot be served during a suspension | However, a claimant cannot serve a disqualification while it is suspended under section 49. |
| (3) Weeks to be carried forward | Any <u>weeks</u> not served at the end of a claimant's benefit period are carried forward and applied against a future benefit period that is within 2 years after the event for which the claimant was disqualified. |
| (4) Exception to carrying forward weeks of disqualification | However, the <u>Commission</u> cannot carry forward a <u>week</u> of disqualification if the claimant has worked 700 hours or more in <u>insurable employment</u> after the event for which they were disqualified. |

44 Benefits considered to be paid during disqualification

For the application of Divisions 1 to 4 other than section 68, a week of disqualification under sections 38 to 41 is considered as a week in which benefits have been paid.

Being in prison

45 Disqualification

Except as set out in the regulations, a claimant is disqualified from receiving benefits for any period during which they are held in a prison, penitentiary or similar institution.

Note 1: See section 54 of the *Employment Insurance Regulations*, made under section 54(xx) of the Act, for the relevant exceptions.

Note 2: If a claimant is not entitled to benefits because of this section, their benefit period is extended under subsection 15(1) of the Act.

Being outside Canada

46 Disqualification

Except as set out in the regulations, a claimant is disqualified from receiving benefits for any period during which they are outside Canada.

Note: See section 55 of the *Employment Insurance Regulations*, made under [paragraph 54(xx) of the current Act], for the relevant exceptions.

Improper submission of claims

47 Disqualification

A claimant is disqualified from receiving benefits for any period during which they do not comply with a requirement for submitting a claim for benefits in section 76 or in the regulations referred to in that section.

Note: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

Failure to prove eligibility for regular or sickness benefits

48 Disqualification

(1) Regular benefits

A claimant is disqualified from receiving regular benefits for each working day of their benefit period for which the claimant does not prove that they are eligible for those benefits. “Working day” is defined in the regulations.

Note 1: “Working day” is defined in section 32 of the *Employment Insurance Regulations*, under the authority of [paragraph 54(b) of the current Act].

Note 2: Section 17 sets out the eligibility criteria for regular benefits.

Note 3: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

(2) Sickness benefits

A claimant is disqualified from receiving sickness benefits for each working day of their benefit period for which the claimant fails to prove that they are eligible for those benefits. “Working day” is defined in the regulations.

Note 1: “Working day” is defined in section 32 of the *Employment Insurance Regulations*, under the authority of [paragraph 54(b) of the current Act].

Note 2: See section 18 for the eligibility criteria for sickness benefits.

Note 3: Subdivision 2 of this Division sets out the cases in which a disqualification is suspended.

Subdivision 2

Suspension of disqualification

Table of Sections

Which disqualifications are suspended?

49	Disqualification for insufficient efforts to get work
50	Disqualification for stopping work because of a labour dispute
51	Other disqualifications

Which disqualifications are suspended?

49 Disqualification for insufficient efforts to get work

- (1) Suspension The Commission must suspend a disqualification under sections 38 to 41 if it would be obliged under section 1 to pay a claimant training, sickness, maternity or parental benefits if they weren't disqualified.

Note: The disqualifications for insufficient efforts to get work are: refusing or not applying for employment (Section 38); not following the Commission's directions (Section 39); not attending interviews (Section 40); not keeping training commitments (Section 41).

- (2) Duration of suspension The suspension is for the period for which the Commission is obliged to pay the claimant those benefits.

50 Disqualification for stopping work because of a labour dispute

- (1) Suspension The Commission must suspend a disqualification under section 35 if
- (a) it would be obliged under section 1 to pay the claimant training, sickness, maternity, or parental benefits if they weren't disqualified; and
 - (b) the claimant proves that they, before the work stoppage,
 - (i) expected to be absent from work for the reason that obliges the Commission to pay the benefits, and
 - (ii) had made arrangements for their absence.
- (2) Duration of suspension The suspension is for the period for which the Commission is obliged to pay the claimant the benefits referred to in paragraph (1) (a).

51 Other disqualifications**(1) Suspension**

The Commission must suspend any disqualification under sections 23, 26, 29 or 32 if it would be obliged under section 1 to pay a claimant sickness, maternity or parental benefits.

Note: The disqualifications referred to are: leaving voluntarily without just cause (Section 23); leave of absence without just cause (Section 26); loss of employment because of misconduct (Section 29) and suspension from employment because of misconduct (Section 32).

(2) Duration of suspension

The suspension is for the period for which the Commission is obliged to pay the claimant those benefits.

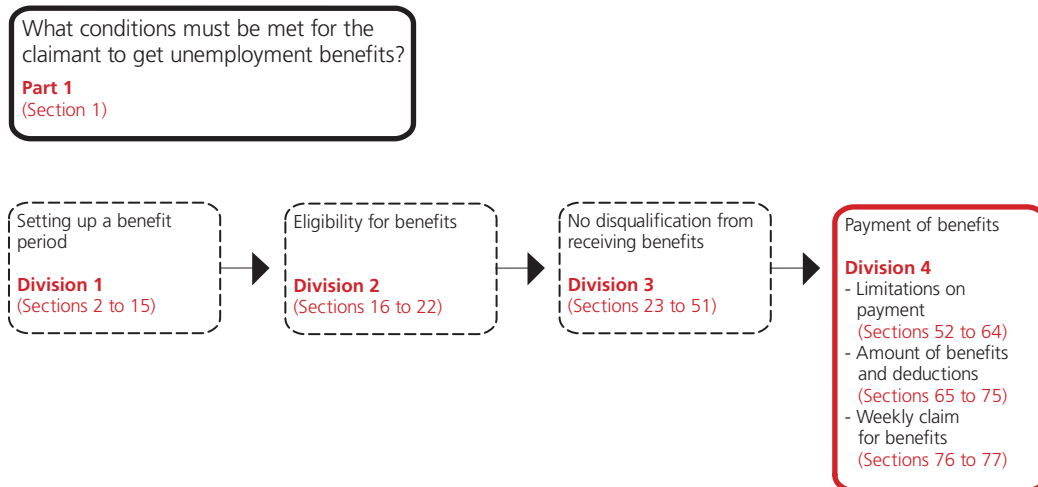
Division 4 Payment of Benefits

Guide

This Division sets out:

- the limitations on the payment of different types of benefits
- the amount of weekly benefits and deductions from benefits
- how to submit a weekly claim for benefits

Diagram showing Division 4 in the process for the payment of unemployment benefits



Subdivision 1

Limitations on payment of benefits

Table of Sections

Which weeks does the Commission pay benefits for?

52 **Limitations on payment of benefits**

What is a week of unemployment?

53 **Definition**
54 **Exceptions**

What is the payment period for each type of benefit?

55 **Regular, sickness, work-sharing or training benefits**
56 **Maternity benefits**
57 **Parental benefits**

What is the maximum number of weeks for which a claimant gets each type of benefit?

58 **Regular, work-sharing or training benefits**
59 **Sickness benefits**
60 **Maternity benefits**
61 **Parental benefits**

What is the maximum number of weeks for which a claimant gets a combination of benefits?

62 **Regular, work-sharing or training benefits**
63 **Sickness, maternity or parental benefits**
64 **Other combinations of benefits**

Which weeks does the Commission pay benefits for?

52 Limitations on payment of benefits

- (1) Weeks of unemployment up to a maximum
- The Commission may only pay benefits for weeks of unemployment in a claimant’s payment period but not in their waiting period, up to the maximum number of weeks in sections 58 to 64.
- Note 1: The payment period for each type of benefit is set out in sections 55 to 57.
Note 2: See sections 58 to 64 for the maximum number of weeks of benefits that may be paid.
Note 3: See section 1 for the requirements that must be met before the Commission must pay benefits.
- (2) Waiting period
- The claimant’s waiting period is the two week period that begins on the first week of unemployment in their benefit period for which benefits would be payable if benefits were payable in their waiting period.

What is a week of unemployment?

53 Definition

- (1) Full working week
- Subject to section 54, a week of unemployment is a week during which a claimant does not work a full working week or is not considered under the regulations to have worked one. “Full working week” is defined in the regulations.
- Note: Sections 29, 30 and 31 of the *Unemployment Insurance Regulations*, made under [paragraphs 54(b) and (c) of the current Act] define a full working week and set out when certain persons are considered to have worked a full working week.
- (2) Week of training
- A week in which the claimant participates in a course, program or employment activity referred to in subsection 22(1) is considered to be a week of unemployment.

54 Exceptions

- (1) Continued paid employment
- A week is not a week of unemployment if
- the claimant’s contract of service continues during that week, whether or not they perform any duties; and
 - the claimant’s usual earnings are paid or payable for the full working week, as defined in the regulations.

- (2) Paid leave A week during which the claimant takes any leave is not a week of unemployment if the claimant
- (a) takes the leave under an agreement with their employer;
 - (b) continues to be employed by their employer while on leave; and
 - (c) is paid the part of their earnings that their employer has set aside for the leave, regardless of when it is paid.
- (3) Compensatory leave A week during which the claimant takes any leave is not a week of unemployment if the claimant
- (a) regularly works a greater number of hours, days or shifts during the week than are normally worked by a full-time employee; and
 - (b) is entitled to the leave as compensation for the extra time worked, under an agreement with their employer.

What is the payment period for each type of benefit?

55 Regular, sickness, work-sharing or training benefits

The payment period for the following types of benefits is the claimant's benefit period:

- (a) regular benefits;
- (b) sickness benefits;
- (c) work-sharing benefits;
- (d) training benefits.

56 Maternity benefits

- (1) Beginning and end The payment period for maternity benefits is the period within the claimant's benefit period that
- (a) begins 8 weeks before the expected week of delivery, or begins the week of birth, if it is earlier; and
 - (b) ends 17 weeks after the expected week of delivery or after the week of birth, if it is later.
- (2) Extension The payment period must be extended for the number of weeks during which the claimant's baby is hospitalized.
- (3) Maximum extension The payment period cannot continue more than 52 weeks after the week of birth.

(4) Waiting period

If a claimant is disqualified under section 48 for one or more days during the 2 weeks before their payment period, the disqualification does not prevent those 2 weeks from constituting the claimant's waiting period.

57 Parental benefits

The payment period for parental benefits is the period within the claimant's benefit period that

- (a) begins the week that the claimant's child or children are born or are actually placed with them for adoption; and
- (b) ends 52 weeks after that week.

What is the maximum number of weeks for which a claimant gets each type of benefit?

58 Regular, work-sharing or training benefits

(1) Maximum according to table

The maximum number of weeks for which the Commission may pay regular, work-sharing or training benefits in one benefit period is the number of weeks in the following table that corresponds to

- (a) the regional rate of unemployment that applies to the claimant according to the regulations; and
- (b) the number of hours of insurable employment that the claimant has in their qualifying period.

Note: See sections 17 and 18 of the *Employment Insurance Regulations*, made under [paragraphs 54(w) and (x) of the current Act], for the regional rates of unemployment that apply.

Regional Rate of Unemployment

Number of hours in a qualifying period	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%
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

Regional Rate of Unemployment (continued)

Number of hours in a qualifying period	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%	
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	
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	41	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	

- (2) Unusable hours In determining the number of hours of insurable employment that a claimant has under subsection (1) (b), the Commission cannot count any hours in an employment that they left voluntarily without just cause or lost because of their misconduct.
- (3) Exception Subsection (2) does not apply if the claimant left or lost the employment in the 3 weeks before
- (a) the end of their term of employment, in the case of a fixed term of employment; or
 - (b) the lay-off date in a notice that the employer has already given the claimant.

59 **Sickness benefits**

The Commission may pay a maximum of 15 weeks of sickness benefits in one benefit period.

60 **Maternity benefits**

The Commission may pay a maximum of 15 weeks of maternity benefits in one benefit period. It cannot pay more than 15 weeks of benefits for a single pregnancy.

61 **Parental benefits**

- (1) Maximum The Commission may pay a maximum of 10 weeks of parental benefits in one benefit period. It cannot pay more than 10 weeks of benefits to care for a child or children from one pregnancy or one placement for adoption.
- (2) Extension The maximum is extended to 15 weeks if
- (a) the child or children are six months of age or older when they arrive or are placed in the home; and
 - (b) the child suffers from a physical, psychological or emotional condition that requires an additional period of care, in the opinion of a medical doctor or the placement agency.
- (3) Splitting weeks of parental benefits If both parents are eligible for parental benefits, they may split the weeks of benefits.

What is the maximum number of weeks for which a claimant gets a combination of benefits?

62 Regular, work-sharing and training benefits

If a claimant is eligible for more than one of

- (a) regular benefits,
- (b) work-sharing benefits, or
- (c) training benefits,

the maximum number of weeks that the Commission can pay the combined benefits in one benefit period is the same as the number of weeks determined under subsection 58(1).

63 Sickness, maternity and parental benefits

If a claimant is eligible for more than one of

- (a) sickness benefits,
- (b) maternity benefits, or
- (c) parental benefits,

the maximum number of weeks for which the Commission can pay the combined benefits in one benefit period is 30.

64 Other combinations of benefits

If a claimant is entitled to one or more types of benefits referred to in section 62 and one or more types referred to in section 63, the maximum number of weeks for which the Commission can pay the combined benefits in one benefit period is

- (a) the same as the number of weeks determined under subsection 58(1), if that number is greater than 30; or
- (b) 30, if the claimant is entitled to 30 weeks or less of the benefits referred to in section 62.

Subdivision 2

Amount of benefits

Table of Sections

How much does a claimant get per week of unemployment?

- 65 **Amount of weekly benefits**
- 66 **What are weekly insurable earnings?**
- 67 **What is a calculation period?**

Can benefits be reduced or increased?

- 68 **Reduction if claimant previously received regular benefits**
- 69 **Increase if claimant qualifies for the family supplement**

What is the maximum weekly benefit?

- 70 **Maximum weekly benefit**

In what circumstances must the Commission make deductions from benefits?

- 71 **Deductions in respect of a claimant's waiting period**
- 72 **Deductions other weeks in benefit period**
- 73 **Undeclared earnings**
- 74 **Earnings not deducted**
- 75 **Deduction of provincial payments for pregnancy from maternity benefits**

How much does a claimant get per week of unemployment?

65 Amount of weekly benefits

Subject to sections 68 and 69, the amount of weekly benefits is 55% of the claimant's weekly insurable earnings, up to the maximum in section 70.

Note: See sections 68 and 69 for the situations in which the Commission must reduce or increase benefits.

66 What are weekly insurable earnings?

(1) Calculation

A claimant's weekly insurable earnings are their insurable earnings during their calculation period divided by the larger of

- (a) the number of weeks during that period in which the claimant had insurable earnings; or
- (b) the number from the following table that corresponds to the regional rate of unemployment that applies to the claimant according to the regulations.

Note: See sections 17 and 18 of the *Employment Insurance Regulations*, made under [paragraphs 54(w) and (x) of the current Act], for the regional rates of unemployment that apply.

Regional Rate of Unemployment	Number Referred to in Paragraph (b)
6% and under	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

(2) Insurable earnings in calculation period

The claimant's insurable earnings in the calculation period are determined according to the regulations and must include earnings from any insurable employment whether it has ended or not.

Note: See 23, 24 and 24.1 of the *Employment Insurance Regulations*, made under [paragraph 54(z) of the current Act].

- (3) Unusable hours and earnings
- In calculating weekly insurable earnings under subsection (1), the Commission cannot count any hours, or any earnings from those hours, in an employment that the claimant left voluntarily without just cause or lost because of their misconduct, unless the claimant left or lost the employment in the 3 weeks before
- (a) the end of their term of employment, in the case of a fixed term of employment; or
 - (b) the lay-off date in a notice that the employer has already given the claimant.

67 What is a calculation period?

- (1) Calculation period
- Subject to subsections (2) and (3), a claimant's calculation period is the 26-week period in their qualifying period before
- (a) the Sunday that begins their benefit period; or
 - (b) the Sunday after the claimant's last stoppage of earnings, if the first day of their benefit period is after the last stoppage of earnings and the claimant has no insurable employment on that day.
- (2) Reducing calculation period
- If the Commission set up a benefit period for a claimant that begins during their calculation period, the calculation period is reduced so that it begins on the first day of that benefit period.
- (3) Extending calculation period
- The Commission must extend the calculation period by the number of weeks in that period that are related to the claimant's participation in the labour force, as described in the regulations.
- Note: See section 12 of the *Employment Insurance Regulations*, made under [paragraph 54(z.4) of the current Act] to find out which weeks may not be counted.
- (4) Exception
- A calculation period that has been reduced cannot be extended.

Can benefits be reduced or increased?

68 Reduction if claimant previously received regular benefits

- (1) Commission must reduce benefits
- Subject to subsection (4), the Commission must reduce a claimant's weekly benefits if they received more than 20 weeks of regular benefits during the 260 weeks before their benefit period begins.

Note: See section 3 of Schedule 1 for an example of how this subsection applies.

- (2) Weeks not counted in calculating reduction The Commission cannot count any week before June 30, 1996 as a week of benefits.
- (3) Reduction of benefit rate The benefit rate referred to in section 65 is reduced to the rate in the following table that corresponds to the number of weeks of regular benefits that the claimant received.

Number of weeks of Regular Benefits Received	Reduced Rate
21-40	54%
41-60	53%
61-80	52%
81-100	51%
more than 100	50%

- (4) Exception The Commission cannot reduce a claimant's benefits if they are claiming sickness, maternity or parental benefits, or are entitled to a family supplement under section 69.

69 Increase if claimant qualifies for the family supplement

- (1) Family supplement The Commission must increase a claimant's benefits by the amount of the family supplement, determined according to the regulations, if the claimant
- (a) has one or more dependent children, as defined in the regulations; and
 - (b) proves that they meet the income criteria for low-income families in the regulations.

Note: See section 34 of the *Employment Insurance Regulations*, made under [paragraph 54(d) of the current Act], for the amount of the family supplement, definition of dependent children and criteria for family income.

- (2) Proof of eligibility for an extension The Commission may direct how the claimant proves that they meet the income criteria for low-income families.

- (3) Maximum supplement The family supplement cannot be greater than the percentage of the claimant's weekly insurable earnings in the regulations. If no percentage is set out in the regulations, the supplement cannot be greater than 25% of the claimant's weekly insurable earnings.

Note: See section 34 of the *Employment Insurance Regulations*, made under [paragraph 54(d) of the current Act], for the maximum percentage of weekly insurable earnings.

What is the maximum weekly benefit?

70 Maximum weekly benefit

- (1) Calculation The maximum amount of the weekly benefit is:
- $$\frac{55\% \times \text{the claimant's maximum yearly insurable earnings}}{52}$$
- (2) Maximum yearly insurable earnings The maximum yearly insurable earnings are an amount set by the Commission for each year, with the approval of the Governor in Council on the recommendation of the minister and the minister of Finance.

In what circumstances must the Commission make deductions from benefits?

71 Deductions in respect of a claimant's waiting period

- (1) Disqualification If a claimant is disqualified from receiving benefits under section 26, 32, 35 or 45 to 48 for one or more working days in their waiting period, the Commission must deduct from the claimant's benefits 1/5 of the amount of their weekly benefits for each such day.
- Note: Division 3 sets out the grounds for disqualification.
- (2) Earnings during period If a claimant has any earnings during their waiting period, the Commission must deduct from their benefits, according to the regulations, an amount not greater than those earnings.
- Note: See section 39 of the *Employment Insurance Regulations*, made under [paragraph 54(e) of the current Act].
- (3) How to make deductions The deductions must be made from the claimant's weekly benefits for the first three weeks in which benefits are payable.

72 Deductions in other weeks during benefit period

- (1) Disqualification If a claimant is disqualified from receiving benefits under sections 26, 32, 35 or 44 to 47 for one or more working days in a week of unemployment that is not in their waiting period, the Commission must deduct from benefits payable for that week 1/5 of the amount of the claimant's weekly benefits for each such day.
- (2) Partial deduction of earnings If a claimant has earnings in any week of unemployment that is not in their waiting period, the Commission must deduct from benefits payable for that week the amount of those earnings that is greater than allowable earnings of
- (a) \$50, if the claimant's weekly benefits are less than \$200; or
 - (b) 25% of the claimant's weekly benefits, if they are \$200 or more.
- (3) Deduction of all earnings However, the Commission must deduct all of the claimant's earnings during any week in which sickness, maternity or parental benefits are payable to the claimant, from benefits payable for that week.

73 Undeclared earnings

- (1) Amount of deduction If a claimant did not declare earnings during any period set out in the regulations for which they claimed benefits, the Commission must deduct
- (a) the amount of the undeclared earnings, if the Commission finds that the claimant knowingly failed to declare them; or
 - (b) in any other case, the amount determined by the formula

$$A - (B - C)$$

where:

A is the claimant's undeclared earnings;

B is the allowable earnings that the claimant would have kept under subsection 72(2) for the period set out in the regulations if they had declared all of their earnings; and

C is the allowable earnings that the claimant kept under subsection 72(2).

Note: Section 15 of the *Employment Insurance Regulations*, made under [paragraph 54(d.1) of the current Act], determines the period for which benefits are claimed.

(2) How to make deduction

The deduction is made from the benefits paid to the claimant for the period set out in the regulations, beginning in the first week in which benefits were paid.

74 Earnings not deducted

Despite subsections 71(2), 72(2) and 73(1), the following earnings can only be deducted according to the regulations:

- (a) earnings from attending a course or program of instruction or training;
- (b) earnings from employment under an employment program referred to in section [59 of the current Act].

Note: See section x of the *Employment Insurance Regulations* made under [paragraph 54(xx) of the current Act].

75 Deduction of provincial payments for pregnancy from maternity benefits

As provided in the regulations, the Commission must deduct from maternity benefits payable to a claimant any money or other benefits payable to the claimant under a provincial law because of pregnancy.

Subdivision 3

Weekly claim for benefits

Table of Sections

76	How to claim benefits
77	How does the Commission decide a weekly claim?

76 How to claim benefits

- (1) Submission of weekly claim
- A claimant's weekly claim for benefits must
- (a) be made according to the regulations, or as indicated by the Commission; and
 - (b) be submitted at any place referred to in subsection 10(1).

Note: Sections 19, 20, 90 and 91 of the *Employment Insurance Regulations*, made under [paragraph 54(m) of the current Act], explain how to claim benefits and the information to be provided.

- (2) Information required on claim
- The claim must be on a form approved by the Commission and must contain any information that the Commission asks for.

- (3) Limitation period
- The claim must be submitted by the deadline set out in the regulations.

Note: Sections x-xx of the *Employment Insurance Regulations*, made under [paragraph 54(m) of the current Act], sets the deadline for submitting the claim.

- (4) Powers of Commission
- The Commission has the same powers concerning a claim that it has under subsections 10(3) and (4) concerning an application for benefits.

- (5) Suspending or changing requirements
- The Commission may suspend or change any requirement of this section or the regulations referred to in it, if in its opinion it is justified in the circumstances for the benefit of a claimant or a class of claimants.

77 How does the Commission decide a weekly claim?

- (1) Decision
- After it receives a weekly claim, the Commission must decide whether it is obliged under section 1 to pay the claimant benefits for that week.
- (2) Decision on eligibility or disqualification
- The Commission may, even if no weekly claim for benefits has been submitted, decide whether a claimant is eligible for, or disqualified from receiving, benefits.
- (3) Proof of disqualification
- The Commission must give the claimant the benefit of the doubt if it finds that the evidence is equally balanced as to whether circumstances or conditions exist that would disqualify the claimant from receiving benefits under section 23, 26, 29 or 32.

- (4) Further information If, in reviewing an application or weekly claim for benefits, the Commission finds any evidence that the claimant left their employment voluntarily or lost it because of their misconduct, it must
- (a) give the claimant and their employer a chance to provide information about the reasons why the claimant left or lost the employment; and
 - (b) take that information into account in any decision under this section.
- (5) Notification The Commission must notify the claimant of its decision in the manner that it considers reasonable.

Division 5

Definitions

78 Definitions

The following definitions apply in this Act.

“Commission”

« *Commission* »

“Commission” means the Canada Employment Insurance Commission.

“insurable earnings”

« *rémunération assurable* »

“Insurable earnings” means a claimant’s total earnings from insurable employment, as determined under [Part IV of the current Act].

“insurable employment”

« *emploi assurable* »

“Insurable employment” means employment defined in [section 5 of the current Act].

“minister”

« *ministre* »

“Minister” means the minister of Human Resources Development.

“waiting period”

« *période de carence* »

“Waiting period” means the period described in subsection 52(2).

“week”

« *semaine* »

“Week” means the period of 7 consecutive days beginning on Sunday, or, in the circumstances in the regulations, the period that they prescribe.

Note: See sections x of the *Employment Insurance Regulations*, made under [paragraph 54(z.4) of the current Act].

“week of unemployment”

« *semaine de chômage* »

“Week of unemployment” means the period described in section 53.

Appendix 1

1. Example of how subsection 6(2) of the Act applies

What is the number of hours of insurable employment required in the qualifying period to set up a benefit period?

Scenario – Less than 490 work-related hours in the 52 weeks preceding the qualifying period

When she files an application for benefits on January 2, 2000, Mary is worried because she has lost her first regular job – the one she found at the end of her studies. She worked at that job for a total of 920 hours in 1999.

A review of her file shows that she has never received unemployment benefits before and that she worked occasionally at a variety of jobs for a total of 200 accumulated hours of insurable employment in 1998.

Mary has a total of 200 hours of employment in the 52 weeks preceding her qualifying period. She needs a minimum of 910 hours of insurable employment for a benefit period to be set up.

With 920 hours of insurable employment accumulated in her qualifying period in 1999, Mary therefore has worked enough hours for the Commission to set up a benefit period for her.

2. Example of how subsection 6(3) of the Act applies

What is the number of hours of insurable employment required in the qualifying period to set up a benefit period?

Scenario – 490 or more work-related hours in the 52 weeks preceding the qualifying period

When he files an application for benefits on January 2, 2000, Frank provides his records of employment for all the jobs he had in 1999. These records together make up a total of 535 hours of insurable employment.

A review of his file shows that he worked 70 hours in an insurable job in May 1998 and that he received 20 weeks of unemployment benefits from June to October 1998.

When the 70 hours of insurable employment are added to the 700 hours (which correspond to the 20 weeks of benefits received multiplied by 35), Frank has a total of 770 hours of employment in the 52 weeks preceding his qualifying period.

Because he has 490 or more work-related hours in the 52 weeks preceding his qualifying period, the number of hours of insurable employment required for a benefit period to be set up in his case is calculated according to the table found at subsection 6(3), based upon the regional unemployment rates.

The current unemployment rate in his region of residence is 13.1%. The minimum number of hours of insurable employment required in his case is therefore 420. With 535 hours of insurable employment accumulated in 1999, Frank has therefore worked enough hours for the Commission to set up a benefit period for him.

3. Example of how section 68 of the Act applies

Can the amount of weekly benefits be reduced?

Scenario – More than 20 weeks of regular benefits received during the 260 weeks before the benefit period begins

When John files an application for benefits on January 2, 2000, his record of employment indicates weekly insurable earnings of \$450 in his rate calculation period, the 26 last weeks of work.

A review of his file shows that, since June 30, 1996, he received 63 weeks of regular benefits.

John received a total of 63 weeks of regular benefits, all of which were after June 30, 1996, and within the 260 weeks preceding the beginning of his benefit period.

His rate of weekly benefits is therefore reduced from 55% to 52% of his weekly insurable earnings of \$450. He will therefore receive on his new application for benefits an amount of \$234 per week, rather than the \$248 to which he would have been entitled if he had not received those regular benefits.