

**CURRENT INSURABLE EARNINGS AND COLLECTION
OF PREMIUMS REGULATIONS**

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INTERPRETATION

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

"Act" means the Employment Insurance Act.

"Minister" means the Minister of National Revenue.

"pay period" means the period in respect of which earnings are paid to or enjoyed by an insured person.

"retiring allowance" means an amount received by a person

(a) on or after retirement of the person from an office or employment in recognition of the person's long service, or

(b) in respect of a loss of an office or employment of the person, whether or not received as, on account or in lieu of payment of, damages or pursuant to an order or judgement of a competent tribunal.

(2) For the purposes of Part IV of the Act and for the purposes of these Regulations, "employer" includes a person who pays or has paid earnings of an insured person for services performed in insurable employment.

PART I - INSURABLE EARNINGS

Earnings from Insurable Employment

2. (1) For the purposes of the definition "insurable earnings" in subsection 2(1) of the Act and for the purposes of these Regulations, the total amount of earnings that an insured person has from insurable employment is

(a) the total of all amounts, whether wholly or partly pecuniary, received or enjoyed by the insured person that are paid to the person by the person's employer in respect of that employment, and

(b) the amount of any gratuities that the insured person is required to declare to the person's employer under provincial legislation.

(2) For the purposes of this Part, the total amount of earnings that an insured person has from insurable employment includes the portion of any amount of such earnings that remains unpaid because of the employer's bankruptcy, receivership, impending receivership or non-payment of remuneration for which the person has filed a complaint with the federal or provincial labour authorities, except for any unpaid amount that is in respect of overtime or that would have been paid by reason of termination of the employment.

(3) For the purposes of subsections (1) and (2), "earnings" does not include

(a) any non cash benefit, other than the value of either or both of any board or lodging enjoyed by a person in a pay period in respect of their employment if cash remuneration is paid to the person by their employer in respect of the pay period;

(a.1) any amount excluded as income under paragraph 6(1)(a) or (b) or subsection 6(6) or (16) of the Income Tax Act;

- (b) a retiring allowance;
- (c) a supplement paid to a person by the person's employer to increase worker's compensation paid to the person by a provincial authority;
- (d) a supplement paid to a person by the person's employer to increase a wage loss indemnity payment made to the person by a party other than the employer under a wage loss indemnity plan;
- (e) a supplemental unemployment benefit payment made under a supplemental unemployment benefit plan as described in subsection 37(2) of the Employment Insurance Regulations; and
- (f) a payment made to a person by the person's employer to cover the waiting period referred to in section 13 of the Act, or to increase the pregnancy, parental or compassionate care benefits payable to the person under section 22, 23 or 23.1 of the Act if the payment meets the criteria set out in section 38 of the *Employment Insurance Regulations*. SOR 98-10, s. 1, SOR 98-137, s. 1, SOR 2000-158, s. 2, SOR 2001-105, s. 1; SOR/2003-392, s. 1.

PART II - CALCULATION AND PAYMENT OF PREMIUMS

3. (1) No employee's premium is payable in respect of earnings from excluded employment.

(2) The amount of premiums payable under the Act and these Regulations in respect of insurable earnings shall be determined in accordance with the rules set out in these Regulations.

(3) Subject to subsection (5), the amount of an employee's premium to be deducted by an employer from any insurable earnings shall be an amount equal to the greater of

(a) \$ 0.01; and

(b) the product obtained when the insurable earnings are multiplied by the premium rate for the year.

(4) Where the product obtained under paragraph (3)(b) contains a fraction of a cent, the product shall be rounded to the nearest whole cent or, if that product is equidistant from two whole cents, to the higher of the two.

(5) An employee's premium shall not exceed the premium payable on maximum insurable earnings. SOR/97-383, s. 1; SOR/98-137, s. 2; SOR/99-137, s. 1; SOR/2000-158, s. 2 ; SOR/2001-105, s. 2; SOR/2002-199, s.1

4. (1) Subject to subsections (2), (3), (3.1) and (5), every employer shall remit the employee's premiums and the employer's premiums payable under the Act and these Regulations to the Receiver General on or before the 15th day of the month following the month in which the employer paid to the insured person insurable earnings in respect of which those premiums were required to be deducted or paid under the Act and these Regulations.

(2) Subject to subsection (3),

(a) where the average monthly withholding amount of an employer for the second year preceding a particular year is equal to or greater than \$15,000 and less than \$50,000, the employer shall remit employees' premiums and the employer's premiums payable under the Act and these Regulations to the Receiver General

(i) in respect of insurable earnings paid before the 16th day of a month in the particular year, on or before the 25th day of that month, and

(ii) in respect of insurable earnings paid after the 15th day of a month in the particular year, on or before the 10th day of the following month; and

(b) where the average monthly withholding amount of an employer for the second year preceding a particular year is equal to or greater than \$50,000, the employer shall remit employees' premiums and the employer's premiums payable under the Act and these Regulations to the Receiver General on or before the third day, not including a Saturday or a holiday, after the end of each of the following periods in which insurable earnings were paid, namely,

(i) the period beginning on the first day and ending on the seventh day of a month in the particular year,

(ii) the period beginning on the 8th day and ending on the 14th day of a month in the particular year,

(iii) the period beginning on the 15th day and ending on the 21st day of a month in the particular year, and

iv) the period beginning on the 22nd day and ending on the last day of a month in the particular year.

(3) Where an employer referred to in paragraph (2)(a) or (b) would otherwise be required to remit the employees' premiums and the employer's premiums in respect of a particular year in accordance with that paragraph, the employer may elect to remit those premiums to the Receiver General

(a) in accordance with subsection (1), if the average monthly withholding amount of the employer for the year preceding the particular year is less than \$15,000 and the employer has advised the Minister that the employer has so elected; and

(b) if the average monthly withholding amount of the employer for the year preceding the particular year is equal to or greater than \$15,000 and less than \$50,000 and the employer has advised the Minister that the employer has so elected,

(i) in respect of insurable earnings paid before the 16th day of a month in the particular year, on or before the 25th day of that month, and

(ii) in respect of insurable earnings paid after the 15th day of a month in the particular year, on or before the 10th day of the following month.

(3.1) If at any time

(a) the average monthly withholding amount in respect of an employer for either the first or the second calendar year before the particular calendar year that includes that time is less than \$1,000,

(b) throughout the 12-month period before that time, the employer has remitted, on or before the day on or before which the amounts were required to be remitted, all amounts each of which was required to be

(i) deducted or withheld under subsection 153(1) of the *Income Tax Act*, or

(ii) remitted under Part IX of the *Excise Tax Act*, and

(c) throughout the 12-month period before that time, the employer has filed all returns each of which was required to be filed under the *Income Tax Act* or Part IX of the *Excise Tax Act* on or before the day on or before which those returns were required to be filed under those Acts, premiums payable in a month that ends after that time and that is in the particular calendar year may be remitted by the employer to the Receiver General

(d) in respect of insurable earnings paid in January, February and March of the particular calendar year, on or before the 15th day of April of the particular year,

(e) in respect of insurable earnings paid in April, May and June of the particular calendar year, on or before the 15th day of July of the particular year,

(f) in respect of insurable earnings paid in July, August and September of the particular calendar year, on or before the 15th day of October of the particular year, and

(g) in respect of insurable earnings paid in October, November and December of the particular calendar year, on or before the 15th day of January of the year the following the particular year.

(4) For the purpose of this section, the average monthly withholding amount of an employer for a year is determined in accordance with subsections 108(1.2) and (1.3) of the *Income Tax Regulations*.

(5) Every employer carrying on a business or other activity in respect of which the employer employs one or more insured persons in insurable employment shall, within 7 days after the day the employer ceases to carry on the business or other activity, remit to the Receiver General the employees' premiums and the employer's premiums that were required to be deducted or paid in respect of every such person under the Act and these Regulations.

(6) Every remittance by an employer of employees' premiums and employer's premiums to the Receiver General shall be accompanied by a duly completed information return in a form authorized by the Minister. SOR/97-472, s. 2

Security Interests

4.1 (1) For the purpose of subsection 86(2.2) of the Act, "prescribed security interest", in relation to an amount deemed by subsection 86(2) of the Act to be held in trust by a person, means that part of a mortgage securing the performance of an obligation of the person, that encumbers land or a building, where the mortgage is registered pursuant to the appropriate land registration system before the time the amount is deemed to be held in trust by the person.

(2) For the purpose of subsection (1), where, at any time after 1999, the person referred to in subsection (1) fails to pay an amount deemed by subsection 86(2) of the Act to be held in trust by the person, as required under the Act, the amount of the prescribed security interest referred to in subsection (1) is deemed not to exceed the amount by which the amount, at that time, of the obligation outstanding secured by the mortgage exceeds the total of

(a) all amounts each of which is the value determined at the time of the failure, having regard to all the circumstances including the existence of any deemed trust for the benefit of Her Majesty pursuant to subsection 86(2) of the Act, of all the rights of the secured creditor securing the obligation, whether granted by the person or not, including

guarantees or rights of set-off but not including the mortgage referred to in subsection (1), and

(b) all amounts applied after the time of the failure on account of the obligation,

so long as any amount deemed under any enactment administered by the Minister, other than the Excise Tax Act, to be held in trust by the person, remains unpaid.

(3) For greater certainty, a prescribed security interest includes the amount of insurance or expropriation proceeds relating to land or a building that is the subject of a registered mortgage interest, adjusted after 1999 in accordance with subsection (2), but does not include a lien, a priority or any other security interest created by statute, an assignment or hypothec of rents or leases, or a mortgage interest in any equipment or fixtures that a mortgagee or any other person has the right absolutely or conditionally to remove or dispose of separately from the land or building. SOR/99-390, s. 1

PART III - DEEMED EMPLOYERS

Employment of Stevedores

5. Where, in a pay period, a person is employed as a stevedore by one or more persons whose payroll records are prepared and maintained by another person (in this section referred to as the "agent employer") who pays the earnings of the person from that employment, the agent employer shall be deemed, for the purposes of Part IV of the Act and for the purposes of these Regulations, to be the employer of the stevedore for the purpose of calculating the stevedore's insurable earnings during the pay period in respect of that employment and paying, deducting and remitting the premiums payable on those insurable earnings.

Employment in Lumbering or Logging

6. (1) Where a person is employed in insurable employment by an employer for services in or in connection with lumbering or logging, in any logging limit or in any timber or lumber driveway, mill or yard, the owner of that limit, driveway, mill or yard who authorizes the employer to undertake the work shall, in the event of the default of the employer in calculating the insurable earnings of the person and in paying, deducting and remitting the premiums payable on those insurable earnings under the Act and these Regulations, be deemed to be the employer of the person for the purposes of maintaining records, calculating the person's insurable earnings and paying, deducting and remitting those premiums.

(2) For the purpose of this section, "owner" includes any owner other than the Crown, lessee, licensee and permittee but does not include a person who only sells or rents stumpage or cutting rights.

Placement or Employment Agencies

7. Where a person is placed in insurable employment by a placement or employment agency under an arrangement whereby the earnings of the person are paid by the agency, the agency shall, for the purposes of maintaining records, calculating the person's insurable earnings and paying, deducting and remitting the premiums payable on those insurable earnings under the Act and these Regulations, be deemed to be the employer of the person.

Barbering or Hairdressing Establishments

8. (1) Every owner or operator of a barbering or hairdressing establishment shall, for the purpose of maintaining records, calculating insurable earnings and paying the premiums payable on those insurable earnings under the Act and these Regulations, be deemed to be the employer of every person whose employment in connection with the establishment is included in insurable employment under paragraph 6(d) of the Employment Insurance Regulations.

(2) Every owner or operator of a barbering or hairdressing establishment who is deemed by subsection (1) to be an employer of a person shall, for each week in which the person is engaged in insurable employment in the establishment, pay and remit to the Receiver General the employee's premiums and the employer's premiums in accordance with the Act and these Regulations.

(3) Where the owner or operator of a barbering or hairdressing establishment is unable to determine the insurable earnings of a person whose employment in connection with the establishment is included in insurable employment under paragraph 6(d) of the Employment Insurance Regulations, the amount of insurable earnings of the person for each week during that employment shall be deemed, for the purposes of the Act and for the purposes of these Regulations, to be an amount (rounded to the nearest dollar) equal to $1/78$ of the maximum yearly insurable earnings, unless the owner or operator of the establishment maintains records that show the number of days on which the person worked in each week, in which case the amount of the person's insurable earnings for that week shall be deemed to be an amount (rounded to the nearest dollar) equal to the lesser of

(a) the number of days the person worked in that week multiplied by $1/390$ of the maximum yearly insurable earnings, and

(b) $1/78$ of the maximum yearly insurable earnings. SOR/99-137, s. 2

Passenger Vehicle Operators

9. (1) Every owner or operator of a business or public authority that employs a person or persons in employment described in paragraph 6(e) of the Employment Insurance Regulations shall, for the purposes of maintaining records, calculating insurable earnings and paying the premiums payable on those insurable earnings under the Act and these Regulations, be deemed to be the employer of every such person whose employment is included in insurable employment under that paragraph.

(2) Every owner or operator of a business or public authority who is deemed by subsection (1) to be an employer of a person shall, for each week during which the person is employed by the employer in insurable employment, pay and remit to the Receiver General the employee's premiums and the employer's premiums in accordance with the Act and these Regulations.

(3) Where the owner or operator of a business or public authority described in subsection (1) is unable to determine the insurable earnings of a person whose employment in connection with the business or authority is included in insurable employment under paragraph 6(e) of the Employment Insurance Regulations, the insurable earnings of the person for each week during that employment shall be deemed, for the purposes of the Act and for the purposes of these Regulations, to be an amount (rounded to the nearest dollar) equal to $1/78$ of the maximum yearly insurable earnings, unless the owner or operator of the business or public authority maintains records that show the number of days on which the person worked in each week, in which case the amount of the person's insurable earnings for that week shall be deemed to be an amount (rounded to the nearest dollar) equal to the lesser of

(a) the number of days the person worked in that week multiplied by 1/390 of the maximum yearly insurable earnings, and

(b) 1/78 of the maximum yearly insurable earnings. SOR/99-137, s. 3

Other Deemed Employers

10. (1) Where, in any case not coming within any other provision of these Regulations, an insured person works

(a) under the general control or direct supervision of, or is paid by, a person other than the insured person's actual employer, or

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

that other person shall, for the purposes of maintaining records, calculating the insurable earnings of the insured person and paying, deducting and remitting the premiums payable on those insurable earnings under the Act and these Regulations, be deemed to be the employer of the insured person in addition to the actual employer.

(2) The amount of any employer's premium paid by the person who is deemed to be the employer under subsection (1) is recoverable by that person from the actual employer.

(3) Where a person who is deemed under these Regulations to be an employer of an insured person fails to pay, deduct or remit the premiums that an employer is required to pay, deduct or remit under the Act or these Regulations, the provisions of Parts IV and VI of the Act shall apply to the person as if the person were the actual employer.

PART IV - INFORMATION RETURNS

Filing of Employer's Returns

11. (1) Subject to subsection (2), every employer or other person deemed to be an employer by these Regulations who makes a payment of remuneration or other amount or provides board, lodging or any other benefit, the value of which is required under these Regulations to be included in determining insurable earnings of a person employed in insurable employment during a year, shall, without notice or demand therefor, file with the Minister a duly completed information return for that year, in a form authorized by the Minister, on or before the last day of February of the next following year.

(2) A person carrying on a business or other activity in respect of which the person employs insured persons in insurable employment shall, within 30 days after the day the person ceases to carry on that business or other activity and without notice or demand therefor, file with the Minister the information return required by subsection (1).

Returns on Demand

12. Every person who makes or has made a payment of earnings during a year to a person employed in insurable employment shall on demand by registered letter from the Minister make an information return in a form authorized by the Minister containing the information required therein and shall file the return with the Minister within such reasonable time as may be stipulated in the registered letter.

Legal Representatives and Others

13. (1) When a person who is required to make an information return under this Part dies without having made the return as required, the return shall be made and filed by the person's executor, the liquidator of the person's succession or other legal representative of the person within 90 days after the date of the person's death and shall be in respect of the year in which the person died or, if the return is required in respect of a year before the year in which the person died, in respect of that year.

(2) Every trustee in bankruptcy, assignee, liquidator, curator, receiver, trustee, tutor or committee and every agent, mandatary or other person administering, managing, winding up, controlling or otherwise dealing with the property, business or estate of a person who has not filed a return for a year as required by this Part shall file that return, duly completed, on that person's behalf.

Distribution of Insured Person's Portion of Return

14. (1) Every person required by sections 11 to 13 to file an information return for a year with the Minister shall supply to each insured person to whose premiums the return relates two copies of the portion of the return relating to that insured person.

(2) The copies referred to in subsection (1) shall, on or before the day the information return is required to be filed with the Minister, be sent to the insured person by mail addressed to the person at the person's latest known address or delivered to the person.

Penalties

15. (1) Every person who fails to file a return as and when required by this Part is liable to a penalty equal to the greater of \$100 and the product obtained when \$25 is multiplied by the number of days during which the non-compliance occurs, to a maximum of \$2,500.

(2) Every person who fails to comply with section 14 is liable to a penalty equal to the greater of \$100 and the product obtained when \$25 is multiplied by the number of days during which the non-compliance occurs, to a maximum of \$2,500.

PART V - RECORDS

16. (1) Where records, books of account, accounts or vouchers of an employer are not kept as required by section 87 of the Act, or any document related thereto is not kept, an officer of the Department of National Revenue shall determine in accordance with the Act and these Regulations the amount of insurable earnings and premiums payable on those insurable earnings in respect of each insured person who is employed in insurable employment by the employer.

(2) Where an amount of insurable earnings of an insured person or a remitted amount of employee's premiums cannot be allocated to a particular person, that amount may, within three years after the end of the year to which the insurable earnings or employee's premiums relate, be allocated to a particular insured person to whom it pertains for a pay period based on such evidence as the Minister may, obtain.

PART VI - PRESCRIBED INTEREST RATES AND REFUNDS OF OVERPAYMENT

17. (1) Where an overpayment of premiums is refunded to a person, other than an employer or purported employer or person deemed to be an employer by these Regulations, or applied to a liability of the person being refunded to Her Majesty in right of Canada, interest to be paid or applied under subsection 96(13) of the Act shall be calculated at the rate prescribed in paragraph 18(2)(b) and for the period that begins on the latest of

- (a) June 15 of the year following the year in respect of which the premiums were paid,
- (b) 45 days after the day on which the application for the refund was received, and
- (c) the day on which the overpayment arose

and ends on the day on which the amount is so refunded or applied.

(2) Where an overpayment of premiums is refunded to an employer or purported employer or person deemed by these Regulations to be an employer, or applied to a liability of the employer or purported or deemed employer to Her Majesty in right of Canada, interest to be paid or applied under subsection 96(13) of the Act shall be calculated at the rate prescribed in paragraph 18(2)(b) and for the period that begins on the later of

- (a) the day on which the remittance that created the overpayment was received, and
- (b) the day on which the remittance that created the overpayment was due to be received and ends on the day the amount is so refunded or applied.

18. (1) For the purposes of subsection (2), "quarter" means any of the following periods in a year:

- (a) the period that begins on January 1 and ends on March 31;
- (b) the period that begins on April 1 and ends on June 30;
- (c) the period that begins on July 1 and ends on September 30; and
- (d) the period that begins on October 1 and ends on December 31.

(2) For the purposes of

- (a) every provision of the Act that requires interest at a prescribed rate to be paid to the Receiver General, the prescribed rate in effect during any particular quarter is the total of
 - (i) the rate that is the simple arithmetic mean, expressed as a percentage per annum and rounded to the next higher whole percentage if the mean is not a whole percentage, of all amounts each of which is the average equivalent yield, expressed as a percentage per annum, of Government of Canada Treasury Bills that mature approximately three months after their date of issue and that are sold

at auctions of Government of Canada Treasury Bills during the first month of the quarter preceding the particular quarter, and

(ii) 4 per cent; and

(b) every provision of the Act that requires interest at a prescribed rate to be paid or applied on an amount payable by the Minister, the prescribed rate in effect during any particular quarter is the total of

(i) the rate determined under subparagraph (a)(i) in respect of the particular quarter, and

(ii) 2 per cent. SOR/98-137, s. 3

18.1 (1) For the purpose of subsection 96(9) of the Act, employers are associated employers

(a) if they are associated or deemed to be associated under the Income Tax Act, or

(b) if one of them acquires a business or part of a business from the other by purchase, sale, amalgamation, merger or any other means.

(2) If two or more employers are associated with each other and are entitled to a premium refund under subsection 96(6), (7), (8.2) or (8.3) of the Act, the premium refund for the employers shall not exceed the maximum premium refund available under the Act, and the refund shall be allocated among them either

(a) according to the terms of a written agreement signed by all the associated employers and filed with the Minister no later than February 28 of the year after the year in which the employer premiums were paid, or

(b) in the absence of such an agreement, by

(i) multiplying the premium refund for the year calculated under section 96 of the Act by the amount paid in employer premiums by the associated employer in the year, and

(ii) dividing the amount calculated under subparagraph (i) by the total amount of employer premiums paid by all the associated employers in the year. SOR/98-137, s. 4, SOR/98-306 s. 1, SOR/99-137, s. 4, SOR/2000-158, s. 3

COMING INTO FORCE

19. These Regulations come into force on January 1, 1997