

CURRENT EMPLOYMENT INSURANCE (FISHING) REGULATIONS

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INTERPRETATION

1. (1) The definitions in this subsection apply in these Regulations.

"Act" means the *Employment Insurance Act. (Loi)*

"buyer" means a person who buys a catch for the purpose of reselling it, either in the form in which it was caught or after processing, and not for the purpose of using it as food, feed or bait. (*acheteur*)

"catch" means any natural product or by-product of the sea, or of any other body of water, caught or taken by a crew and includes fresh fish, cured fish, Irish moss, kelp and whales, but does not include fish scales or seals, and

(a) where only a portion of a catch is delivered to a buyer, means the portion delivered; and

(b) where more than one catch or portion of a catch is delivered to a buyer at one time, means the catches or portions that are delivered. (*prise*)

"crew" means a group of fishers who generally engage in making a catch together or who have actually engaged in making a catch together and, in the case of a single fisher, "crew" or "member of a crew", as the case may be, means that single fisher. (*équipage*)

"cured fish" means the following fish and fish products:

(a) salted groundfish, smoked herring, pickled mackerel, pickled turbot, pickled herring, pickled and salted alewives, pickled trout and other pickled fish products; and

(b) cod oil and cod livers. (*poisson traité*)

"employer" means a person included by section 3 as the employer of a fisher. (*employeur*)

"fisher" means a self-employed person engaged in fishing and includes a person engaged, other than under a contract of service or for their own or another person's sport,

(a) in making a catch;

(b) in any work incidental to making or handling a catch, whether the work consists of loading, unloading, transporting or curing the catch made by the crew of which the person is a member, or of preparing, repairing, dismantling or laying-up the fishing vessel or fishing gear used by that crew in making or handling the catch, where the person engaged in any such incidental work is also engaged in making the catch; or

(c) in the construction of a fishing vessel for their own use or for the use of a crew of which the person is a member in making a catch. (*pêcheur*)

"fishing gear" means any specialized equipment, other than hand tools or clothing, used by a crew exclusively in making a catch. (*engins de pêche*)

"fresh fish" means fish that is not cured fish. (*poisson frais*)

"major attachment claimant" means a claimant who qualifies to receive benefits and has \$3,760 or more of insurable earnings from employment as a fisher in their qualifying period. (*prestataire de la première catégorie*)

"minimum wage", in respect of the earnings of a fisher from the catch of a crew, means the minimum wage in effect in the province where the fisher resides on January 1 of the year in which the catch is sold. (*salaire minimum*)

"minor attachment claimant" means a claimant who qualifies to receive benefits and has less than \$3,760 of insurable earnings from employment as a fisher in their qualifying period. (*prestataire de la deuxième catégorie*)

(2) An employer who is engaged in work incidental to a catch that is generally performed on shore shall not, at any time, be regarded as a member of the crew that made the catch.
SOR 2001-74, s. 1

GENERAL

2. A person who is a fisher shall be included as an insured person and, subject to these Regulations, the Act and any regulations made under the Act apply to that person with such modifications as the circumstances require.

DETERMINATION OF EMPLOYER

3. (1) For the purposes of the Act and any regulations made under the Act, the employer of a fisher shall be any person included as such by this section.

(2) Where a catch is delivered in Canada to a buyer or to a buyer's agent by a member of the crew that made the catch, the buyer shall be considered to be the employer of all fishers who are members of that crew and who share in the proceeds from the sale of the catch.

(3) Where a catch is delivered by a member of the crew that made the catch to a person who is not considered by virtue of subsection (2) to be the employer and the gross returns from the sale of the catch are paid to the head fisher of the crew, or if there is no head fisher, to the agent for selling the catch of the crew,

(a) in the case of a head fisher, the head fisher shall be considered to be the employer for all the other fishers who are members of the crew; and

(b) in the case of an agent,

(i) if the agent is a member of the crew, the agent shall be considered to be the employer of all the other fishers who are members of the crew, and

(ii) if the agent is not a member of the crew, the agent shall be considered to be the employer of all the fishers who are members of the crew.

(4) Where there is a common agent acting at the same time for both the crew and a buyer, that agent shall

(a) if the agent is a member of the crew, be considered to be the employer of all the other fishers who are members of the crew; and

(b) if the agent is not a member of the crew, be considered to be the employer of all the fishers who are members of the crew.

(5) An agent referred to in subsection (4) has the right to recover from the buyer the employer's premiums paid by the agent.

RECORDS, BOOKS OF ACCOUNT AND DOCUMENTS

4. (1) The records referred to in section 87 of the Act shall contain, for the purposes of these Regulations,

(a) all particulars required for determining

(i) whether premiums are payable by the employer,

(ii) the earnings of the fishers, and

(iii) the dates on which premiums are payable by the employer; and

(b) the name, address and Social Insurance Number of each member of the crew and their share of proceeds from the sale of the catch.

(2) Every person considered by section 3 to be the employer of fishers shall keep all records, books of account and documents in respect of those fishers separately from those the person keeps and maintains in respect of other insured persons.

DETERMINATION OF EARNINGS

5. (1) The earnings of a fisher shall be determined as provided by this section.

(2) The earnings of a fisher are the amount paid or payable to the fisher in respect of a catch, in accordance with the share arrangement, after deducting the value of any portion of the catch not caught by the crew of which the fisher is a member.

(3) Where a fisher referred to in subsection (2) is a member of the crew and is the owner or lessee of the fishing vessel or fishing gear used by the crew in making the catch, or employs under a contract of service other persons who are engaged in making the catch, the earnings of the fisher are the amount remaining after deducting 25 per cent of the gross value of the catch and after deducting the wages and shares of the other members of the crew.

(4) For the purpose of applying subsection (2), the value of any portion of the catch not caught by the crew shall be the amount established by the head fisher or, if the agent is the employer, by the agent for selling the catch of the crew.

(5) For the purposes of these Regulations, the insurable earnings of a fisher are the earnings as determined in accordance with subsections (2) and (3) that are in respect of the qualifying period referred to in subsection 8(4) or (9), as the case may be.

(6) For the purposes of subsection (5), the earnings of a fisher from a fishing trip that falls partly outside the qualifying period shall be allocated equally to each day of the trip and earnings for days of the fishing trip that precede the first Sunday of the qualifying period shall not be taken into account.

INCOMPLETE RECORDS, BOOKS OF ACCOUNT AND DOCUMENTS

6. Where an officer of the Department of National Revenue determines that the records, books of account and documents of an employer of fishers are not, in respect of any of those fishers, sufficiently complete for the purpose of enabling the officer to determine the amount of insurable earnings of the fishers in respect of any period, the amount of the premiums payable and the dates on which they were paid or payable by that employer, the officer shall

(a) in respect of any fisher for whom the records, books of account and documents are adequate, determine the fisher's insurable earnings and the premiums payable in accordance with the Act and the provisions of any regulations made under the Act, other than this section; and

(b) in respect of any fisher for whom the records, books of account and documents are inadequate, estimate the insurable earnings in the manner set out in subsection (2) and determine the premiums payable shall be five per cent of those estimated earnings.

(2) For the purposes of paragraph (1)(b), the officer shall, in respect of any fisher referred to in that paragraph, estimate

(a) the period during which any catches of that fisher were made;

(b) the number of fishers involved in any catch; and

(c) the earnings of the fisher for the period referred to in paragraph (a).

(3) The aggregate earnings of all fishers for a period estimated in accordance with subsection (2) shall not exceed the gross returns from the sale of all the catches made by the fishers during the period.

(4) The officer shall, in determining or estimating pursuant to subsections (1) and (2) the earnings in respect of which premiums are payable, exclude the deductions referred to in subsection 5(3) and any earnings that the officer is satisfied have been paid or are payable to a fisher who is not insured or in respect of whom the records, books of account and documents are adequate.

(5) Notwithstanding subsections (1) and (2), the officer shall, on the first inspection of the records, books of account and documents of an employer, establish the earnings paid or payable in respect of any period to a fisher employed by the employer during the period, on the basis of oral or written information, and determine the insurable earnings and the premiums payable by the employer for the period by applying to the earnings so established the provisions of the Act and any regulations made under the Act, where the employer

(a) has not previously been sent a request to keep adequate records, books of account and documents;

(b) agrees to keep adequate records, books of account and documents;

(c) agrees to make immediate payment of any premiums that the officer, on the basis of any oral or written information, determines are owing; and

(d) has acted in good faith.

DATE OF PAYMENT OF REMUNERATION

7. For the purposes of section 82 of the Act, a fisher shall be considered to have been paid remuneration not later than

(a) where, pursuant to subsection 3(3), the employer is the head fisher or the agent of the crew, the last day of the week in which the employer is paid the proceeds from the sale of the catch;

(b) where the employer is a buyer who settles accounts with the fisher at intervals of more than seven days, the date on which the settlement is reached; and

(c) where the employer is a person other than a person described in paragraph (a) or (b), the last day of the week in which the catch is delivered.

BENEFIT PERIOD AND RATE OF WEEKLY BENEFITS

8. (1) Subject to any other provision of this section and regardless of whether the fisher has had an interruption of earnings, a benefit period shall be established for a fisher who makes an initial claim for benefits during a period beginning not earlier than the Sunday of the week in which October 1 falls and ending not later than the Saturday of the week in which the following June 15 falls.

(2) In order to have a benefit period referred to in subsection (1) established in respect of a fisher, the fisher must prove that the fisher is not qualified under section 7 of the Act to receive benefits and

(a) in the case of a fisher who is a new entrant or re-entrant to the labour force, that the fisher has, in the qualifying period, \$5,500 or more in earnings from employment as a fisher; and

(b) in the case of any other fisher, that the fisher has accumulated since the beginning of the qualifying period not less than the amount of insurable earnings from employment as a fisher that is set out in the schedule for the unemployment rate applicable to the region where the fisher resides.

(3) For the purposes of paragraph (2)(a), a fisher is a new entrant or re-entrant to the labour force if, in the 52-week period that precedes the beginning of the qualifying period referred to in paragraph (4)(a), the fisher has had less than

(a) \$3,000 in earnings from employment as a fisher;

(b) 14 weeks or 490 hours for which benefits have been paid or were payable to the fisher under these Regulations;

(c) 14 weeks or 490 hours that relate to employment in the labour force as a fisher in the aggregate of the weeks referred to in subsection 12(1) of the *Employment Insurance Regulations*; or

(d) 14 weeks or 490 hours of any combination of the earnings and weeks or hours referred to in paragraphs (a) to (c), with the earnings converted to hours, where necessary, by dividing the earnings by the minimum wage.

(3.1) A fisher is not a new entrant or a re-entrant if the fisher has been paid one or more weeks of special benefits referred to in paragraph 12(3)(a) or (b) of the Act in the period of 208 weeks

preceding the period of 52 weeks before their qualifying period or in other circumstances, as prescribed by regulation, arising in that period of 208 weeks.

(4) The qualifying period referred to in paragraph (2)(a) or (b)

(a) begins on the latest of

(i) the Sunday of the week in which the March 1 preceding the week in which the fisher makes the initial claim for benefits falls,

(ii) the Sunday of the week in which the fisher's last benefit period began, and

(iii) the Sunday of the 31st week preceding the week in which the fisher makes the initial claim for benefits; and

(b) ends on the Saturday of the week preceding the week in which the fisher makes the initial claim for benefits.

(5) Notwithstanding subsections 8(2) to (4) of the Act, the qualifying period described in subsection (4) shall not be extended.

(6) Subject to any other provision of this section and regardless of whether the fisher has had an interruption of earnings, a benefit period shall be established for a fisher who makes an initial claim for benefits during a period beginning not earlier than the Sunday of the week in which April 1 falls and ending on the Saturday of the week in which the following December 15 falls.

(7) In order to have a benefit period referred to in subsection (6) established in respect of a fisher, the fisher must prove that the fisher is not qualified under section 7 of the Act to receive benefits and

(a) in the case of a fisher who is a new entrant or re-entrant to the labour force, that the fisher has, in the qualifying period, \$5,500 or more in earnings from employment as a fisher; and

(b) in the case of any other fisher, that the fisher has accumulated since the beginning of the qualifying period not less than the amount of insurable earnings from employment as a fisher that is set out in the schedule for the unemployment rate applicable to the region where the fisher resides.

(8) For the purposes of paragraph (7)(a), a fisher is a new entrant or re-entrant to the labour force where the fisher meets the condition set out in paragraph (3)(a), (b), (c) or (d), except that the reference in subsection (3) to the qualifying period shall be read as a reference to the qualifying period described in subsection (9).

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

(9) The qualifying period referred to in paragraph (7)(a) or (b)

(a) begins on the latest of

(i) the Sunday of the week in which the September 1 preceding the week in which the fisher makes the initial claim for benefits falls,

(ii) the Sunday of the week in which the fisher's last benefit period began, and

(iii) the Sunday of the 31st week preceding the week in which the fisher makes the initial claim for benefits; and

(b) ends on the Saturday of the week preceding the week in which the fisher makes the initial claim for benefits.

(10) Notwithstanding subsections 8(2) to (4) of the Act, the qualifying period described in subsection (9) shall not be extended.

(11) A benefit period established under subsection (1) or (6) begins with and includes the week in which the initial claim for benefits is made and ends with the earlier of

(a) the Saturday of the last week of unemployment for which benefits are payable pursuant to subsection (12); and

(b) the ending date of the benefit period referred to in subsection 8(1) or (6), as the case may be.

(11.1) Notwithstanding subsection (11) and subject to the applicable maximums referred to in subsections (17) and (18), the benefit period of a fisher shall be extended by one week for each week in respect of which the fisher is entitled to special benefits under section 21, 22, 23 or 23.1 of the Act, but shall not exceed a maximum of 52 weeks.

(11.2) Notwithstanding subsection (11) and subject to the applicable maximums referred to in subsections (17) and (18), if, during the period referred to in subsection 23(2) of the Act, the child or children referred to in subsection 23(1) of the Act are hospitalized, the fisher's benefit period is extended by the number of weeks during which the child or children are hospitalized.

(11.3) Notwithstanding subsection (11) and subject to the applicable maximums referred to in subsection (17), if, during a fisher's benefit period,

(a) benefits were not paid to the fisher under subsection (12),

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

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

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

(11.31) Notwithstanding subsection (11) and subject to the applicable maximums referred to in subsection (17), if, during a fisher's benefit period,

(a) benefits were not paid to the fisher under subsection (12),

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

(c) benefits were not paid for the maximum number of weeks established for those reasons,

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

(11.32) Notwithstanding subsection (11) and subject to the applicable maximums referred to in subsection (17), if, during a fisher's benefit period,

(a) benefits were not paid to the fisher under subsection (12),

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

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

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

(11.33) Notwithstanding subsection (11) and subject to the applicable maximums referred to in subsection (17), if, during a fisher's benefit period,

(a) benefits were not paid to the fisher under subsection (12),

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

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

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

(11.4) Subject to subsection (11.5), no extension under any of subsections (11.1) to (11.33) may result in a benefit period of more than 104 weeks.

(11.5) Unless a benefit period is also extended under subsection (11.1) or (11.2), no extension under subsections (11.3) to (11.33) may result in a benefit period of more than

(a) in the case of an extension under subsection (11.3), 67 weeks;

(b) in the case of an extension under subsection (11.31) or (11.32), 58 weeks; and

(c) in the case of an extension under subsection (11.33), 73 weeks

(12) Subject to subsection (18), where a benefit period has been established for a fisher, benefits may be paid to the fisher for each week of unemployment that falls in a benefit period referred to in subsection (11), but the total amount paid shall not represent more than 26 weeks of benefits.

(13) For the purposes of calculating the rate of weekly benefits,

(a) for benefit periods beginning on or after January 5, 1997, the weekly insurable earnings of a fisher shall be determined by

(i) dividing the fisher's earnings from employment as a fisher in the qualifying period by the divisor set out under the heading "Divisor" in the table to subsection 14(2) of the Act opposite the regional rate of unemployment applicable to the fisher set out under the heading "Regional Rate of Unemployment" in that table, and

(ii) adding to the result determined under subparagraph (i) the fisher's weekly insurable earnings, as determined under subsections 14(2) and (3) of the Act and under the *Employment Insurance Regulations*, from employment, other than employment as a fisher, in the qualifying period where that employment falls in the rate calculation period as determined under subsections 14(4) and (4.1) of the Act, without taking into account earnings from any employment that was lost for reasons of misconduct or that was left voluntarily without just cause; and

(b) the maximum weekly insurable earnings referred to in paragraph (a) shall not exceed \$750.

(14) No benefit period established under subsection (1) or (6) shall be extended beyond the date determined in accordance with any of subsections (11) to (11.33).

(15) Section 6, subsections 7(1) to (5), sections 8, 9 and 11 and subsections 12(2) and 14(1.1) of the Act and, except for the purposes of subparagraph (13)(a)(ii) of this section, subsections 14(2) to (4.1) of the Act do not apply to persons who are claimants under these Regulations.

(16) A benefit period established under subsection (1) or (6) is a benefit period for the purposes of paragraph 8(1)(b) and subsection 10(3) of the Act.

(17) Where a benefit period is established under subsection (1) or (6) for a fisher, benefits may be paid to the fisher in the benefit period in accordance with the Act for any of the reasons referred to in subsection 12(3) of the Act and subject to the applicable maximums established by subsections 12(3) to (6) of the Act.

(17.1) For the purpose of subsection (17), the reference in subsection 12(5) of the Act to

(a) subsection 10(13) of the Act is to be read as a reference to subsection (11.3) of this section;

(b) subsection 10(13.1) of the Act is to be read as a reference to subsection (11.31) of this section;

(c) subsection 10(13.2) of the Act is to be read as a reference to subsection (11.32) of this section; and

(d) subsection 10(13.3) of the Act is to be read as a reference to subsection (11.33) of this section.

(18) In a benefit period established for a fisher under subsection (1) or (6), benefits may be paid to the fisher under both subsections (12) and (17), but in no case shall the maximum number of combined weeks of benefits exceed 50.

(19) A disqualification under section 30 of the Act shall not apply in respect of the establishment of a benefit period for a fisher. SOR 2001-74, s. 2; 2001, c. 5, s.13, 2002, c. 9, s. 16; 2003, c. 15, s. 23.

UNEMPLOYMENT OF FISHERS

9. (1) Subject to subsections (2) to (6), section 31 of the *Employment Insurance Regulations* does not apply to persons who are claimants under these Regulations.

(2) A claimant who is a self-employed person engaged mainly in fishing, whether it is an insurable employment or not, or who operates a business in fishing on the claimant's own account or in a partnership or co-adventure in fishing, or a claimant who is mainly employed in fishing, whether it is an insurable employment or not, in an employment in which the claimant controls the claimant's working hours, shall not be regarded as unemployed during any period in respect of which the claimant remains so engaged or employed.

(3) A fisher is unemployed and available for work in respect of the fisher's employment, engagement or operation of a business in fishing, whether it is an insurable employment or not, during the benefit periods referred to in subsection 8(11).

(4) Notwithstanding subsection (3), where a fisher is offered and refuses suitable employment in fishing without good cause, the fisher shall be disqualified from receiving benefits, other than special benefits, for a number of weeks that is not less than 7 or more than 12.

(5) Subsections 28(2) and (5) to (7) of the Act are applicable for the purposes of subsection (4).

(6) For the purposes of this section, a person who is ordinarily a fisher does not cease to be a fisher while engaged in any of the incidental work referred to in the definition "fisher" in subsection 1(1), even though the person is not engaged in making an actual catch during

DETERMINATION AND ALLOCATION OF EARNINGS IN PERIODS OF UNEMPLOYMENT

10. (1) For the purposes of section 19 of the Act, the determination and allocation of earnings of a person who is claiming benefits under these Regulations shall be made in accordance with subsections (2) to (4).

(2) Where a claimant under these Regulations has any earnings from an employment in fishing under a contract of service, whether it is an insurable employment or not, or has any earnings other than from an employment in fishing, the claimant's total earnings shall be determined in accordance with section 35 of the *Employment Insurance Regulations* and allocated in accordance with section 36 of those Regulations.

(3) The earnings determined in accordance with subsection 5(2) or (3) shall

(a) in the case of earnings from a catch consisting of fish other than cured fish, be allocated equally to each day of the fishing trip; and

(b) in the case of earnings from a catch consisting of cured fish, be allocated to the week of delivery of the catch.

(4) For the purposes of subsection 19(3) of the Act, the period referred to in that subsection is the period in respect of which earnings are allocated under paragraph (3)(a) or (b) of this section.

INCREASE IN REQUIRED INSURABLE EARNINGS

11. (1) Notwithstanding subsections 7.1(1) to (3), (6) and (7) of the Act, the amount of insurable earnings that an insured person, other than a new entrant or re-entrant to the labour force, requires under section 8 to qualify for benefits is increased to the amount set out in the applicable column of the table to this subsection where the insured person accumulates one or more violations in the 260 weeks before making an initial claim for benefits.

TABLE					
	Column I	Column II	Column III	Column IV	Column V
Item	Regional Rate of Unemployment	Minor Violation	Serious Violation	Very Serious Violation	Subsequent Violation
1.	6% and under	\$5,250	\$6,400	\$7,350	\$8,400
2.	more than 6% but not more than 7%	5,000	6,000	7,000	8,000
3.	more than 7% but not more than 8%	4,750	5,700	6,650	7,600
4.	more than 8% but not more than 9%	4,500	5,400	6,300	7,200
5.	more than 9% but not more than 10%	4,200	5,100	5,850	6,800
6.	more than 10% but not more than 11%	3,950	4,750	5,600	6,400
7.	more than 11% but not more than 12%	3,625	4,350	5,150	5,850
8.	more than 12% but not more than 13%	3,450	4,050	4,800	5,500
9.	more than 13%	3,200	3,800	4,350	5,100

(2) The amount of insurable earnings that an insured person who is a new entrant or re-entrant to the labour force requires under section 8 to qualify for benefits is increased where, in the 260 weeks before making an initial claim for benefits, the person accumulates

(a) a minor violation, in which case the amount is increased to \$6,875;

(b) a serious violation, in which case the amount is increased to \$8,250; or

(c) a very serious violation, in which case the amount is increased to \$8,400.

(3) A violation shall not be taken into account under subsection (1) or (2) in more than two initial claims for benefits if the claimant qualified for benefits with the increased amount of insurable earnings in respect of each of those claims.

(4) The value of a violation is the aggregate of

(a) the amount of the overpayment of benefits resulting from the act or omission on which the violation is based, and

(b) if the claimant is disqualified or disentitled from receiving benefits, or the act or omission on which the violation is based relates to qualification requirements under section 8, the amount determined, subject to subsection (5), by multiplying the claimant's rate of weekly benefits by the average number of weeks of regular benefits, as determined under section 13 of the *Employment Insurance Regulations*.

(5) The maximum amount to be determined under paragraph (4)(b) is the amount of benefits that would have been paid to the claimant if the claimant had not been disentitled or disqualified or had met the qualification requirements under section 8.

ALTERNATE ACCESS TO SPECIAL BENEFITS

[SOR/2001-74, s. 3]

12. (1) An insured person who is not qualified to receive benefits under section 7 of the Act and who is claiming special benefits qualifies to receive the special benefits if the person has at least \$3,760 of insurable earnings from employment as a fisher in their qualifying period.

(2) Notwithstanding paragraphs 8(2)(b) and (7)(b), when an insured person who qualifies under subsection (1) makes an initial claim for benefits, a benefit period shall be established for the person and, once it is established, special benefits are payable to the person in accordance with this section for each week of unemployment that falls in the benefit period.

(3) Subject to subsection (4), sections 22 to 23.1 of the Act apply to the payment of special benefits under this section.

(4) Notwithstanding section 18 of the Act, a claimant is not entitled to be paid special benefits for a working day, in a benefit period established under this section, in respect of which the claimant fails to prove that on that day the claimant was

(a) unable to work because of an illness, injury or quarantine referred to in subsection 40(4) or (5) of the *Employment Insurance Regulations* and that the claimant would otherwise be available for work; or

(b) entitled to benefits under section 22, 23 or 23.1 of the Act.

(5) Subject to section 18 of the Act, regular benefits and additional special benefits are payable for a week of unemployment to a claimant who has received special benefits under this section where

(a) the claimant has accumulated, since the beginning of the benefit period, insurable earnings from employment as a fisher that, when added to the insurable earnings from employment as a fisher in the claimant's qualifying period, are equal to or exceed

(i) in the case of a new-entrant or re-entrant, \$5,500, and

(ii) in any other case, the applicable amount of insurable earnings in employment as a fisher set out in the schedule, determined by reference to the week in which the benefit period began; and

(b) pursuant to Part VIII of the Act, any regular benefits or additional special benefits are payable in that benefit period, based on the claimant's insurable earnings from employment as a fisher in the claimant's qualifying period.

(6) Except as otherwise provided in this section, the provisions of the Act and these Regulations apply to claimants claiming benefits under this section.
SOR 2001-74, s. 4; 2003, c. 15, s. 24.

CONVERSION

13. (1) Where a fisher is claiming benefits under the *Employment Insurance Regulations*, the following provisions apply:

(a) earnings from employment as a fisher shall be converted

i) to hours of insurable employment as a fisher by dividing those earnings in the qualifying period by the minimum wage, or

(ii) to weeks of insurable employment as a fisher by dividing those earnings in the qualifying period by the product of the minimum wage multiplied by 35; and

(b) if the date of delivery of a catch falls within the rate calculation period referred to in section 14 of the Act and used for determining benefits other than those for fishers, the earnings of the fisher from employment as a fisher, as determined in accordance with subsections 5(2) and (3), shall be allocated equally to each day of the fishing trip, and earnings for any day falling outside the rate calculation period shall not be included in the calculation of the benefit rate.

(2) A week of insurable employment as a fisher, as determined by using the calculation set out in paragraph (1)(a), is a week of insurable employment for the purposes of subsection 7(4) of the Act but not for any other provision of section 7 of the Act.

(3) The calculation set out in paragraph (1)(a) shall be used when it is necessary, for the purposes of the Act or any regulations made under the Act, to convert earnings to hours or weeks.

LABOUR DISPUTES

14. (1) For the purposes of the Act, these Regulations and the *Employment Insurance Regulations*, "labour dispute", in relation to fishers, includes any dispute between employers of fishers and fishers, or between fishers and other fishers, that is connected with the unit price on the basis of which the proceeds from the sale of a catch are calculated.

(2) Subject to subsection (3), where a labour dispute arises concerning the unit price on the basis of which the proceeds from the sale of a catch are calculated or concerning any other matter affecting a type of fishing generally and, as a consequence, a particular type of fishing is not begun or does not continue, subsection 36(1) of the Act applies in such a manner that any fisher who had any insured earnings from fishing during one of the following periods is deemed to be an insured person who has lost their employment by reason of a stoppage of work attributable to a labour dispute at the factory, workshop or other premises at which the person was employed:

(a) the six week period that began on the Sunday preceding the day and month that are one year before the day and month on which the stoppage of work began; or

(b) the six week period that preceded the Sunday before the day on which the stoppage of work began.

(3) A fisher who provides proof of one of the following is not deemed to be an insured person referred to in subsection (2):

(a) during the periods described in paragraphs (2)(a) and (b), the fisher was not engaged in employment in the particular type of fishing affected by the labour dispute;

(b) at the time the stoppage of work began and during the six weeks preceding the stoppage, the fisher was regularly engaged in an insurable employment other than fishing;

(c) at the time the stoppage of work began and during the six weeks following the beginning of the stoppage, the fisher was regularly engaged in an insurable employment other than fishing or in a type of fishing that was not affected by the labour dispute; or

(d) the fisher was not participating in or financing or directly interested in the labour dispute.

(4) Subsections 36(4) and (5) of the Act do not apply to a fisher referred to in subsections (2) and (3).

ADAPTATIONS RELATING TO THE REDUCTION OF PREMIUMS FOR FISHERS COVERED BY A PROVINCIAL PLAN AND FOR THEIR EMPLOYERS

New Entrant or Re-entrant

14.1 (1) A fisher is considered not to be a new entrant or a re-entrant to the labour force for the purpose of subsection 8(3.1) if they

(a) have been paid one or more weeks of provincial benefits in the period of 208 weeks referred to in that subsection; and

(b) would have been entitled to receive the special benefits referred to in that subsection for that same period, had they not been paid those provincial benefits.

(2) For the purpose of paragraph (1)(a),

(a) the reference to "a week of benefits" in subsection 25(1) of the *Employment Insurance Regulations* shall be read as a reference to "a week of provincial benefits"; and

(b) the reference to "the percentage of benefits paid for a week" in subsection 25(2) of the *Employment Insurance Regulations* shall be read as a reference to "the percentage of benefits that the claimant would have been entitled to receive for a week as special benefits referred to in subsection 8(3.1) of the *Employment Insurance (Fishing) Regulations*, had they not been paid provincial benefits,".

14.2 (1) A fisher is considered not to be a new entrant or a re-entrant to the labour force for the purpose of subsection 8(8.1) if they

(a) have been paid one or more weeks of provincial benefits in the period of 208 weeks referred to in that subsection; and

(b) would have been entitled to receive the special benefits referred to in that subsection for that same period, had they not been paid those provincial benefits.

(2) For the purpose of paragraph (1)(a),

(a) the reference to "a week of benefits" in subsection 25(1) of the *Employment Insurance Regulations* shall be read as a reference to "a week of provincial benefits"; and

(b) the reference to "the percentage of benefits paid for a week" in subsection 25(2) of the *Employment Insurance Regulations* shall be read as a reference to "the percentage of benefits that the claimant would have been entitled to receive for a week as special benefits referred to in subsection 8(8.1) of the *Employment Insurance (Fishing) Regulations*, had they not been paid provincial benefits,".

Extension of Benefit Period

14.3 If the child or children of a fisher who has received or is entitled to receive provincial benefits are hospitalized during the period referred to in subsection 23(2) of the Act, the fisher's benefit period is considered to be extended under subsection 8(11.2) by the number of weeks during which the child or children are hospitalized.

14.4 (1) For the purpose of extending a fisher's benefit period under subsection 8(11.3), (11.31), (11.32) or (11.33), each of the following references is considered to include a reference to the corresponding type of provincial benefits:

(a) a reference in paragraph 8(11.3)(b), (11.31)(b), (11.32)(b) or (11.33)(b) to benefits paid for the reasons mentioned in paragraph 12(3)(a) or (b) of the Act, as the case may be; and

(b) a reference in paragraph 8(11.3)(c), (11.31)(c), (11.32)(c) or (11.33)(c) to benefits that were not paid for the maximum number of weeks established for the reasons mentioned in paragraph 12(3)(a) or (b) of the Act, as the case may be.

(2) For the purpose of extending a fisher's benefit period under subsection 8(11.3), the reference following paragraph 8(11.3)(c) to "each of paragraphs 12(3)(a), (b) and (c) of the Act" shall be read as a reference to "paragraph 12(3)(c) of the Act".

(3) For the purpose of extending a fisher's benefit period under subsection 8(11.31), the reference following paragraph 8(11.31)(c) to "each of paragraphs 12(3)(b), (c) and (d) of the Act" shall be read as a reference to "each of paragraphs 12(3)(c) and (d) of the Act".

(4) For the purpose of extending a fisher's benefit period under subsection 8(11.32), the reference following paragraph 8(11.32)(c) to "each of paragraphs 12(3)(a), (b) and (d) of the Act" shall be read as a reference to "paragraph 12(3)(d) of the Act".

(5) For the purpose of extending a fisher's benefit period under subsection 8(11.33), the reference following paragraph 8(11.33)(c) to "each of those paragraphs" shall be read as a reference to "each of paragraphs 12(3)(c) and (d) of the Act".

No Double Counting of Weeks

14.5 Where a week of provincial benefits has been taken into account for the purpose of section 14.2 or any of sections 76.1 to 76.13 or 76.19 of the *Employment Insurance Regulations*, no week of benefits paid under section 22 or 23 of the Act shall be taken into account for that same purpose. SOR/2005-367, s. 1 ; SOR/2006-198, s. 1

TRANSITIONAL PROVISIONS

15. (1) Except as otherwise provided in the Act or these Regulations, all matters relating to a claim for benefits by a fisher in respect of a benefit period beginning before January 5, 1997 shall be dealt with under Part V of the *Unemployment Insurance Regulations* as they read immediately before that date.

(2) For a benefit period established on or after January 5, 1997, the aggregate of the weekly earnings reported on a record of employment for employment before that date as a fisher shall be considered to be the earnings for the periods reported on in the record of employment.

(3) With respect to a fisher who is a claimant and to whom a child is born or in whose care a child is placed for adoption before December 31, 2000, all matters relating to their entitlement to special benefits under these Regulations shall be determined in accordance with these Regulations as they read on January 5, 1997 and the *Employment Insurance Act* as it read before the coming into force of the *Budget Implementation Act*, 2000, being chapter 14 of the Statutes of Canada, 2000. SOR 2001-74, s. 5

REPEAL

16. The *Unemployment Insurance Regulations*¹ are repealed.

COMING INTO FORCE

17. These Regulations come into force on January 5, 1997.

¹ C.R.C., C. 1576

SCHEDULE

(Paragraphs 8(2)(b) and (7)(b) and subparagraph 12(5)(a)(ii))
SOR 2001-74, s. 6

INSURABLE EARNINGS ENTRANCE REQUIREMENT FOR FISHERS

Item	Column I Regional Rate of Unemployment (%)	Column II Insurable Earnings (\$)
1.	over 13	2,500
2.	more than 12 but not more than 13	2,700
3.	more than 11 but not more than 12	2,900
4.	more than 10 but not more than 11	3,200
5.	more than 9 but not more than 10	3,400
6.	more than 8 but not more than 9	3,600
7.	more than 7 but not more than 8	3,800
8.	more than 6 but not more than 7	4,000
9.	6 and under	4,200