

# CURRENT EMPLOYMENT INSURANCE REGULATIONS

## TABLE OF PROVISIONS

TABLE OF PROVISIONS.....	1
INTERPRETATION .....	4
INSURABLE EMPLOYMENT (Sections 2 to 9) .....	4
Employment Included in Insurable Employment .....	4
Employment Excluded from Insurable Employment.....	6
PART I - UNEMPLOYMENT BENEFITS (Sections 9.1 to 57) .....	8
Hours of Insurable Employment—Methods of Determination.....	8
Prescribed Hours and Prescribed Weeks.....	10
Average Number of Weeks for Paragraph 7.1(6)(b) of the Act.....	12
Interruption of Earnings.....	12
Undeclared Earnings Referred to in Subsection 19(3) of the Act.....	13
Deductions for Earnings or Allowances While on a Course or Program of Instruction or Training.....	13
Rates of Unemployment.....	14
Regions .....	18
Information Relating to Employment History .....	18
Record of Employment.....	18
Hours of Insurable Employment for Record of Employment.....	19
Insurable Earnings .....	19
Allocation of Hours of Insurable Employment to the Qualifying Period .....	19
Allocation of Insurable Earnings.....	19
Exclusion of Low-earning Weeks in the Calculation of Weekly Benefit Rates	21
Week of Benefits .....	22
Claim for Benefits.....	22
Persons with Mental Disabilities, Incapacitated Persons and Deceased Persons .....	23
Payments in Advance.....	24
Employed Person Working a Full Working Week—Special Cases .....	25
Self-employed Person Working a Full Working Week.....	25
Employed Persons Working a Full Working Week .....	26
Working Day.....	26
Additional Conditions and Terms in Relation to Teachers.....	26
Family Supplement—Rate Increase.....	27
Determination of Earnings for Benefit Purposes .....	29
Allocation of Earnings for Benefit Purposes .....	32
Supplemental Unemployment Benefit Plans .....	34
Maternity Leave, Leave for the Care of a Child and Compassionate Care Leave Plans .....	35
Earnings in the Waiting Period .....	35
Waiving of the Waiting Period for Apprentices .....	36
Sickness.....	36
Pregnancy .....	37
Compassionate Care Benefits.....	37
Work-Sharing Benefits .....	39
Employment Benefits .....	40

Work-force Reduction Process.....	40
Prescribed Circumstances for the Purposes of Subparagraph 29(c)(xiv) of the Act.....	41
Loss of Part-time Employment Due to Work Stoppage.....	41
Termination of Work Stoppage.....	42
Claimants Who Are Inmates of an Institution.....	42
Claimants Not In Canada.....	42
Provision of Information.....	46
Write-off of Amounts Wrongly Paid, Penalties and Interest.....	47
Interest on Amounts Owing to Her Majesty.....	48
Deductions from Benefits for Payments to Governments and Authorities.....	49
PART II - NATIONAL EMPLOYMENT SERVICE (Sections 58 to 59).....	49
PART III - REDUCTION OF PREMIUM FOR EMPLOYERS WITH WAGE-LOSS PLANS (Sections 60 to 76).....	50
Interpretation.....	50
Application.....	51
Reduction of Employer's Premium Rate.....	51
Standards.....	52
Application for Reduction of Employer's Premium Rate.....	57
Modification of Plans.....	58
Appeals.....	58
Transitional Provisions.....	58
PART III.1.....	59
REDUCTION OF PREMIUMS FOR EMPLOYEES COVERED BY A PROVINCIAL PLAN AND FOR THEIR EMPLOYERS.....	59
DIVISION 1.....	59
DIVISION 2.....	59
DIVISION 3.....	61
DIVISION 4.....	65
DIVISION 5.....	66
PART IV - PILOT PROJECTS (Sections 77 to 77.6).....	67
PART V - ADMINISTRATIVE PROVISIONS (Sections 78 to 92).....	71
Boards of Referees.....	71
Appeals to a Board of Referees.....	72
Hearings Before a Board of Referees.....	72
Investigation and Report.....	73
Decision of a Board of Referees.....	73
Suspension of Benefits Pending Appeal.....	74
Appeals to the Umpire.....	74
Hearings Before the Umpire.....	75
Decision of the Umpire.....	75
Payment of Benefits Pending a Coverage Decision.....	76
Social Insurance Numbers.....	76
Electronic Systems.....	79
Direct Deposit of Benefits.....	80
PART VI - ALTERNATE ACCESS TO SPECIAL BENEFITS (Section 93).....	80
PART VII - TRANSITIONAL PROVISIONS AND COMING INTO FORCE (Sections 94 to 95).....	81
Transitional Provisions.....	81

Coming Into Force.....	82
SCHEDULE I.....	83
REGIONS FOR THE PURPOSES OF PARTS I AND VIII OF THE ACT....	83
Interpretation .....	83
Regions .....	83
SCHEDULE II.....	90
SCHEDULE II.1 .....	93
SCHEDULE II.2 .....	94
SCHEDULE II.3 .....	95
SCHEDULE II.4 .....	96
SCHEDULE II.5 .....	97
SCHEDULE II.6 .....	98
SCHEDULE II.7 .....	99
SCHEDULE III.....	100
INTERIM PROVISIONS .....	100
PART I.....	100
PART I.1.....	101
PART II.....	102

## INTERPRETATION

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

"Act" means the *Employment Insurance Act*.

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

(2) For the purposes of these Regulations and section 5 of the Act, "international organization" means

(a) any specialized agency of which Canada is a member that is brought into relationship with the United Nations in accordance with article 63 of the *Charter of the United Nations*; and

(b) any international organization of which Canada is a member, the primary purpose of which is the maintenance of international peace or the economic or social well-being of a community of nations.

## INSURABLE EMPLOYMENT (Sections 2 to 9) Employment Included in Insurable Employment

2. (1) Employment in Canada by Her Majesty in right of a province that would, except for paragraph 5(2)(c) of the Act, be insurable employment is included in insurable employment if the government of the province enters into an agreement with the Commission whereby that government agrees to waive exclusion and to insure all its employees engaged in such employment.

(2) For greater certainty, employment in Canada by Her Majesty in right of a province, for the purposes of subsection (1), includes only employment in Canada of employees who are appointed and remunerated under an Act governing that province's public service, or who are employed in Canada by a corporation, commission or other body that is an agent of Her Majesty in right of the province.

3. (1) Employment in Canada by the government of a country other than Canada or of any political subdivision of that other country, or by an international organization, that would, except for paragraphs 5(2)(d) and (e) of the Act, be insurable employment, may be included in insurable employment if the employing government or the international organization, as the case may be, consents in writing to its inclusion.

(2) Where a consent has been given pursuant to the *Unemployment Insurance Regulations*, as they read immediately before June 30, 1996, and has not been revoked, it shall be considered to be a consent referred to in subsection (1).

4. Employment on a ship outside Canada or partly outside Canada that would be insurable employment if it were in Canada is included in insurable employment if that employment is

(a) on a ship of Canadian registry or licence, except where that ship is regularly employed in voyages between ports outside Canada and has been chartered to a person resident outside Canada; or

(b) on a ship, other than a ship of Canadian registry or licence, where

(i) the ship has been chartered to a person resident in Canada and is regularly employed in voyages from a port in Canada,

(ii) the operation of the ship is principally controlled in Canada and regularly employed in voyages from a port in Canada and the owner or managing owner of the ship resides or has a place of business in Canada, or

(iii) any employment on that ship is subject to the provisions of the Act by virtue of an agreement between the Government of Canada and the government of the jurisdiction in which that ship is registered.

**5.** Employment outside Canada, other than employment on a ship described in section 4, is included in insurable employment if

(a) the person so employed ordinarily resides in Canada;

(b) that employment is outside Canada or partly outside Canada by an employer who is resident or has a place of business in Canada;

(c) the employment would be insurable employment if it were in Canada; and

(d) the employment is not insurable employment under the laws of the country in which it takes place.

**6.** Employment in any of the following employments, unless it is excluded from insurable employment by any provision of these Regulations, is included in insurable employment:

(a) employment of a union member by the member's union in conducting union business, other than picketing in a labour dispute;

(b) employment of a person as an apprentice or trainee, notwithstanding that the person does not perform any services for their employer;

(c) employment of a person as a member of the clergy or as a member of a religious order;

(d) employment of a person in a barbering or hairdressing establishment, where the person

(i) provides any of the services that are normally provided in such an establishment, and

(ii) is not the owner or operator of the establishment;

(e) employment of a person as a driver of a taxi, commercial bus, school bus or any other vehicle that is used by a business or public authority for carrying passengers, where the person is not the owner of more than 50 per cent of the vehicle or the owner or operator of the business or the operator of the public authority;

(f) employment of a person who holds an office, as defined in subsection 2(1) of the *Canada Pension Plan*,

(i) in or under any department or other portion of the public service of Canada set out in Schedule I to the *Public Service Staff Relations Act* or Schedule II or III to the *Financial Administration Act*,

(ii) where the person is appointed and remunerated under an Act governing the public service of a province, the government of which has, pursuant to subsection 2(1), agreed to insure all of its employees,

(iii) where the person holds the office in or under a corporation, commission or other body that is an agent of Her Majesty in right of a province referred to in subparagraph (ii), or

(iv) where the person holds the office in a union or an association of unions to which the person was elected by popular vote, or was elected or appointed to that office in the union or association in a representative capacity, and that employment is not included in insurable employment by paragraph (a); and

(g) employment of a person who is placed in that employment by a placement or employment agency to perform services for and under the direction and control of a client of the agency, where that person is remunerated by the agency for the performance of those services. SOR/97-31, s. 1.

## **Employment Excluded from Insurable Employment**

7. The following employments are excluded from insurable employment:

(a) [Repealed, SOR/97-310, s. 1]

(b) employment of a person who is a member of a religious order, if the person has taken a vow of poverty and the person's remuneration is paid directly, or by that person, to the order;

(c) employment in respect of which premiums are payable under

(i) the unemployment insurance law of any state of the United States, the District of Columbia, Puerto Rico or the Virgin Islands, by reason of the *Agreement between Canada and the United States Respecting Unemployment Insurance*, signed on March 6 and 12, 1942, or

(ii) the *Railroad Unemployment Insurance Act* of the United States;

(d) employment in Canada of a person who resides in a country other than Canada, if premiums are payable in respect of services performed by the person in Canada under the unemployment insurance laws of that other country;

(e) employment of a person for the purpose of a rescue operation, if the person is not regularly employed by the employer who employs them for that purpose; and

(f) employment under the Self-employment employment benefit or the Job Creation Partnerships employment benefit established by the Commission under section 59 of the Act or under a similar benefit that is provided by a provincial government or other organization and is the subject of an agreement under section 63 of the Act. SOR/97-310, s. 1.

8. (1) Subject to subsections (2) to (4), the following employments are excluded from insurable employment:

(a) employment of a person by an employer, other than as an entertainer, in connection with a circus, fair, parade, carnival, exposition, exhibition or other similar activity if the person

(i) is not regularly employed by that employer, and

(ii) is employed by that employer in that employment for less than seven days in a year; and

(b) [Repealed, SOR/98-588, s. 1]

(c) employment of a person by Her Majesty in right of Canada, the government of a province, a municipality or a school board in connection with a referendum or election to public office if the person

(i) is not regularly employed by that employer, and

(ii) is employed by that employer in that employment for less than 35 hours in any year after 1998.

(2) Where an employment that has been excluded from insurable employment under paragraph (1)(a) or (c) becomes a regular employment, the employment is insurable employment beginning on the day or at the hour, as the case may be, that the employment became a regular employment.

(3) Where a person has been employed by the same employer in one or more employments that have been excluded from insurable employment under paragraph (1)(a) and the total period of those employments exceeds six days in the same year, the employments, taken together, are insurable employment beginning on the day when the total period of employment began.

(4) Where a person has been employed by the same employer in one or more employments that have been excluded from insurable employment under paragraph (1)(c) and the total period of those employments exceeds 34 hours in the same year, the employments, taken together, are insurable employment beginning at the hour when the total period of employment began.  
SOR/98-588, s. 1.

9. (1) The definitions in this subsection apply in this section.

"agriculture" means the operations of farming that are carried out for the benefit of any person who is a farmer and, without limiting the generality of the foregoing, includes

(a) where carried out on a farm

(i) clearing land for cultivation,

(ii) cultivation of the soil,

(iii) conservation of the soil, including the construction, maintenance and operation of tile drainage systems, ditches, canals, reservoirs or waterways exclusively for the purposes of farming,

(iv) harvesting, storing or grading any natural product of farming,

(v) preparing land for the growing and harvesting of wild berries,

(vi) raising bees and producing honey,

(vii) breeding or raising animals or birds, or producing eggs,

(viii) dairy farming and the processing of milk, butter or cheese that is produced on that farm, and

(ix) producing maple sap, maple syrup or maple sugar; and

(b) where carried out on or off a farm

(i) offering for sale or selling any of the products of the operations referred to in subparagraphs (a)(i) to (ix), if the offering for sale or selling is incidental to those operations, and

(ii) exhibiting, advertising, assembling, freezing, storing, grading, preparing, processing, packing and transporting the products described in subparagraph (i), if those operations are incidental to the offering for sale or selling described in that subparagraph. (*agriculture*)

"agricultural enterprise" means the business of agriculture carried on for the benefit of any person who is a farmer. (*entreprise agricole*)

"horticulture" means the following operations and includes all the services incidental to the carrying out of those operations, if the services are performed at the place where the operations are carried on:

- (a) the propagating, producing, raising or harvesting of
  - (i) vegetables, flowers, shrubs or ornamental grasses, and
  - (ii) seeds, seedlings, grafts or cuttings of vegetables, flowers, shrubs or ornamental grasses; and
- (b) landscape gardening where it is incidental to the carrying out of
  - (i) any of the operations described in paragraph (a), or
  - (ii) agriculture. (*horticulture*)

(2) The employment of a person by an employer in agriculture, an agricultural enterprise or horticulture that would otherwise be insurable is excluded from insurable employment if the person is employed by the employer in that employment for

- (a) less than seven days in a year; or
- (b) seven days or more in a year and is not remunerated in cash by the employer for any part of that employment. SOR/97-31, s. 2.

## **PART I - UNEMPLOYMENT BENEFITS (Sections 9.1 to 57)**

### **Hours of Insurable Employment—Methods of Determination**

**9.1** Where a person's earnings are paid on an hourly basis, the person is considered to have worked in insurable employment for the number of hours that the person actually worked and for which the person was remunerated. SOR/97-31, s. 3.

**9.2** Subject to section 10, where a person's earnings or a portion of a person's earnings for a period of insurable employment remains unpaid for the reasons described in subsection 2(2) of the *Insurable Earnings and Collection of Premiums Regulations*, the person is deemed to have worked in insurable employment for the number of hours that the person actually worked in the period, whether or not the person was remunerated. SOR/97-310, s. 2.

**10.** (1) Where a person's earnings are not paid on an hourly basis but the employer provides evidence of the number of hours that the person actually worked in the period of employment and for which the person was remunerated, the person is deemed to have worked that number of hours in insurable employment.

(2) Except where subsection (1) and section 9.1 apply, if the employer cannot establish with certainty the actual number of hours of work performed by a worker or by a group of workers and for which they were remunerated, the employer and the worker or group of workers may, subject to subsection (3) and as is reasonable in the circumstances, agree on the number of hours of work



that would normally be required to gain the earnings referred to in subsection (1), and, where they do so, each worker is deemed to have worked that number of hours in insurable employment.

(3) Where the number of hours agreed to by the employer and the worker or group of workers under subsection (2) is not reasonable or no agreement can be reached, each worker is deemed to have worked the number of hours in insurable employment established by the Minister of National Revenue, based on an examination of the terms and conditions of the employment and a comparison with the number of hours normally worked by workers performing similar tasks or functions in similar occupations and industries.

(4) Except where subsection (1) and section 9.1 apply, where a person's actual hours of insurable employment in the period of employment are not known or ascertainable by the employer, the person, subject to subsection (5), is deemed to have worked, during the period of employment, the number of hours in insurable employment obtained by dividing the total earnings for the period of employment by the minimum wage applicable, on January 1 of the year in which the earnings were payable, in the province where the work was performed.

(5) In the absence of evidence indicating that overtime or excess hours were worked, the maximum number of hours of insurable employment which a person is deemed to have worked where the number of hours is calculated in accordance with subsection (4) is seven hours per day up to an overall maximum of 35 hours per week.

(6) Subsections (1) to (5) are subject to section 10.1.

(7) [Repealed, SOR/97-31, s. 4]

SOR/97-31, s. 4; SOR/2002-377, s.1

**10.01** (1) If a person is required under their contract of employment to be available for a certain period awaiting a request from their employer to work, the hours during that period are deemed to be hours of insurable employment if the person is paid for those hours at a rate equivalent or superior to the remuneration that would be paid if the person had actually worked during that period.

(2) Despite subsection (1), if a person is required by their employer under their contract of employment to be present at the employer's premises for a certain period in case their services are required, the hours during that period are deemed to be hours of insurable employment if the person is paid for those hours. SOR/2002-377, s.2

**10.1** (1) Where an insured person is remunerated by the employer for a period of paid leave, the person is deemed to have worked in insurable employment for the number of hours that the person would normally have worked and for which the person would normally have been remunerated during that period.

(2) Where an insured person is remunerated by the employer for a period of leave in the form of a lump sum payment calculated without regard to the length of the period of leave, the person is deemed to have worked in insurable employment for the lesser of

(a) the number of hours that the person would normally have worked and for which the person would normally have been remunerated during the period, and

(b) the number of hours obtained by dividing the lump sum amount by the normal hourly rate of pay.

(3) Where an insured person is remunerated by the employer for a non-working day and

(a) works on that day, the person is deemed to have worked in insurable employment for the greater of the number of hours that the person actually worked and the number of hours

that the person would normally have worked on that day; and

(b) does not work on that day, the person is deemed to have worked in insurable employment for the number of hours that the person would normally have worked on that day. SOR/97-31, s. 5.

**10.11** For the purpose of section 10.1, the amounts that are excluded from an insured person's earnings from insurable employment by subsection 2(3) of the *Insurable Earnings and Collection of Premiums Regulations* shall not be taken into account in determining the person's hours of insurable employment. SOR/2005-274, s.1

**10.2** For the purposes of sections 9.1, 10, 10.01, 10.1 and 22,

(a) an hour of work performed in insurable employment is considered to be a single hour of insurable employment, even if the hour is remunerated at an overtime rate of pay; and

(b) if the addition of hours of insurable employment falling between the first day and the last day worked in a given period of employment results in a total number of hours that contains a fraction of an hour, the fraction shall be counted as a whole hour. SOR/97-31, s. 5; SOR/2002-377, s.3.

**11. (1)** Where an insured person is employed on a full-time basis for and remunerated for less than 35 hours per week in an occupation in which the maximum number of hours of full-time work per week is limited by federal or provincial statutes or regulations made under those statutes to less than 35 hours, the insured person is deemed to be employed in insurable employment for 35 hours per week.

(2) Subject to section 10,

(a) an insured person who is a member of the Canadian Forces on full-time service or of a police force and is required to be available on standby outside of their regularly scheduled hours of work is deemed to be employed in insurable employment for 35 hours per week; and

(b) an insured person who is a member of the reserve force and is paid the rate of pay for

(i) each period of duty or training of less than 6 hours is deemed to be employed in insurable employment for 3 1/2 hours per period, or

(ii) each period of duty or training of not less than 6 hours and not more than 24 hours is deemed to be employed in insurable employment for 7 hours per period to a maximum of 35 hours of insurable employment per week. SOR/97-310, s. 3.

### **Prescribed Hours and Prescribed Weeks**

**12. (1)** For the purposes of paragraph 7(4)(c) of the Act, the number of prescribed hours for any of the following weeks is 35 hours:

(a) a week in respect of which a claimant has received or will receive

(i) workers' compensation payments, other than a lump sum or pension paid in full and final settlement of a claim made for workers' compensation payments,

(ii) under a wage-loss indemnity plan, any earnings by reason of illness, injury, quarantine, pregnancy or care of a child or children referred to in subsection 23(1) of the Act,

(iii) indemnity payments referred to in paragraph 35(2)(f),

(iv) earnings because of which, pursuant to section 19 of the Act, no benefits are payable to the claimant, or

(v) an income support grant payment under the Atlantic Groundfish Strategy, other than a grant payment to provide support for an early retirement;

(b) a week in which the claimant was

(i) attending a course or program of instruction or training to which the claimant was referred by the Commission or by an authority designated by the Commission,

(ii) employed under the Self-employment employment benefit or the Job Creation Partnerships employment benefit established by the Commission under section 59 of the Act or under a similar benefit that is provided by a provincial government or other organization and is the subject of an agreement under section 63 of the Act,

(iii) prevented from establishing an interruption of earnings by virtue of the allocation of earnings pursuant to section 36,

(iv) serving a week of the waiting period, or

(v) serving a week of disqualification under section 28 of the Act or disqualified under section 30 of the Act for a week of unemployment for which benefits would otherwise be payable;

(c) a week of unemployment due to a stoppage of work attributable to a labour dispute at the factory, workshop or other premises at which the claimant was employed.

(1.1) [Repealed, SOR/98-424, s. 1]

(2) For the purposes of subsection 14(4) of the Act, a prescribed week is a week in which the claimant has no insurable earnings and is

(a) a week in respect of which a claimant has received or will receive

(i) workers' compensation payments, other than a lump sum or pension paid in full and final settlement of a claim made for workers' compensation payments,

(ii) under a wage-loss indemnity plan, any earnings by reason of illness, injury, quarantine, pregnancy or care of a child or children referred to in subsection 23(1) of the Act,

(iii) indemnity payments referred to in paragraph 35(2)(f), or

(iv) earnings because of which, pursuant to section 19 of the Act, no benefits are payable to the claimant;

(b) a week in which the claimant was

(i) attending a course or program of instruction or training to which the claimant was referred by the Commission or by an authority designated by the Commission,

(ii) employed under the Self-employment employment benefit or the Job Creation Partnerships employment benefit established by the Commission under section 59 of the Act or under a similar benefit that is provided by a provincial government or other organization and is the subject of an agreement under section 63 of the Act,

(iii) prevented from establishing an interruption of earnings by virtue of the allocation of earnings pursuant to section 36,

(iv) serving a week of the waiting period, or

(v) serving a week of disqualification under section 28 of the Act or disqualified under section 30 of the Act for a week of unemployment for which benefits would otherwise be payable;

(c) a week of unemployment due to a stoppage of work attributable to a labour dispute at the factory, workshop or other premises at which the claimant was employed; or

(d) a week for which benefits have been paid or were payable to the claimant.

(3) For the purposes of subsections (1) and (2), where a week is taken into account under any paragraph or subparagraph of subsection (1) or (2), or where that week coincides with a week of benefits paid, that week may not be taken into account under any other paragraph or subparagraph of that subsection. SOR/97-31, s. 6; SOR/97-309, s. 1; SOR/97-310, ss. 4, 5; SOR/98-1, s. 1; SOR/98-424, s. 1.

### **Average Number of Weeks for Paragraph 7.1(6)(b) of the Act**

**13.** (1) For the purpose of paragraph 7.1(6)(b) of the Act, the average number of weeks of regular benefits of a claimant is the maximum number of weeks for which benefits may be paid to the claimant under section 8 of the *Employment Insurance (Fishing) Regulations* or subsection 12(2) of the Act, less the number of weeks of benefits paid to the claimant, including the weeks of benefits used to establish the overpayment under paragraph 7.1(6)(a) of the Act, with the result divided by two. SOR/97-31, s. 7.

### **Interruption of Earnings**

**14.** (1) Subject to subsections (2) to (7), an interruption of earnings occurs where, following a period of employment with an employer, an insured person is laid off or separated from that employment and has a period of seven or more consecutive days during which no work is performed for that employer and in respect of which no earnings that arise from that employment, other than earnings described in subsection 36(13), are payable or allocated.

(2) An interruption of earnings from an employment occurs in respect of an insured person at the beginning of a week in which a reduction in earnings that is more than 40 per cent of the insured person's normal weekly earnings occurs because the insured person ceases to work in that employment by reason of illness, injury, quarantine, pregnancy, the need to care for a child or children referred to in subsection 23(1) of the Act or the need to provide care or support to a family member referred to in subsection 23.1(2) of the Act.

(3) A period of leave referred to in subsection 11(4) of the Act does not constitute an interruption of earnings, regardless of whether the person is remunerated for that period of leave.

(4) Where an insured person is employed under a contract of employment under which the usual remuneration is payable in respect of a period greater than a week, no interruption of earnings occurs during that period, regardless of the amount of work performed in the period and regardless of the time at which or the manner in which the remuneration is paid.

(5) An interruption of earnings in respect of an insured person occurs

(a) in the case of an insured person who is employed in the sale or purchase of real estate on a commission basis and holds a licence to sell real estate issued by a provincial authority, when

- (i) the licence of the insured person is surrendered, suspended or revoked, or
- (ii) the insured person ceases to work in that employment by reason of a circumstance referred to in subsection (2); and

(b) in the case of an insured person who is employed under a contract of employment and whose earnings from that employment consist mainly of commissions, when

- (i) the insured person's contract of employment is terminated, or
- (ii) the insured person ceases to work in that employment by reason of a circumstance referred to in subsection (2).

(6) A period of leave referred to in subsection 11(3) of the Act does not constitute an interruption of earnings, regardless of the time at which or the manner in which remuneration is paid.

(7) Where an insured person accepts less remunerative work with their employer and as a consequence receives a wage supplement under a provincial law intended to provide indemnity payments where the continuation of a person's work represents a physical danger to them, to their unborn child or to the child they are breast-feeding, an interruption of earnings occurs on the insured person's last day of work before the beginning of the less remunerative work.  
SOR/2003-393, s. 1.

### **Undeclared Earnings Referred to in Subsection 19(3) of the Act**

**14.1** For the purpose of allocating any earnings that a claimant has failed to declare to a period referred to in paragraph 15(4)(a), (b) or (c), as that paragraph read immediately before August 12, 2001, where the period began before that date and was to have ended, in accordance with that paragraph, on or after that date, the period ends on August 12, 2001.

**15.** [Repealed, SOR/2001-291, s. 2]

SOR/97-31, s. 8; SOR/2000-18, s. 1; SOR/2001-291, s. 2.

### **Deductions for Earnings or Allowances While on a Course or Program of Instruction or Training**

**16.** (1) Subject to subsection (2), an amount equal to the total amount of any allowances payable to a claimant for attending a course or program of instruction or training, other than a course or program to which the Commission or an authority designated by the Commission has referred the claimant, shall be deducted from the benefits payable to the claimant in respect of any week of unemployment

- (a) during which the claimant is attending the course or program; and
- (b) for which the allowances are payable.

(2) The allowances referred to in subsection (1) do not include any amounts paid in respect of dependant care, travel, commuting or a living-away-from-home or disability allowance.

(3) The total amount of the earnings and allowances paid under Part II of the Act shall be deducted from the benefits payable to a claimant in respect of those weeks where the claimant

- (a) does not meet the qualifying conditions of section 7 or 7.1 of the Act or of any regulations made under Part VIII of the Act, or is disentitled or disqualified within the meaning of subsection 6(1) of the Act;

(b) is paid earnings or allowances under Part II of the Act for certain weeks for attending a course or program of instruction or is paid earnings from employment for certain weeks of employment under the Job Creation Partnership employment benefit established by the Commission under paragraph 59(d) of the Act; and

(c) subsequently becomes entitled to regular benefits in respect of the same weeks as those for which the amounts under paragraph (b) were paid. SOR/97-31, s. 9.

## **Rates of Unemployment**

**17.** (1) Subject to subsection (2), the regional rate of unemployment that applies to a claimant is the average of the seasonally adjusted monthly rates of unemployment for the last three-month period for which statistics were produced by Statistics Canada that precedes the week referred to in subsection 10(1) of the Act

(a) for the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, for the region in which the claimant was ordinarily resident in that week; or

(b) for the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, where the claimant was ordinarily resident outside Canada during that week, for the region in which the claimant was last employed in insurable employment in Canada.

(2) Where a claimant referred to in paragraph (1)(a) ordinarily resides so near to the boundaries of more than one region that it cannot be determined with certainty in which region the claimant resides, the regional rate of unemployment that applies to that claimant is the highest of the regional rates that apply in respect of each of those regions.

(3) Where a claimant referred to in paragraph (1)(b) was last employed in insurable employment in Canada so near to the boundaries of more than one region that it cannot be determined with certainty in which region the claimant was employed, the regional rate of unemployment that applies to that claimant is the highest of the regional rates that apply in respect of each of those regions.

(4) The seasonally adjusted monthly rate of unemployment referred to in subsection (1) shall be obtained by using the regional rates of unemployment produced by Statistics Canada that incorporate an estimate of the rates of unemployment for status Indians living on Indian reserves.

**17.1** (1) The definitions in this subsection apply in this section.

"Gaspésie—Îles-de-la-Madeleine" means the region described in subsection 3(1) of Schedule I. (région de Gaspésie—Îles-de-la-Madeleine)

"Lower St. Lawrence and North Shore" means the region described in subsection 3(11) of Schedule I. (région du Bas Saint-Laurent—Côte Nord)

"Madawaska—Charlotte" means the region described in subsection 5(2) of Schedule I. (région de Madawaska—Charlotte)

"Restigouche—Albert" means the region described in subsection 5(3) of Schedule I. (région de Restigouche—Albert)

(2) For the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, in respect of the period beginning on September 17, 2000 and ending on October 6, 2001, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident in Madawaska—Charlotte, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Madawaska—Charlotte, as determined in accordance with subsection 17(1), and

(b) the average of

(i) the regional rate of unemployment for Restigouche—Albert, as determined in accordance with subsection 17(1), and

(ii) the average of the regional rates of unemployment for Restigouche—Albert and Madawaska—Charlotte, as determined in accordance with subsection 17(1).

(3) For the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, in respect of the period beginning on September 17, 2000 and ending on October 6, 2001, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident outside Canada and who was last employed in insurable employment in Canada in Madawaska—Charlotte, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Madawaska—Charlotte, as determined in accordance with subsection 17(1), and

(b) the average of

(i) the regional rate of unemployment for Restigouche—Albert, as determined in accordance with subsection 17(1), and

(ii) the average of the regional rates of unemployment for Restigouche—Albert and Madawaska—Charlotte, as determined in accordance with subsection 17(1).

(4) For the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, in respect of the period beginning on October 7, 2001 and ending on October 12, 2002, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident in Madawaska-Charlotte, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Madawaska—Charlotte, as determined in accordance with subsection 17(1), and

(b) the average of the regional rates of unemployment for Madawaska—Charlotte and Restigouche-Albert, as determined in accordance with subsection 17(1).

(5) For the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, in respect of the period beginning on October 7, 2001 and ending on October 12, 2002, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident outside Canada and who was last employed in insurable employment in Canada in Madawaska-Charlotte, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Madawaska—Charlotte, as determined in accordance with subsection 17(1), and

(b) the average of the regional rates of unemployment for Madawaska—Charlotte and Restigouche-Albert, as determined in accordance with subsection 17(1).

(6) For the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, in respect of the period beginning on October 13, 2002 and ending on October 7, 2006, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident in Madawaska—Charlotte, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Madawaska—Charlotte, as determined in accordance with subsection 17(1), and

(b) the average of the regional rate of unemployment for Madawaska—Charlotte, as determined in accordance with subsection 17(1), and the average rate determined in accordance with paragraph (4)(b).

(7) For the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, in respect of the period beginning on October 13, 2002 and ending on October 7, 2006, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident outside Canada and who was last employed in insurable employment in Canada in Madawaska—Charlotte, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Madawaska—Charlotte, as determined in accordance with subsection 17(1), and

(b) the average of the regional rate of unemployment for Madawaska—Charlotte, as determined in accordance with subsection 17(1), and the average rate determined in accordance with paragraph (5)(b).

(8) For the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, in respect of the period beginning on September 17, 2000 and ending on October 6, 2001, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident in Lower St. Lawrence and North Shore, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Lower St. Lawrence and North Shore, as determined in accordance with subsection 17(1), and

(b) the average of

(i) the regional rate of unemployment for Gaspésie—Îles-de-la-Madeleine, as determined in accordance with subsection 17(1), and

(ii) the average of the regional rates of unemployment for Lower St. Lawrence and North Shore and Gaspésie—Îles-de-la-Madeleine, as determined in accordance with subsection 17(1).

(9) For the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, in respect of the period beginning on September 17, 2000 and ending on October 6, 2001, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident outside Canada and who was last employed in insurable employment in Canada in Lower St. Lawrence and North Shore, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Lower St. Lawrence and North Shore, as determined in accordance with subsection 17(1), and

(b) the average of

(i) the regional rate of unemployment for Gaspésie—Îles-de-la-Madeleine, as determined in accordance with subsection 17(1), and

(ii) the average of the regional rates of unemployment for Lower St. Lawrence and North Shore and Gaspésie—Îles-de-la-Madeleine, as determined in accordance with subsection 17(1).



(10) For the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, in respect of the period beginning on October 7, 2001 and ending on October 12, 2002, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident in Lower St. Lawrence and North Shore, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Lower St. Lawrence and North Shore, as determined in accordance with subsection 17(1), and

(b) the average of the regional rates of unemployment for Lower St. Lawrence and North Shore and Gaspésie—Îles-de-la-Madeleine, as determined in accordance with subsection 17(1).

(11) For the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, in respect of the period beginning on October 7, 2001 and ending on October 12, 2002, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident outside Canada and who was last employed in insurable employment in Canada in Lower St. Lawrence and North Shore, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Lower St. Lawrence and North Shore, as determined in accordance with subsection 17(1), and

(b) the average of the regional rates of unemployment for Lower St. Lawrence and North Shore and Gaspésie—Îles-de-la-Madeleine, as determined in accordance with subsection 17(1).

(12) For the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, in respect of the period beginning on October 13, 2002 and ending on October 7, 2006, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident in Lower St. Lawrence and North Shore, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Lower St. Lawrence and North Shore, as determined in accordance with subsection 17(1), and

(b) the average of the regional rate of unemployment for Lower St. Lawrence and North Shore, as determined in accordance with subsection 17(1), and the average rate determined in accordance with paragraph (10)(b).

(13) For the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, in respect of the period beginning on October 13, 2002 and ending on October 7, 2006, and in the case of a claimant who, during the week referred to in subsection 10(1) of the Act, was ordinarily resident outside Canada and who was last employed in insurable employment in Canada in Lower St. Lawrence and North Shore, the applicable regional rate of unemployment is the greater of

(a) the regional rate of unemployment for Lower St. Lawrence and North Shore, as determined in accordance with subsection 17(1), and

(b) the average of the regional rate of unemployment for Lower St. Lawrence and North Shore, as determined in accordance with subsection 17(1), and the average rate determined in accordance with paragraph (11)(b).

(14) Where a claimant referred to in subsection (2),(4),(6), (8), (10) or (12) ordinarily resides so near to the boundaries of more than one region that it cannot be determined with certainty in which region the claimant resides, the regional rate of unemployment that applies to that claimant is the highest of the regional rates that apply in respect of each of those regions.

(15) Where a claimant referred to in subsection (3),(5),(7), (9), (11) or (13) was last employed in insurable employment in Canada so near to the boundaries of more than one region that it cannot be determined with certainty in which region the claimant was employed, the regional rate of unemployment that applies to that claimant is the highest of the regional rates that apply in respect of each of those regions. SOR/2000-355, s. 1; SOR/2002-154, s. 1; SOR/2003-336, s.1; SOR/2004-145, s. 1; SOR/2005-144, s.1.

## **Regions**

**18.** (1) The regions described in Schedule I are hereby established for the purposes of Parts I and VIII of the Act.

(2) The Commission shall, at least once every five years after the coming into force of subsection (1), review the boundaries of the regions established by that subsection for the purpose of determining if it is appropriate to make changes to those boundaries.

## **Information Relating to Employment History**

### **Record of Employment**

**19.** (1) In subsections (2) to (4), "employer" includes a bankrupt employer or the trustee of a bankrupt employer.

(2) Every employer shall complete a record of employment, on a form supplied by the Commission, in respect of a person employed by the employer in insurable employment who has an interruption of earnings.

(3) Subject to subsection (4), copies of the record of employment completed pursuant to subsection (2) shall be distributed by the employer in the following manner:

(a) the employee's copy shall be delivered to the insured person not later than five days after the later of

(i) the first day of the interruption of earnings, and

(ii) the day on which the employer becomes aware of the interruption of earnings;

(b) the Commission's copy shall be sent to the Commission within the time limit set out in paragraph (a); and

(c) the employer's copy shall be kept and retained as a part of the employer's records and books of account in accordance with subsection 87(3) of the Act.

(4) Where, for reasons beyond the employer's control, an employer is unable to deliver the employee's copy of the completed record of employment to the insured person within the time limit set out in paragraph (3)(a), the employer shall

(a) where the employer knows the insured person's mailing address, mail the copy to that person; or

(b) where the insured person's mailing address is not known to the employer, retain the copy until whichever of the following first occurs,

(i) the copy is requested by the Commission,

(ii) the copy is requested by the person, or

(iii) 52 weeks have elapsed since the record of employment was completed.

(5) Where an employer has failed to deliver a record of employment to an insured person or to the Commission or the employer is not available or is unable to provide information respecting the record of hours of insurable employment and the insurable earnings of that person because the employer's records are destroyed or lost, the person, on becoming a claimant, may provide, in respect of their hours of insurable employment and insurable earnings, a statement containing evidence of the hours and earnings.

(6) Where a bankrupt employer or the trustee of a bankrupt employer has not provided a record of employment to an insured person or to the Commission, the Commission shall, in respect of that person, determine the number of hours of insurable employment and the amount of insurable earnings for benefit purposes on the basis of the payroll and personnel records of the bankrupt employer provided by the trustee.

### **Hours of Insurable Employment for Record of Employment**

20. The number of hours of insurable employment reported in a record of employment with respect to an insured person shall be determined pursuant to Part I of the Act and any regulations made under that Part.

### **Insurable Earnings**

21. The insurable earnings reported in a record of employment with respect to an insured person shall be determined pursuant to Parts III and IV of the Act and any regulations made under those Parts and allocated in accordance with section 23.

### **Allocation of Hours of Insurable Employment to the Qualifying Period**

22. (1) Where a period of employment falls partially within a claimant's qualifying period, the Commission shall, unless the claimant or employer provides evidence of the number of hours actually worked within the qualifying period

(a) first allocate the total number of hours worked by the claimant proportionately over the whole period of employment if that period is 52 weeks or less, or over the period of employment covered by the record of employment if that period is more than 52 weeks, on the basis that the claimant worked the same number of hours on each of the seven days of each week; and

(b) then allocate the hours, that have been allocated under paragraph (a) to the portion of the period of employment that falls within the qualifying period, proportionately over the corresponding portion of the qualifying period.

(2) Where the allocation referred to in subsection (1) results in a number of hours that contains a fraction of an hour, the fraction shall be counted as a whole hour. SOR/97-31, s. 10.

### **Allocation of Insurable Earnings**

[SOR/97-31, s. 11]

23. (1) For the purposes of section 14 of the Act, insurable earnings shall be allocated in the following manner:

(a) remuneration, including statutory holiday pay, other than the remuneration referred to in paragraph (b), paid in respect of a pay period shall be allocated in the following manner:

(i) if the remuneration is paid in respect of work performed during the pay period, it shall be allocated to that pay period in proportion to the hours worked during each day of the period,

(ii) if the remuneration is paid in respect of a period of leave, it shall be allocated to that period at the rate at which the period was compensated,

(iii) if the remuneration is paid in respect of a period of leave in the form of a lump-sum payment calculated on a basis other than the length of the period of leave, it shall be allocated proportionately over the whole period;

(b) overtime pay, shift premiums, pay adjustments, retroactive pay increases, bonuses, gratuities, accumulated sick leave credits, incentive payments, cost of living allowances, separation payments, and wages in lieu of notice and vacation pay not paid in respect of a pay period shall be allocated proportionately over the pay period in which they are paid;

(c) any other remuneration not paid in respect of a pay period and not covered by paragraphs (a) and (b) shall be allocated proportionally over the pay period in which it is paid; and

(d) remuneration that remains unpaid for reasons described in subsection 2(2) of the *Insurable Earnings and Collection of Premiums Regulations* shall be allocated under paragraphs (a) to (c) in the same manner as if it had actually been paid in the normal course of business.

(1.1) Where an insured person is on unpaid leave or has quit their employment or been terminated or laid off, the remuneration referred to in paragraph (1)(b) shall be allocated proportionately over the last pay period for which regular salary, wages or commissions are paid.

(2) Where an insured person is employed in insurable employment on the basis of a contract for a fixed term and their insurable earnings under the contract are not paid on a regular basis, the insurable earnings shall, regardless of the basis on which they are paid, be allocated proportionately over the term of the contract.

(3) Where the remuneration of an insured person consists solely of commissions or of salary and irregularly paid commissions, the person's insurable earnings paid in the period of employment or in the last 52 weeks, whichever is shorter, shall be allocated proportionately over the shorter of the period of employment and the last 52 weeks, as applicable, excluding weeks for which the insured person is on unpaid leave of absence from employment for one of the reasons referred to in subsection 12(3) of the Act.

(4) Where an insured person has insurable earnings to which none of subsections (1) to (3) apply, the insurable earnings paid in the period of employment or in the last 52 weeks, whichever is shorter, shall be allocated proportionately over the shorter of the period of employment and the last 52 weeks, as applicable.

(5) Where the insurable earnings of an insured person for a pay period that is running at the time the insured person is laid off or separated from employment cannot be ascertained with accuracy, the employer may estimate the person's insurable earnings for that period.  
SOR/97-31, s. 12; SOR/97-310, s. 6; SOR/2002-154, s.2

**24.** Where a period of employment for which insurable earnings have been reported on the record of employment falls partially within the claimant's rate calculation period, the Commission shall, unless presented by the claimant or the employer with evidence of the amount of insurable earnings actually earned in the rate calculation period, allocate the amount of insurable earnings, excluding insurable earnings paid or payable on or after January 1, 1997 by reason of lay-off or separation from employment, proportionately over that period of employment, on the basis that the claimant earned the same amount of insurable earnings for each of the seven days of each week.  
SOR/97-31, s. 13.

**24.1** The amount of insurable earnings paid or payable to a claimant by the employer on or after January 1, 1997 by reason of lay-off or separation from employment that are to be considered insurable earnings for the rate calculation period is the lesser of

(a) the actual amount of those earnings, and

(b) the amount obtained by multiplying the total amount of insurable earnings paid or payable to the claimant for the rate calculation period, less any insurable earnings paid or payable on or after January 1, 1997 by reason of lay-off or separation from employment, by 0.18. SOR/97-31, s. 13.

### **Exclusion of Low-earning Weeks in the Calculation of Weekly Benefit Rates**

**24.2** (1) The definitions in this subsection apply to this section.

"low-earning week" means a week in respect of which a claimant has less than \$225 of insurable earnings, excluding monies paid or payable by reason of lay-off or separation from employment.  
(*semaine de faible rémunération*)

"regular-earning week" means a week in respect of which a claimant has \$225 or more of insurable earnings, excluding monies paid or payable by reason of lay-off or separation from employment.  
(*semaine de rémunération régulière*)

(2) For the purposes of the definitions "low-earning week" and "regular-earning week" in subsection (1), insurable earnings do not include insurable earnings of a fisher referred to in subsection 5(5) of the *Employment Insurance (Fishing) Regulations*.

(3) For the purposes of section 14 of the Act, low-earning weeks shall be excluded from the calculation of the rate of weekly benefits payable to a claimant.

(4) A claimant's low-earning weeks shall be excluded in the calculation of the rate of weekly benefits payable to the claimant if the claimant has at least one regular-earning week in the rate calculation period and the aggregate of the claimant's low-earning weeks and regular-earning weeks in the rate calculation period is greater than the applicable divisor set out in the table to paragraph 14(2)(b) of the Act.

(5) For the purpose of determining the insurable earnings of a claimant in the rate calculation period under subsection 14(3) of the Act and the divisor under subsection 14(2) of the Act, low-earning weeks shall be excluded as follows:

(a) if the claimant has accumulated a number of regular-earning weeks in the rate calculation period that is equal to or greater than the applicable divisor set out in the table to paragraph 14(2)(b) of the Act,

(i) the claimant's low-earning weeks shall be excluded when determining the divisor in accordance with subsection 14(2) of the Act, and

(ii) the insurable earnings for those low-earning weeks shall be excluded when determining the claimant's insurable earnings in the rate calculation period; and

(b) if the claimant has accumulated a number of regular-earning weeks in the rate calculation period that is less than the applicable divisor set out in the table to paragraph 14(2)(b) of the Act,

(i) a sufficient number of the claimant's low-earning weeks with the highest amount of insurable earnings shall be added to the claimant's regular-earning weeks so as to equal the applicable divisor set out in that table, and

(ii) the claimant's insurable earnings in the rate calculation period shall be the total insurable earnings for the claimant's regular-earning weeks and for the claimant's low-earning weeks that were added under subparagraph (i), and the divisor shall be the applicable divisor set out in that table.

(6) For greater certainty, the exclusion of low-earning weeks in the calculation of the rate of weekly benefits payable to a claimant does not affect the insurability of the claimant's employment, the collection of premiums for the purposes of the *Insurable Earnings and Collection of Premiums Regulations* or the application of sections 7, 7.1 and 12 and subsection 14(4) of the Act. SOR/2001-495, s. 1; SOR/2003-306, s. 1.

### **Week of Benefits**

**25.**(1) For the purposes of subsection 7(4.1) and section 145 of the Act, a claimant is considered to have been paid a week of benefits when the total of the percentages of benefits paid for one or more weeks of unemployment equals 100.

(2) For the purpose of subsection (1), the percentage of benefits paid for a week shall be obtained by dividing the amount of the benefits paid to the claimant for that week by the rate of weekly benefits applicable to that week. SOR/2001-516, s. 1

### **Claim for Benefits**

**26.** (1) Subject to subsection (2), a claim for benefits for a week of unemployment in a benefit period shall be made by a claimant within three weeks after the week for which benefits are claimed.

(2) Where a claimant has not made a claim for benefits for four or more consecutive weeks, the first claim for benefits after that period for a week of unemployment shall be made within one week after the week for which benefits are claimed.

**26.1** (1) The definitions in this subsection apply in this section.

"condition of entitlement to benefits" means any requirement, circumstance or condition referred to in subsection 49(1) of the Act.

"period of eligibility" means

(a) in respect of the benefits referred to in subparagraph (2)(c)(i)

(i) the aggregate of the waiting period referred to in section 13 of the Act and the period described in subsection 22(2) of the Act and any extension of this period,

(ii) the aggregate of the period referred to in subsection 23(2) of the Act and the waiting period referred to in section 13 of the Act, unless that waiting period has already been taken into account for the purposes of subparagraph (i); or

(iii) the aggregate of the period referred to in subsection 23.1(4) of the Act and the waiting period referred to in section 13 of the Act, unless the waiting period has already been taken into account for the purposes of subparagraphs (i) or (ii); and

(b) in respect of the benefits referred to in subparagraph (2)(c)(ii), the period during which the claimant attends a course or program, referred to in paragraph 25(1)(a) of the Act, that is an apprenticeship course or an apprenticeship program.

(2) Notwithstanding section 26, a claimant is not required to make periodic claims for benefits in accordance with that section where;

(a) the claimant makes an initial claim for benefits or a claim in respect of which subsection 26(2) applies;

(b) the claimant's period of eligibility ends after June 26, 1999;

(c) the claimant makes a claim for benefits in respect of every week of unemployment in the claimant's period of eligibility

(i) for a reason referred to in paragraph 12(3)(a), (b) or (d) of the Act, or

(ii) under section 25 of the Act, to attend an apprenticeship course or an apprenticeship program, and

(d) the claimant completes a form, provided by the Commission, stating that

(i) to the best of the claimant's knowledge at the time of completing the form, there are no conditions of entitlement to benefits that will not be fully met for each week in the period of eligibility, except in respect of earnings that may be deducted pursuant to section 19, 22, 23 or 23.1 of the Act during that period,

(ii) the claimant will notify the Commission of the condition as soon as possible if the claimant ceases to meet a condition of entitlement to benefits at any time during the period of eligibility and failure to meet that condition has the effect of reducing or eliminating any benefits for any week in the period of eligibility, or if the claimant has earnings referred to in sub-paragraph (i) in respect of that period, and

(iii) the claimant will notify the Commission at the end of the period of eligibility whether or not they have met the conditions of entitlement to benefits for each week in the period of eligibility and whether or not they have declared all earnings that could be deducted pursuant to section 19, 22, 23 or 23.1 of the Act during that period.

(3) If the Commission becomes aware that the claimant does not meet a condition of entitlement to benefits during the claimant's period of eligibility, this section shall cease to apply in respect of the claimant's claim for benefits as of the date on which the Commission becomes aware of the claimant's failure to meet the condition. SOR/99-241, s. 1; SOR/2003-393, s. 2.

### **Persons with Mental Disabilities, Incapacitated Persons and Deceased Persons**

27. (1) Where an initial claim for benefits or a claim for benefits for a week of unemployment is made to the Commission on behalf of a person with mental disabilities or an incapacitated person, the Commission shall authorize payment of the benefits to any person acting on behalf of the person if the person on whose behalf the claim is made meets the requirements of Part I or VIII of the Act.

(2) Where an initial claim for benefits or a claim for benefits for a week of unemployment is made to the Commission by the legal representative of a deceased person, the Commission shall authorize payment of the benefits to the legal representative where the deceased person, at the time of death, met the requirements of Part I or VIII of the Act.

(3) For the purposes of subsection (2), "legal representative" means the executor or administrator of the estate of the deceased person.

(4) Notwithstanding subsection (2), any person entitled to succeed to the property of a deceased person may make a claim for benefits, in accordance with subsections (5) and (6), which benefits are payable to the person where the total value of the estate of the deceased person is not sufficient to warrant obtaining

(a) in the case of an intestate succession, letters of administration; or

(b) in the case of a testate succession, probate of the will of the deceased person.

(5) The claim for benefits referred to in subsection (4) shall be made on a form supplied by the Commission and shall include

(a) a statutory declaration, signed by the applicant, stating that the applicant is a person entitled to succeed to the property of the deceased person; and

(b) an undertaking signed by the applicant to repay to the Receiver General any moneys paid in error to the applicant.

(6) When making a claim for benefits referred to in subsection (4), the applicant shall also submit

(a) a copy of the will of the deceased person, if one exists; and

(b) a release of all claims in respect of the amount payable, signed by all persons other than the applicant, if any, who are entitled to succeed to the property of the deceased person.

### **Payments in Advance**

**28.** The Commission may pay benefits for a week of unemployment to a claimant in advance of the customary time for paying benefits where

(a) that unemployment arises from the occurrence of a fire, flood, hurricane, epidemic or other natural disaster or act of God at the factory, workshop or other premises or in the area where the claimant is employed;

(b) that week of unemployment is

(i) the week in which Christmas Day falls or the week that precedes the week in which Christmas Day falls, or

(ii) a week during which the claimant is attending a course or program, referred to in paragraph 25(1)(a) of the Act, that is an apprenticeship course or apprenticeship program; or

(c) there is, or is anticipated to be, a disruption of electrical service, electronic processes or telecommunications that will prevent the processing of claims for benefits in the normal manner and in a timely fashion. SOR/2000-16, s. 1.



## **Employed Person Working a Full Working Week—Special Cases**

[SOR/97-31, s. 14]

**29.** (1) A claimant is considered to have worked a full working week during each week in the two-week period reported on in the declaration filed when making a claim for benefits where the claimant

(a) is a railway employee;

(b) is remunerated on a mileage basis; and

(c) is remunerated in that two-week period at not less than twice the maximum weekly insurable earnings.

(2) Notwithstanding section 31, a claimant who is employed in farming or horticulture is considered to have worked a full working week during any week in which the claimant works

(a) not less than five days; and

(b) not less than 35 hours in total.

(3) Where, in any week, a claimant does not work on a holiday or, by reason of a holiday, does not work on the working day that immediately precedes or immediately follows that holiday, the claimant shall be regarded as having worked a full working week if, on each of the remaining working days in that week, the claimant works a number of hours at least equal to the number that the claimant would normally work.

(4) Where an insured person is employed under a contract of employment under which the usual remuneration is payable in respect of a period greater than a week, regardless of the amount of work performed in the period, each week that falls wholly in that period is a full working week for the person.

## **Self-employed Person Working a Full Working Week**

**30.** (1) Subject to subsections (2) and (4), where during any week a claimant is self-employed or engaged in the operation of a business on the claimant's own account or in a partnership or co-adventure, or is employed in any other employment in which the claimant controls their working hours, the claimant is considered to have worked a full working week during that week.

(2) Where a claimant is employed or engaged in the operation of a business as described in subsection (1) to such a minor extent that a person would not normally rely on that employment or engagement as a principal means of livelihood, the claimant is, in respect of that employment or engagement, not regarded as working a full working week.

(3) The circumstances to be considered in determining whether the claimant's employment or engagement in the operation of a business is of the minor extent described in subsection (2) are

(a) the time spent;

(b) the nature and amount of the capital and resources invested;

(c) the financial success or failure of the employment or business;

(d) the continuity of the employment or business;

(e) the nature of the employment or business; and

(f) the claimant's intention and willingness to seek and immediately accept alternate employment.

(4) Where a claimant is employed in farming and subsection (2) does not apply to that employment, the claimant shall not be considered to have worked a full working week at any time during the period that begins with the week in which October 1st falls and ends with the week in which the following March 31 falls, if the claimant proves that during that period

(a) the claimant did not work; or

(b) the claimant was employed to such a minor extent that it would not have prevented the claimant from accepting full-time employment. SOR/97-31, s. 15.

### **Employed Persons Working a Full Working Week**

**31.** (1) A full working week of a claimant, other than a claimant referred to in section 29 or 30, is the number of hours, days or shifts normally worked in a calendar week by persons in the claimant's grade, class or shift at the factory, workshop or other premises at which the claimant is or was employed.

(2) When the number of hours, days or shifts referred to in subsection (1) is the number that is normally worked by persons in part-time employment and is less than the number of hours, days or shifts normally worked in a calendar week by persons employed in full-time employment in the employment that is closest in nature to the claimant's employment, the claimant is considered to have worked a full working week when the claimant has worked the number of hours, days or shifts that are normally worked by a person in full-time employment.

(3) The full working week of a claimant, other than a claimant referred to in section 29 or 30, who is remunerated on a piece, mileage or other unit rate is the number of days normally worked in a calendar week by persons in the claimant's grade, class or shift at the factory, workshop or other premises at which the claimant is or was employed. SOR/97-31, s.16.; SOR/2002-154, s.3.

### **Working Day**

**32.** For the purposes of section 18 of the Act, a working day is any day of the week except Saturday and Sunday.

### **Additional Conditions and Terms in Relation to Teachers**

**33.** (1) The definitions in this subsection apply in this section.

"non-teaching period" means the period that occurs annually at regular or irregular intervals during which no work is performed by a significant number of people employed in teaching.

"teaching" means the occupation of teaching in a pre-elementary, an elementary or a secondary school, including a technical or vocational school.

(2) A claimant who was employed in teaching for any part of the claimant's qualifying period is not entitled to receive benefits, other than those payable under section 22, 23 or 23.1 of the Act, for any week of unemployment that falls in any non-teaching period of the claimant unless

(a) the claimant's contract of employment for teaching has terminated;

(b) the claimant's employment in teaching was on a casual or substitute basis; or

(c) the claimant qualifies to receive benefits in respect of employment in an occupation other than teaching.

(3) Where a claimant who was employed in teaching for any part of the claimant's qualifying period qualifies to receive benefits in respect of employment in an occupation other than teaching, the amount of benefits payable for a week of unemployment that falls within any non-teaching period of the claimant shall be limited to the amount that is payable in respect of the employment in that other occupation. SOR/97-31, s. 17; SOR/2003-393, s. 3.

### Family Supplement—Rate Increase

**34.** (1) For the purposes of this section, "cohabitating spouse or common-law partner" has the same meaning as in section 122.6 of the Income Tax Act.

(2) For the purposes of this section, a child tax benefit is deemed to be an overpayment under Subdivision a.1 of Division E of Part 1 of the Income Tax Act.

(2.1) [Repealed, SOR/99-290, s. 1]

(3) Where a claimant establishes, in the manner directed by the Commission under section 16 of the Act, that the claimant or the claimant's cohabitating spouse or common-law partner is in receipt of a child tax benefit for the month preceding the Sunday of the week in respect of which the claimant makes a claim for benefits, the claimant's rate of weekly benefits for that week shall be increased by the amount of a family supplement determined in accordance with this section.

(4) The claimant's rate of weekly benefits for a week shall not be increased under this section if benefits are also payable to the claimant's cohabitating spouse or common law partner for that week at a rate increased under this section.

(5) The family supplement is the amount determined in accordance with the following table, taking into account the family income and the number and ages of the children for which the claimant or the claimant's cohabitating spouse or common-law partner receives a child tax benefit:

<b>Table 1</b>											
<b>Family Income Range</b>											
<b>Number of Children</b>	<b>\$20,921</b>	<b>\$20,921 to \$21,250</b>	<b>\$21,251 to \$21,500</b>	<b>\$21,501 to \$21,750</b>	<b>\$21,751 to \$22,000</b>	<b>\$22,001 to \$22,250</b>	<b>\$22,251 to \$22,500</b>	<b>\$22,501 to \$22,750</b>	<b>\$22,751 to \$23,000</b>	<b>\$23,001 to \$23,250</b>	<b>\$23,251 to \$23,500</b>
<b>1</b>	<b>\$ 31.30</b>	<b>\$ 31.25</b>	<b>\$ 28.50</b>	<b>\$ 26.45</b>	<b>\$ 24.45</b>	<b>\$ 22.55</b>	<b>\$ 20.70</b>	<b>\$ 18.90</b>	<b>\$ 17.15</b>	<b>\$ 15.45</b>	<b>\$ 13.80</b>
<b>2</b>	<b>\$ 58.70</b>	<b>\$ 58.60</b>	<b>\$ 53.60</b>	<b>\$ 49.90</b>	<b>\$ 46.25</b>	<b>\$ 42.70</b>	<b>\$ 39.30</b>	<b>\$ 35.95</b>	<b>\$ 32.70</b>	<b>\$ 29.55</b>	<b>\$ 26.50</b>
<b>3</b>	<b>\$ 86.10</b>	<b>\$ 86.00</b>	<b>\$ 78.80</b>	<b>\$ 73.45</b>	<b>\$ 68.20</b>	<b>\$ 63.15</b>	<b>\$ 58.15</b>	<b>\$ 53.30</b>	<b>\$ 48.60</b>	<b>\$ 44.00</b>	<b>\$ 39.55</b>
<b>Top-Up for each additional child</b>	<b>\$ 27.45</b>	<b>\$ 27.40</b>	<b>\$ 25.60</b>	<b>\$ 24.25</b>	<b>\$ 22.85</b>	<b>\$ 21.50</b>	<b>\$ 20.15</b>	<b>\$ 18.75</b>	<b>\$ 17.40</b>	<b>\$ 16.00</b>	<b>\$ 14.65</b>
<b>Age supplement for each child under 7</b>	<b>\$ 4.15</b>	<b>\$ 4.10</b>	<b>\$ 3.85</b>	<b>\$ 3.65</b>	<b>\$ 3.45</b>	<b>\$ 3.25</b>	<b>\$ 3.05</b>	<b>\$ 2.80</b>	<b>\$ 2.60</b>	<b>\$ 2.40</b>	<b>\$ 2.20</b>

Family Income Range										
Number of Children	\$23,501 to \$23,750	\$23,751 to \$24,000	\$24,001 to \$24,250	\$24,251 to \$24,500	\$24,501 to \$24,750	\$24,751 to \$25,000	\$25,001 to \$25,250	\$25,251 to \$25,500	\$25,501 to \$25,750	\$25,751 to \$25,921
1	\$ 12.25	\$ 10.70	\$ 9.25	\$ 7.85	\$ 6.55	\$ 5.25	\$ 4.00	\$ 2.85	\$ 1.75	\$ 0.70
2	\$ 23.55	\$ 20.70	\$ 17.95	\$ 15.30	\$ 12.75	\$ 10.25	\$ 7.90	\$ 5.65	\$ 3.45	\$ 1.40
3	\$ 35.25	\$ 31.05	\$ 26.95	\$ 23.05	\$ 19.20	\$ 15.55	\$ 12.00	\$ 8.55	\$ 5.25	\$ 2.10
Top-Up for each additional child	\$ 13.30	\$ 11.90	\$ 10.55	\$ 9.15	\$ 7.80	\$ 6.45	\$ 5.05	\$ 3.70	\$ 2.30	\$ 0.95
Age supplement for each child under 7	\$ 2.00	\$ 1.80	\$ 1.60	\$ 1.40	\$ 1.20	\$ 1.00	\$ 0.75	\$ 0.55	\$ 0.35	\$ 0.15

(6) The amount of the family supplement shall not exceed the following percentage of the claimant's weekly insurable earnings:

(a) for benefit periods established in 1997, 10%;

(b) for benefit periods established in 1998, 15%;

(c) for benefit periods established in 1999, 20%; and

(d) for benefit periods established in 2000 or later, 25%.

(7) Where the application of subsection (5) in respect of benefit periods established before August 1, 1999, results in a reduction of the amount of the family supplement payable to the claimant for a week of unemployment falling on or after August 1, 1999, the amount of family supplement so calculated will be increased for each child for whom the claimant is entitled to receive a child tax benefit by an additional amount determined in accordance with the following table, taking into account the family income and the number and ages of the children for the duration of the benefit period. SOR/97-310, s. 7; SOR/98-356, s. 1; SOR/99-290, s. 1; SOR/2001-290, s. 1; SOR/2002-154, s.4.

Table 2											
Family Income Range											
Age of Children	\$20,921 to \$21,250	\$20,921 to \$21,500	\$21,251 to \$21,500	\$21,501 to \$21,750	\$21,751 to \$22,000	\$22,001 to \$22,250	\$22,251 to \$22,500	\$22,501 to \$22,750	\$22,751 to \$23,000	\$23,001 to \$23,250	\$23,251 to \$23,500
12 to 15 Years Old	\$2.25	\$2.20	\$2.05	\$1.95	\$1.85	\$1.70	\$1.60	\$1.50	\$1.40	\$1.30	\$1.20
16 and 17 Years Old	\$3.60	\$3.55	\$3.30	\$3.15	\$3.00	\$2.80	\$2.65	\$2.45	\$2.30	\$2.10	\$1.90

Family Income Range										
Age of Children	\$23,501 to \$23,750	\$23,751 to \$24,000	\$24,001 to \$24,250	\$24,251 to \$24,500	\$24,501 to \$24,750	\$24,751 to \$25,000	\$25,001 to \$25,250	\$25,251 to \$25,500	\$25,501 to \$25,750	\$25,751 to \$25,921
12 to 15 Years Old	\$1.05	\$0.95	\$0.85	\$0.75	\$0.65	\$0.55	\$0.40	\$0.30	\$0.20	\$0.10
16 and 17 Years	\$1.75	\$1.55	\$1.40	\$1.20	\$1.05	\$0.85	\$0.65	\$0.50	\$0.30	\$0.15

### Determination of Earnings for Benefit Purposes

35. (1) The definitions in this subsection apply in this section.

"employment" means

(a) any employment, whether insurable, not insurable or excluded employment, under any express or implied contract of service or other contract of employment,

(i) whether or not services are or will be provided by a claimant to any other person, and

(ii) whether or not income received by the claimant is from a person other than the person to whom services are or will be provided;

(b) any self-employment, whether on the claimant's own account or in partnership or co-adventure; and

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

"income" means any pecuniary or non-pecuniary income that is or will be received by a claimant from an employer or any other person, including a trustee in bankruptcy.

"pension" means a retirement pension

(a) arising out of employment or out of service in any armed forces or in a police force;

(b) under the *Canada Pension Plan*; or

(c) under a provincial pension plan.

(2) Subject to the other provisions of this section, the earnings to be taken into account for the purpose of determining whether an interruption of earnings has occurred and the amount to be deducted from benefits payable under section 19 or subsection 21(3) or 22(5) of the Act, and to be taken into account for the purposes of sections 45 and 46 of the Act, are the entire income of a claimant arising out of any employment, including

(a) amounts payable to a claimant in respect of wages, benefits or other remuneration from the proceeds realized from the property of a bankrupt employer;

(b) workers' compensation payments received or to be received by a claimant, other than a lump sum or pension paid in full and final settlement of a claim made for workers' compensation payments;

(c) payments a claimant has received or, on application, is entitled to receive under

- (i) a group wage-loss indemnity plan,
- (ii) a paid sick, maternity or adoption leave plan,
- (iii) a leave plan providing payment in respect of the care of a child or children referred to in subsection 23(1) of the Act; or
- (iv) a leave plan providing payment in respect of the care or support of a family member referred to in subsection 23.1(2) of the Act;

(d) notwithstanding paragraph (7)(b) but subject to subsection (3), the payments a claimant has received or, on application, is entitled to receive from a motor vehicle accident insurance plan provided under a provincial law in respect of the actual or presumed loss of income from employment due to injury, if the benefits paid or payable under the Act are not taken into account in determining the amount that the claimant receives or is entitled to receive from the plan;

(e) the moneys paid or payable to a claimant on a periodic basis or in a lump sum on account of or in lieu of a pension; and

(f) where the benefits paid or payable under the Act are not taken into account in determining the amount that a claimant receives or is entitled to receive pursuant to a provincial law in respect of an actual or presumed loss of income from employment, the indemnity payments the claimant has received or, on application, is entitled to receive pursuant to that provincial law by reason of the fact that the claimant has ceased to work for the reason that continuation of work entailed physical dangers for

- (i) the claimant,
- (ii) the claimant's unborn child, or
- (iii) the child the claimant is breast-feeding.

(3) Where, subsequent to the week in which an injury referred to in paragraph (2)(d) occurs, a claimant has accumulated the number of hours of insurable employment required by section 7 or 7.1 of the Act, the payments referred to in that paragraph shall not be taken into account as earnings.

(4) Notwithstanding subsection (2), the payments a claimant has received or, on application, is entitled to receive under a group sickness or disability wage-loss indemnity plan or a workers' compensation plan, or as an indemnity described in paragraph (2)(f), are not earnings to be taken into account for the purpose of subsection 14(2).

(5) Notwithstanding subsection (2), the moneys referred to in paragraph (2)(e) are not earnings to be taken into account for the purposes of section 14.

(6) Notwithstanding subsection (2), the earnings referred to in subsection 36(9) and allowances that would not be deducted from benefits by virtue of subsection 16(1) are not earnings to be taken into account for the purposes of section 14.

(7) That portion of the income of a claimant that is derived from any of the following sources does not constitute earnings for the purposes referred to in subsection (2):

- (a) disability pension or a lump sum or pension paid in full and final settlement of a claim made for workers' compensation payments;
- (b) payments under a sickness or disability wage-loss indemnity plan that is not a group plan;

(c) relief grants in cash or in kind;

(d) retroactive increases in wages or salary;

(e) the moneys referred to in paragraph (2)(e), if the number of hours of insurable employment required by section 7 or 7.1 of the Act for the establishment of the benefit period of the claimant was accumulated after the date on which those moneys became payable and during the period in respect of which the claimant received those moneys; and

(f) employment income excluded as income pursuant to subsection 6(16) of the *Income Tax Act*.

(8) For the purposes of paragraphs (2)(c) and (7)(b), a sickness or disability wage-loss indemnity plan is not a group plan if it is a plan that

(a) is not related to a group of persons who are all employed by the same employer;

(b) is not financed in whole or in part by an employer;

(c) is voluntarily purchased by the person participating in the plan;

(d) is completely portable;

(e) provides constant benefits while permitting deductions for income from other sources, where applicable; and

(f) has rates of premium that do not depend on the experience of a group referred to in paragraph (a).

(9) For the purposes of subsection (8), "portable", in respect of a plan referred to in that subsection, means that the benefits to which an employee covered by the plan is entitled and the rate of premium that the employee is required to pay while employed by an employer will remain equivalent if the employee becomes employed by any other employer within the same occupation.

(10) For the purposes of subsection (2), "income" includes

(a) in the case of a claimant who is not self-employed, that amount of the claimant's income remaining after deducting

(i) expenses incurred by the claimant for the direct purpose of earning that income, and

(ii) the value of any consideration supplied by the claimant; and

(b) in the case of a claimant who is self-employed in farming, 15 per cent of the claimant's gross income from

(i) farming transactions, and

(ii) any farming subsidies the claimant receives under any federal or provincial program;

(c) in the case of a claimant who is self-employed in employment other than farming, the amount of the gross income from that employment remaining after deducting the operating expenses, other than capital expenditures, incurred therein; and

(d) in the case of any claimant, the value of board, living quarters and other benefits received by the claimant from or on behalf of the claimant's employer in respect of the claimant's employment.

(11) Subject to subsection (12), the value of the benefits referred to in paragraph (10)(d) shall be the amount fixed by agreement between the claimant and the claimant's employer and shall be an amount that is reasonable in the circumstances.

(12) Where the claimant and the employer do not agree on the value of the benefits referred to in paragraph (10)(d), or where the value fixed for those benefits by agreement between the claimant and the claimant's employer is not reasonable in the circumstances, the value shall be determined by the Commission based on the monetary value of the benefits.

(13) The value of living quarters referred to in paragraph (10)(d) includes the value of any heat, light, telephone or other benefits included with the living quarters.

(14) Where the value of living quarters is determined by the Commission, it shall be computed on the rental value of similar living quarters in the same vicinity or district.

(15) Where the remuneration of a claimant is not pecuniary or is only partly pecuniary and all or part of the non-pecuniary remuneration consists of any consideration other than living quarters and board furnished by the employer, the value of that consideration shall be included in determining the claimant's income.

(16) For the purposes of this section, living quarters means rooms or any other living accommodation. SOR/97-31, s.18; SOR/2002-154, s.5; SOR/2002-157, s.1; SOR/2002-364, s.1; SOR/2003-393, s. 4.

### **Allocation of Earnings for Benefit Purposes**

**36.** (1) Subject to subsection (2), the earnings of a claimant as determined under section 35 shall be allocated to weeks in the manner described in this section and, for the purposes referred to in subsection 35(2), shall be the earnings of the claimant for those weeks.

(2) For the purposes of this section, the earnings of a claimant shall not be allocated to weeks during which they did not constitute earnings or were not taken into account as earnings under section 35.

(3) Where the period for which earnings of a claimant are payable does not coincide with a week, the earnings shall be allocated to any week that is wholly or partly in the period in the proportion that the number of days worked in the week bears to the number of days worked in the period.

(4) Earnings that are payable to a claimant under a contract of employment for the performance of services shall be allocated to the period in which the services were performed.

(5) Earnings that are payable to a claimant under a contract of employment without the performance of services or payable by an employer to a claimant in consideration of the claimant returning to or beginning work shall be allocated to the period for which they are payable.

(6) The earnings of a claimant who is self-employed in employment other than farming, or the earnings of a claimant that are from participation in profits or commissions, shall be allocated to the week in which the services that gave rise to those earnings are performed and, where the earnings arise from a transaction, they shall be allocated to the week in which the transaction occurred.

(7) The earnings of a claimant who is self-employed in farming shall be allocated

(a) if they arose out of a transaction, to the week in which the transaction occurred; and

(b) if they were received in the form of a subsidy, to the week in which the subsidy was paid.



(8) Where vacation pay is paid or payable to a claimant for a reason other than a lay-off or separation from an employment, it shall be allocated as follows:

(a) where the vacation pay is paid or payable for a specific vacation period or periods, it shall be allocated

(i) to a number of weeks that begins with the first week and ends not later than the last week of the vacation period or periods, and

(ii) in such a manner that the total earnings of the claimant from that employment are, in each consecutive week, equal to the claimant's normal weekly earnings from that employment; and

(b) in any other case, the vacation pay shall, when paid, be allocated

(i) to a number of weeks that begins with the first week for which it is payable, and

(ii) in such a manner that, for each week except the last, the amount allocated under this subsection is equal to the claimant's normal weekly earnings from that employment.

(9) Subject to subsections (10) and (11), all earnings paid or payable to a claimant by reason of a lay-off or separation from an employment shall, regardless of the nature of the earnings or the period in respect of which the earnings are purported to be paid or payable, be allocated to a number of weeks that begins with the week of the lay-off or separation in such a manner that the total earnings of the claimant from that employment are, in each consecutive week except the last, equal to the claimant's normal weekly earnings from that employment.

(10) Subject to subsection (11), where earnings are paid or payable to a claimant by reason of a lay-off or separation from an employment subsequent to an allocation under subsection (9) in respect of that lay-off or separation, the subsequent earnings shall be added to the earnings that were allocated and, regardless of the nature of the subsequent earnings or the period in respect of which they are purported to be paid or payable, a revised allocation shall be made in accordance with subsection (9) on the basis of that total.

(11) Where earnings are paid or payable in respect of an employment pursuant to a labour arbitration award or the judgment of a tribunal, or as a settlement of an issue that might otherwise have been determined by a labour arbitration award or the judgment of a tribunal, and the earnings are awarded in respect of specific weeks as a result of a finding or admission that disciplinary action was warranted, the earnings shall be allocated to a number of consecutive weeks, beginning with the first week in respect of which the earnings are awarded, in such a manner that the total earnings of the claimant from that employment are, in each week except the last week, equal to the claimant's normal weekly earnings from that employment.

(12) The following payments shall be allocated to the weeks in respect of which the payments are paid or payable:

(a) payments in respect of sick leave, maternity leave or adoption leave or leave for the care of a child or children referred to in subsection 23(1) of the Act;

(b) payments under a group sickness or disability wage-loss indemnity plan;

(c) payments referred to in paragraphs 35(2)(d) and (f);

(d) workers' compensation payments, other than a lump sum or pension paid in full and final settlement of a claim made for workers' compensation payments and

(e) payments in respect of the care or support of a family member referred to in subsection 23.1(2) of the Act.

(13) A payment paid or payable to a claimant in respect of a holiday or non-working day that is observed as such by law, custom or agreement, or a holiday or non-working day immediately preceding or following a holiday or non-working day that occurs at the establishment of the employer or former employer from whom the claimant receives that payment, shall be allocated to the week in which that day occurs.

(14) The moneys referred to in paragraph 35(2)(e) that are paid or payable to a claimant on a periodic basis shall be allocated to the period for which they are paid or payable.

(15) The moneys referred to in paragraph 35(2)(e) that are paid or payable to a claimant in a lump sum shall be allocated beginning with the first week that those moneys are paid or payable to the claimant in such a manner that those moneys are equal in each week to the weekly amount, calculated in accordance with subsection (17), to which the claimant would have been entitled if the lump sum payment had been paid as an annuity.

(16) The moneys allocated in accordance with subsection (14) or (15) shall not be taken into account in the allocation of other earnings under this section.

(17) For the purposes of subsection (15), the weekly amount shall be calculated as the amount of the lump sum payment divided by 1,000 and multiplied by the weekly annuity equivalent, as set out in Schedule II, corresponding to the age of the claimant at the date the lump sum is paid or payable.

(18) Earnings that are payable to a claimant under a government program intended to encourage re-employment and that are payable to the claimant as a supplement to earnings arising from a contract of employment shall be allocated to the period for which they are payable.

(19) Where a claimant has earnings to which none of subsections (1) to (18) apply, those earnings shall be allocated

(a) if they arise from the performance of services, to the period in which the services are performed; and

(b) if they arise from a transaction, to the week in which the transaction occurs.

(20) For the purposes of this section, a fraction of a dollar that is equal to or greater than one half shall be taken as a dollar and a fraction that is less than one half shall be disregarded. SOR/97-31, s. 19; SOR/2003-393, s. 5.

### **Supplemental Unemployment Benefit Plans**

**37.** (1) Subject to the other provisions of this section, payments received by a claimant under a supplemental unemployment benefit plan are not earnings for the purposes of section 19, subsection 21(3) or section 45 or 46 of the Act.

(2) For the purpose of subsection (1), a supplemental unemployment benefit plan is a plan that

(a) identifies the group or groups of employees covered by the plan;

(b) covers any period of unemployment by reason of a temporary stoppage of work, training, illness, injury, quarantine or any combination of such reasons;

(c) requires employees to apply for and be in receipt of benefits in order to receive payments under the plan but may provide for payments to an employee who is not in receipt of benefits for the reason that the employee

(i) is serving the waiting period,

(ii) has insufficient hours of insurable employment to qualify for benefits, or

(iii) has received all of the benefits to which the employee is entitled;

(d) requires that the combined weekly payments received from the plan and the portion of the weekly benefit rate from that employment do not exceed 95 per cent of the employee's normal weekly earnings from that employment;

(e) requires that payments under the plan be financed by the employer and that the employer keep separate accounts for those payments;

(f) requires that, on termination of the plan, all remaining assets revert to the employer or be used for payments under the plan or for administrative costs of the plan;

(g) requires that the plan be submitted to the Commission prior to its effective date and that written notice of any change to the plan be given to the Commission within 30 days after the effective date of the change;

(h) provides that the employees have no vested right to payments under the plan, except to payments during a period of unemployment specified in the plan; and

(i) provides that payments in respect of guaranteed annual remuneration or in respect of deferred remuneration or severance pay benefits are not reduced or increased by payments received under the plan. SOR/2002-154, s.6; SOR/2002-274, s.1

### **Maternity Leave, Leave for the Care of a Child and Compassionate Care Leave Plans**

[SOR/2003-393, s. 6]

**38.** The following portion of any payments that are paid because of pregnancy, for the care of a child or children referred to in subsection 23(1) of the Act, or for the care or support of a family member referred to in subsection 23.1(2) of the Act, or because of any combination of those reasons is excluded as earnings for the purposes of section 35, namely, the portion that

(a) when combined with the portion of the claimant's weekly benefit rate from that employment, does not exceed that claimant's normal weekly earnings from that employment; and

(b) does not reduce the claimant's accumulated sick leave or vacation leave credits, severance pay or any other accumulated credits from that claimant's employment. SOR/2002-274, s.2 and s. 3; SOR/2003-393, s. 7.

### **Earnings in the Waiting Period**

**39.** (1) Where a claimant has earnings in respect of a period that falls in the claimant's waiting period, an amount equal to those earnings or, where paragraph 19(3)(a) of the Act applies in respect of those earnings, the amount required by that paragraph to be deducted, shall be deducted from the benefits payable for the first three weeks for which benefits are otherwise payable.

(2) The maximum amount to be deducted under subsection (1) in respect of a claimant's earnings for any one week in the claimant's waiting period is an amount equal to the claimant's rate of weekly benefits.

(3) For the purpose of calculating the earnings of a claimant during the waiting period, no account shall be taken of amounts paid or payable

(a) under a wage-loss indemnity plan by reason of illness, injury, quarantine, pregnancy, the care of a child or children referred to in subsection 23(1) of the Act or the care or

support of a family member referred to in subsection 23.1(2) of the Act, or under a workers' compensation plan; or

(a.1) as an indemnity described in paragraph 35(2) (f); or

(b) by an employer in respect of sick leave, maternity leave or adoption leave, leave for the care of a child or children referred to in subsection 23(1) of the Act or leave for the care or support of a family member referred to in subsection 23.1(2) of the Act.

SOR/97-31, s. 20.; SOR/2002-364, s. 2; SOR/2003-393, s. 8.

### **Waiving of the Waiting Period for Apprentices**

**39.1** The waiting period shall be waived if the following conditions are met:

(a) the claimant is attending a course that is a required part of an apprenticeship program and to which they are referred pursuant to paragraph 25(1)(a) of the Act;

(b) the claimant has ceased working for the reason described in paragraph (a); and

(c) the claimant has, after the coming into force of this section, served a waiting period in respect of a course that is required part of the same apprenticeship program.

SOR/2002-280, s. 1

### **Sickness**

**40.** (1) The information and evidence to be provided to the Commission by a claimant in order to prove inability to work because of illness, injury or quarantine pursuant to paragraph 18(b) of the Act, is a medical certificate completed by a medical doctor or other medical professional attesting to the claimant's inability to work and stating the probable duration of the illness, injury or quarantine.

(1.1) Despite subsection (1), if either of the following circumstances occur in respect of a quarantine, a claimant need only provide the Commission with a declaration that a period of quarantine was

(a) imposed on the claimant by a public health official for the health and safety of the public at large; or

(b) recommended by such an official for the health and safety of the public at large and the claimant was asked by their employer, a medical doctor, a nurse or another similar person in authority to place themselves under quarantine.

(2) Notwithstanding that a certificate is provided by a claimant pursuant to subsection (1), the Commission may require a claimant to undergo a medical examination at such time and place as it may reasonably direct for the purpose of determining the nature of the illness, injury or quarantine, the physical or mental condition of the claimant, the probable duration of the inability to work and any other circumstances relating to that inability.

(3) A medical examination referred to in subsection (2) shall be made at the expense of the Commission and a claimant who undergoes such an examination shall be reimbursed for their reasonable travel and other expenses.

(4) For the purposes of paragraphs 8(2)(a) and 18(b) and subsection 28(7) of the Act, illness, injury or quarantine is any illness, injury or quarantine that renders a claimant incapable of performing the duties of their regular or usual employment or of other suitable employment.

(5) A pregnancy that is terminated within the first 19 weeks is an illness for the purposes of paragraph 18(b) of the Act.

- (6) The Commission may waive the waiting period in respect of the benefit period of a claimant if
- (a) the claimant qualifies to receive benefits in that benefit period by reason of an interruption of earnings as described in subsection 14(2); and
  - (b) after the claimant ceased to work, allowances, payments or other moneys are payable to the claimant by the claimant's employer or former employer as sick leave pay.
- (7) The Commission may waive the waiting period in respect of the benefit period of a claimant if
- (a) the claimant qualifies to receive benefits in that benefit period by reason of an interruption of earnings as described in subsection 14(2); and
  - (b) the quarantine arises from circumstances set out in paragraph (1.1)(a) or (b).
- (8) Subsections (1.1) and (7) apply to a claimant for any benefit period
- (a) that begins on or after the day on which this subsection comes into force; or
  - (b) that has not ended before the day on which this subsection comes into force, but only for weeks of benefits commencing with the week during which this subsection comes into force.
- (9) Subsections (1.1), (7) and (8) shall cease to have effect six months after the day on which this subsection comes into force. SOR/2003-131, s. 1.

**Note: The provisions in subsections 40(1.1), (7) and (8) expire on October 4, 2003.**

## **Pregnancy**

**41.** (1) For the purpose of section 22 of the Act, the information and evidence to be provided to the Commission by a claimant to prove pregnancy and the expected date of confinement is

- (a) a statement signed by the claimant attesting to her pregnancy and declaring her expected date of confinement; and
- (b) information regarding the actual date of the birth of the child, provided by the claimant to the Commission in person, by mail or by telephone as soon as is reasonably possible after the birth of the child.

(2) For the purposes of paragraph 8(2)(a) of the Act, a pregnancy is any pregnancy that renders a claimant incapable of performing the duties of her regular or usual employment or of other suitable employment.

## **Compassionate Care Benefits**

### **Care and Support Defined for Compassionate Care Benefits**

**41.1** A claimant is providing care or support to a family member when they:

- (a) directly provide or participate in providing care to the family member.
- (b) provide psychological or emotional support to the family member; or
- (c) arrange for the care of the family member by a third party care provider.

## **Classes of Persons Included in the Definition "Family Member" for Compassionate Care Benefits**

**41.11** (1) The following definitions apply in this section.

"guardian" means a person having a legally recognized authority to act on behalf of a minor or disabled adult and includes a mandatary in case of incapacity, tutor and curator. (*tuteur*)

"ward" means a person for whom a guardian is appointed. (*pupille*)

(2) The following classes of persons, in relation to an individual, are prescribed for the purposes of paragraph 23.1(1)(d) of the Act:

- (a) a child of the individual's parent or a child of the spouse or common-law partner of the individual's parent;
- (b) a grandparent of the individual or of the individual's spouse or common-law partner or the spouse or common-law partner of the individual's grandparent;
- (c) a grandchild of the individual or of the individual's spouse or common-law partner or the spouse or common-law partner of the individual's grandchild;
- (d) the spouse or common-law partner of the individual's child or of the child of the individual's spouse or common-law partner;
- (e) a parent, or the spouse or common-law partner of a parent, of the individual's spouse or common-law partner;
- (f) the spouse or common-law partner of a child of the individual's parent or of a child of the spouse or common-law partner of the individual's parent;
- (g) a child of a parent of the individual's spouse or common-law partner or a child of the spouse or common-law partner of the parent of the individual's spouse or common-law partner;
- (h) an uncle or aunt of the individual or of the individual's spouse or common-law partner or the spouse or common-law partner of the individual's uncle or aunt;
- (i) a nephew or niece of the individual or of the individual's spouse or common-law partner or the spouse or common-law partner of the individual's nephew or niece;
- (j) a current or former foster parent of the individual or of the individual's spouse or common-law partner;
- (k) a current or former foster child of the individual or the spouse or common-law partner of that child;
- (l) a current or former ward of the individual or of the individual's spouse or common-law partner;
- (m) a current or former guardian of the individual or the spouse or common-law partner of that guardian;
- (n) in the case of an individual who has the serious medical condition, a person, whether or not related to the individual by blood, adoption, marriage or common-law partnership, whom the individual considers to be like a close relative; and

(o) in the case of an individual who is the claimant, a person, whether or not related to the individual by blood, adoption, marriage or common-law partnership, who considers the individual to be like a close relative.

### **Certificate Issued by a Medical Practitioner**

**41.2** For the purpose of subsection 23.1(3) of the Act, the medical certificate under subsection 23.1(2) of the Act may be issued by the following persons:

(a) if the family member in need of care or support is in a geographic location in Canada where treatment by a medical doctor is not readily available, a medical practitioner designated by a medical doctor to provide treatment to the family member;

(b) if the family member in need of care or support is outside Canada, a medical doctor who is recognized by the appropriate government authority and has qualifications that are substantially similar to those of a medical doctor in Canada or, if the family member in need of care or support is in a geographic location outside Canada where treatment by a medical doctor is not readily available, a medical practitioner designated by that medical doctor to provide treatment to the family member.

### **Division of Compassionate Care Benefits**

**41.3** For the purpose of subsection 23.1(9) of the Act, the remaining weeks of unpaid benefits shall be divided as follows:

(a) if the number of weeks of unpaid benefits equals the number of eligible claimants, each eligible claimant will be paid a week of benefits;

(b) if the number of weeks of unpaid benefits is more than the number of eligible claimants, a week of benefits will be paid to eligible claimants in turn starting with the first family member to make a claim until all the weeks have been exhausted; or

(c) if the number of weeks of unpaid benefits is less than the number of eligible claimants, a week of benefits will be paid to eligible claimants in turn starting with the first family member to make a claim until all the weeks have been exhausted.

SOR/2003-393, s. 9; SOR/2006-135, s. 1

### **Work-Sharing Benefits**

**42.** Work-sharing benefits are payable to a claimant who is employed in work-sharing employment for each week of unemployment that falls in a benefit period established for the claimant, and subject to sections 43 to 49, the Act and any regulations made under the Act apply to the claimant, with such modifications as the circumstances require. SOR/2003-43, s. 2.

**43.** An interruption of earnings occurs, in respect of a person employed in work-sharing employment, at the beginning of the week in which there is a reduction of at least 10 per cent in the person's normal weekly earnings.

**44.** A claimant is not entitled to work-sharing benefits for any week for which the claimant claims benefits under section 12 of the Act.

**45.** Where a benefit period has been established in respect of a claimant and for any week during that benefit period the claimant is employed in work-sharing employment, the benefit period shall be extended by the total of those weeks and subsections 10(12) to 10(15) of the Act apply, with such modifications as the circumstances require. SOR/2002-157, s. 2.

**46.** Where a claimant becomes employed in work-sharing employment and a waiting period or any

portion of that period has not been served by the claimant as required by section 13 of the Act or earnings have not been deducted as required by subsection 19(1) of the Act, the serving of the period or the deduction of the earnings shall be deferred until that employment has terminated.

**47.** (1) Earnings received for any week by a claimant from work-sharing employment shall not be deducted from the work-sharing benefits payable pursuant to section 24 of the Act.

(2) Where a claimant receives earnings for any week other than by reason of work-sharing employment, there shall be deducted from the work-sharing benefits payable to the claimant in respect of that week the amount of the earnings that exceeds

(a) \$50, if the claimant's rate of weekly benefits determined pursuant to section 14 of the Act is less than \$200; or

(b) 25% of the claimant's rate of weekly benefits determined pursuant to section 14 of the Act, if that rate is \$200 or more.

**48.** The rate of weekly benefits payable to a claimant employed under a work-sharing agreement approved by the Commission for the purposes of section 24 of the Act is an amount that bears the same ratio to the claimant's rate of weekly benefits determined pursuant to section 14 of the Act that

(a) the number of hours, days or shifts that the claimant did not work because of the work-sharing agreement bears to

(b) the number of hours, days or shifts that the claimant would have worked for the employer according to the claimant's usual work schedule.

**49.** Work-sharing benefits shall not be taken into account for the purposes of paragraph 10(8)(a) of the Act or for determining the benefits payable under sections 22 and 23 of the Act.  
SOR/2002-157, s. 3.

### **Employment Benefits**

**50.** The following employment benefits are prescribed for the purposes of subparagraph 25(1)(b)(i) of the Act:

(a) the Job Creation Partnerships employment benefit established by the Commission under section 59 of the Act; and

(b) the Self-employment employment benefit established by the Commission under section 59 of the Act.

### **Work-force Reduction Process**

**51.** (1) Subject to the Act and these Regulations, but notwithstanding section 30 of the Act, a claimant who has left employment in accordance with an employer work-force reduction process that preserves the employment of co-workers may be paid benefits where

(a) the claimant accepted an offer to leave that employment voluntarily; and

(b) the employer has confirmed that the claimant's leaving resulted in the actual preservation of the employment of a co-worker whose employment would otherwise have been terminated in the course of the work-force reduction process.

(2) For the purposes of subsection (1), an employer work-force reduction process is a process

(a) that is initiated by the employer;



(b) that has as its objective a permanent reduction in the overall number of employees;

(c) that offers employees the option to leave employment voluntarily; and

(d) the elements of which, including the elements described in paragraphs (a) to (c), are documented by the employer.

## **Prescribed Circumstances for the Purposes of Subparagraph 29(c)(xiv) of the Act**

**51.1** For the purposes of subparagraph 29(c)(xiv) of the Act, other reasonable circumstances include

(a) circumstances in which a claimant has an obligation to accompany to another residence a person with whom the claimant has been cohabiting in a conjugal relationship for a period of less than one year and where

(i) the claimant or that person has had a child during that period or has adopted a child during that period,

(ii) the claimant or that person is expecting the birth of a child, or

(iii) a child has been placed with the claimant or that person during that period for the purpose of adoption; and

(b) circumstances in which a claimant has an obligation to care for a member of their immediate family within the meaning of subsection 55(2). SOR/2001-290, s.2

## **Loss of Part-time Employment Due to Work Stoppage**

**52.** (1) Subject to subsection (2), where a claimant loses a part-time employment or is unable to resume a part-time employment for any reason mentioned in subsection 36(1) of the Act, the maximum number of days of disentitlement of the claimant is five days per week ending on the occurrence, in respect of the part-time employment, of an event referred to in paragraph 36(1)(a) or (b) of the Act.

(2) Where a claimant loses a part-time employment or is unable to resume a part-time employment for any reason mentioned in subsection 36(1) of the Act, the number of days of disentitlement of the claimant in a week is, for the percentage that is set out in column I of the table to this subsection and that is the ratio between the claimant's average weekly insurable earnings in that part-time employment and the weekly insurable earnings as determined under section 14 of the Act, the corresponding number of days of disentitlement set out in column II of that table, ending on the occurrence, in respect of the part-time employment, of an event referred to in paragraph 36(1)(a) or (b) of the Act.

**Table**

<b>Column I Percentage</b>	<b>Column II Number of Days of Disentitlement</b>
more than 0 but not more than 10	0
more than 10 but not more than 30	1
more than 30 but not more than 50	2
more than 50 but not more than 70	3
more than 70 but not more than 90	4
more than 90	5

## Termination of Work Stoppage

**53.** (1) For the purposes of section 36 of the Act and subject to subsection (2), a stoppage of work at a factory, workshop or other premises is terminated when

(a) the work-force at the factory, workshop or other premises attains at least 85 per cent of its normal level; and

(b) the level of activity in respect of the production of goods or services at the factory, workshop or other premises attains at least 85 per cent of its normal level.

(2) Where, in respect of a stoppage of work, an occurrence prevents the attainment of at least 85 per cent of the normal level of the work-force or activity in respect of the production of goods or services at a factory, workshop or other premises, the stoppage of work terminates

(a) if the occurrence is a discontinuance of business, a permanent restructuring of activity or an act of God, when the level of the work-force or of the activity attains at least 85 per cent of that normal level, with the normal level adjusted by taking that occurrence into account; and

(b) if the occurrence is a change in economic or market conditions or in technology, when

(i) there is a resumption of activity at the factory, workshop or other premises, and

(ii) the level of the work-force and of the activity attains at least 85 per cent of that normal level as adjusted by taking that occurrence into account.

(3) For the purposes of calculating the percentages referred to in subsections (1) and (2), no account shall be taken of exceptional or temporary measures taken by the employer before and during the stoppage of work for the purpose of offsetting the effects of the stoppage.

SOR/2002-154, S.7

## Claimants Who Are Inmates of an Institution

**54.** A claimant who is an inmate of a prison or similar institution and who has been granted parole, day parole, temporary absence or a certificate of availability, for the purpose of seeking and accepting employment in the community, is not disentitled from receiving benefits by reason only of section 37 of the Act.

## Claimants Not In Canada

**55.** (1) Subject to section 18 of the Act, a claimant is not disentitled from receiving benefits for the reason that the claimant is outside Canada

(a) for the purpose of undergoing, at a hospital, medical clinic or similar facility outside Canada, medical treatment that is not readily or immediately available in the claimant's area of residence in Canada, if the hospital, clinic or facility is accredited to provide the medical treatment by the appropriate governmental authority outside Canada;

(b) for a period of not more than seven consecutive days to attend the funeral of a member of the claimant's immediate family or of one of the following persons, namely,

(i) a grandparent of the claimant or of the claimant's spouse or common-law partner,

(ii) a grandchild of the claimant or of the claimant's spouse or common-law partner,

(iii) the spouse or common-law partner of the claimant's son or daughter or of the son or daughter of the claimant's spouse or common-law partner,

(iv) the spouse or common-law partner of a child of the claimant's father or mother or of a child of the spouse or common-law partner of the claimant's father or mother,

(v) a child of the father or mother of the claimant's spouse or common-law partner or a child of the spouse or common-law partner of the father or mother of the claimant's spouse or common-law partner,

(vi) an uncle or aunt of the claimant or of the claimant's spouse or common-law partner, and

(vii) a nephew or niece of the claimant or of the claimant's spouse or common-law partner;

(c) for a period of not more than seven consecutive days to accompany a member of the claimant's immediate family to a hospital, medical clinic or similar facility outside Canada for medical treatment that is not readily or immediately available in the family member's area of residence in Canada, if the hospital, clinic or facility is accredited to provide the medical treatment by the appropriate governmental authority outside Canada;

(d) for a period of not more than seven consecutive days to visit a member of the claimant's immediate family who is seriously ill or injured;

(e) for a period of not more than seven consecutive days to attend a bona fide job interview; or

(f) for a period of not more than 14 consecutive days to conduct a bona fide job search.

(2) For the purpose of subsection (1), the following persons are considered to be members of the claimant's immediate family:

(a) the father and mother of the claimant or of the claimant's spouse or common-law partner;

(b) the spouse or common-law partner of the father or mother of the claimant or of the claimant's spouse or common-law partner;

(c) the foster parent of the claimant or of the claimant's spouse or common-law partner;

(d) a child of the claimant's father or mother or a child of the spouse or common-law partner of the claimant's father or mother;

(e) the claimant's spouse or common-law partner;

(f) a child of the claimant or of the claimant's spouse or common-law partner;

(g) a ward of the claimant or of the claimant's spouse or common-law partner; and

(h) a dependant or relative residing in the claimant's household or a relative with whom the claimant permanently resides.

(3) [Repealed, SOR/2001-290, s.3(3)]

(4) A claimant is not disentitled from receiving benefits in respect of pregnancy, the care of a child or children referred to in subsection 23(1) of the Act, the care or support of a family member referred to in subsection 23.1(2) of the Act or while attending a course or program of instruction or training referred to in paragraph 25(1)(a) of the Act, for the sole reason that the claimant is not in Canada.

(5) A major attachment claimant whose most recent interruption of earnings prior to making a claim for benefits is from insurable employment outside Canada is not disentitled from receiving benefits for the sole reason that the claimant is not in Canada if

(a) the benefits are in respect of pregnancy, the care of a child or children referred to in subsection 23(1) of the Act or the care or support of a family member referred to in subsection 23.1(2) of the Act;

(b) the claimant proves that they are incapable, by reason of illness, injury or quarantine, from performing the duties of their regular or usual employment or of other suitable employment.

(6) Subject to subsection (7), a claimant who resides outside Canada, other than a major attachment claimant referred to in subsection (5), is not disentitled from receiving benefits for the sole reason of their residence outside Canada if

(a) the claimant resides temporarily or permanently in a state of the United States that is contiguous to Canada and

(i) is available for work in Canada, and

(ii) is able to report personally at an office of the Commission in Canada and does so when requested by the Commission; or

(b) the claimant is qualified to receive benefits under Article VI of the Agreement between Canada and the United States respecting Unemployment Insurance, signed on March 6 and 12, 1942, and resides temporarily or permanently in one of the following places in respect of which the Commission has not, pursuant to section 16 of *the Employment and Immigration Department and Commission Act*, suspended the application of that Agreement, namely,

(i) the District of Columbia,

(ii) Puerto Rico,

(iii) the Virgin Islands, or

(iv) any state of the United States.

(7) Subject to subsection (10), the maximum number of weeks for which benefits may be paid in a benefit period, in respect of a claimant referred to in subsections (5) and (6) who is not disentitled from receiving benefits, is

(a) in the case of benefits that are paid for a reason referred to in subsection 12(3) of the Act, the applicable number of weeks referred to in subsections 12(3) to (6) of the Act; and

(b) in any other case, in respect of the number of hours of insurable employment in the claimant's qualifying period set out in column I of the table to this subsection, the corresponding number of weeks set out in column II of that table.

<b>Table</b>		
	<b>Column I</b>	<b>Column II</b>
<b>Item</b>	<b>Number of Hours of Insurable Employment</b>	<b>Number of Weeks of Benefits</b>
1.	420 – 454	10
2.	455 – 489	10
3.	490 – 524	11
4.	525 – 559	11
5.	560 – 594	12
6.	595 – 629	12
7.	630 – 664	13
8.	665 – 699	13
9.	700 – 734	14
10.	735 – 769	14
11.	770 – 804	15
12.	805 – 839	15
13.	840 – 874	16
14.	875 – 909	16
15.	910 – 944	17
16.	945 – 979	17
17.	980 – 1014	18
18.	1015 – 1049	18
19.	1050 – 1084	19
20.	1085 – 1119	19
21.	1120 – 1154	20
22.	1155 – 1189	20
23.	1190 – 1224	21
24.	1225 – 1259	21
25.	1260 – 1294	22
26.	1295 – 1329	22
27.	1330 – 1364	23
28.	1365 – 1399	23
29.	1400 – 1434	24
30.	1435 – 1469	25
31.	1470 – 1504	26
32.	1505 – 1539	27
33.	1540 – 1574	28
34.	1575 – 1609	29
35.	1610 – 1644	30
36.	1645 – 1679	31
37.	1680 – 1714	32
38.	1715 – 1749	33
39.	1750 – 1784	34
40.	1785 – 1819	35
41.	1820 - or more	36

(8) Subject to subsection (10), a claimant referred to in subsections (5) and (6), for whom a benefit period has been established and who subsequently becomes resident in Canada, continues to be entitled to receive benefits for not more than the maximum number of weeks referred to in subsection (7).

(9) Subject to subsection (10), the maximum number of weeks for which benefits may be paid in the benefit period, in respect of a claimant for whom a benefit period has been established in Canada and who subsequently becomes a claimant referred to in subsection (6), is the greater of

(a) the number of weeks for which the claimant has already received benefits in Canada; and

(b) the number of weeks to which the claimant would have been entitled under subsection (7) if the claimant had been temporarily or permanently resident in a place referred to in subsection (6) when the benefit period was established.

(10) In a claimant's benefit period, a claimant who is not in Canada or a claimant referred to in subsection (8), subject to the applicable maximums set out in paragraphs (7)(a) and (b), may combine the weeks of benefits to which the claimant is entitled, but the total number of weeks of benefits shall not exceed 50. If the benefit period:

(a) is extended under subsection 10(13) of the Act, the maximum number of combined weeks is 65;

(b) is extended under subsection 10(13.1) or (13.2) of the Act, the maximum number of combined weeks is 56; and

(c) is extended under subsection 10(13.3) of the Act, the maximum number of combined weeks is 71.

(11) A claimant is not disentitled from receiving benefits for the sole reason that the claimant is outside Canada if the claimant is outside Canada, with the approval of the Commission, in the course of the claimant's employment under the Self-employment employment benefit established by the Commission under section 59 of the Act or under a similar benefit that is provided by a provincial government or other organization and is the subject of an agreement under section 63 of the Act.

(12) Subject to subsection (13), where a claimant makes a claim for the purposes of this section, the claim shall be sent in an envelope or package addressed to the Commission, by mail or by means of a confirmed delivery service.

(13) Where a claim is sent by the claimant to the Commission in a manner other than the manner required by subsection (12), the claim shall be reviewed by an employee of the Commission at the time of importation. SOR/97-31, s. 21.; SOR/2000-393, S. 1; SOR 2001-290, s.3; SOR/2002-157, s.4; SOR/2003-393, s. 10.

## **Provision of Information**

**55.1** (1) In order to enable the Commission to substantiate proof provided to it by claimants in respect of their fulfilment of conditions for receiving or continuing to receive benefits, employers shall provide, in writing on a monthly basis to the Commission, information in respect of their employees concerning the date of commencement of employment, periods of employment, amounts earned during employment and the reasons for separation from employment.

(2) Subsection (1) only applies to employers

(a) who hired 10 or more employees within the past 12 months or who advise the Commission in writing that they expect to do so within the next 12 months; or

(b) who were required under subsection 19(2) to complete 10 or more records of employment within the past 12 months or who advise the Commission in writing that they expect that they will be required to do so within the next 12 months. SOR/2004-312, s. 1

### **Write-off of Amounts Wrongly Paid, Penalties and Interest**

**56.(1)** A penalty owing under section 38, 39 or 65.1 of the Act or an amount payable under section 43, 45, 46, 46.1 or 65 of the Act, or the interest accrued on the penalty or amount, may be written off by the Commission if

(a) the total of the penalties and amounts, including the interest accrued on those penalties and amounts, owing by the debtor to Her Majesty under any program administered by the Department of Human Resources Development does not exceed \$20, a benefit period is not currently running in respect of the debtor and the debtor is not currently making regular payments on a repayment plan;

(b) the debtor is deceased;

(c) the debtor is a discharged bankrupt;

(d) the debtor is an undischarged bankrupt in respect of whom the final dividend has been paid and the trustee has been discharged;

(e) the overpayment does not arise from an error made by the debtor or as a result of a false or misleading declaration or representation made by the debtor, whether the debtor knew it to be false or misleading or not, but arises from

(i) a retrospective decision or ruling made under Part IV of the Act, or

(ii) a retrospective decision made under Part I or IV of the Act in relation to benefits paid under section 25 of the Act; or

(f) the Commission considers that, having regard to all the circumstances,

(i) the penalty or amount, or the interest accrued on it, is uncollectable, or

ii) the repayment of the penalty or amount, or the interest accrued on it, would result in undue hardship to the debtor.

(2) The portion of an amount owing under section 47 or 65 of the Act in respect of benefits received more than 12 months before the Commission notifies the debtor of the overpayment, including the interest accrued on it, may be written off by the Commission if

a) the overpayment does not arise from an error made by the debtor or as a result of a false or misleading declaration or representation made by the debtor, whether the debtor knew it to be false or misleading or not; and

b) the overpayment arises as a result of

(i) a delay or error made by the Commission in processing a claim for benefits,

(ii) retrospective control procedures or a retrospective review initiated by the Commission,

(iii) an error made on the record of employment by the employer,

(iv) an incorrect calculation by the employer of the debtor's insurable earnings or hours of insurable employment, or

(v) an error in insuring the employment or other activity of the debtor.  
SOR/2002-236, s. 2

## **Interest on Amounts Owing to Her Majesty**

**56.1** (1) The following definitions apply in this section.

"average bank rate" means the simple arithmetic mean of the bank rates that are established during the month before the month in respect of which interest is being calculated. (*taux d'escompte moyen*)

"bank rate" means the rate of interest established weekly by the Bank of Canada as the minimum rate at which the Bank of Canada makes short-term advances to members of the Canadian Payments Association. (*taux d'escompte*)

"debt arising from an act or omission" means an amount payable under section 43, 45, 46, 46.1 or 65 of the Act in respect of which a penalty was imposed under section 38, 39 or 65.1 of the Act or a warning was issued under section 41.1 of the Act or in respect of which a prosecution was undertaken under section 135 or 136 of the Act or under the *Criminal Code*, and includes an amount payable under section 38, 39 or 65.1 of the Act and an amount payable as a result of the judgment of a court. (*dette résultant d'un acte délictueux*)

(2) If an appeal in respect of a penalty imposed under section 38, 39 or 65.1 of the Act or of a warning issued under section 41.1 of the Act results in the rescinding of the penalty or warning or if a claimant is eventually acquitted in a prosecution under section 135 or 136 of the Act or under the *Criminal Code*, the debt that was the subject of the decision is not a debt arising from an act or omission.

(3) Interest accrues, at a rate that is calculated daily and compounded monthly at the average bank rate plus three per cent, on all debts arising from an act or omission and owing to Her Majesty under section 47 or 65.2 of the Act on or after the day this section comes into force.

(4) The accrual of interest on an amount owing to Her Majesty under section 47 or 65.2 of the Act, at the rate set out in subsection (3), begins on the day on which the debtor is notified of the amount owing.

(5) Subject to subsection (6), interest does not accrue on an amount owing to Her Majesty under section 47 or 65.2 of the Act during the period in which an appeal or other review of the decision that gave rise to the obligation to pay that amount is pending.

(6) An appeal or other review referred to in subsection (5) does not include the reconsideration of a decision by the Commission under section 41, 52 or 120 of the Act.

(7) The accrual of interest on an amount owing to Her Majesty under section 47 or 65.2 of the Act ceases on the day on which

(a) repayment of the amount owed to Her Majesty and any interest accrued on that amount is received by Her Majesty or a duly authorized agent of Her Majesty;



- (b) the debtor dies;
- (c) the amount owed is written off under section 56; or
- (d) the accrued interest is written off under section 56.

(8) The Commission may waive or reduce the amount of interest provided for in this section if

- (a) the administrative costs of collecting the interest owing would exceed the amount of that interest;
- (b) the interest is payable in respect of an amount in dispute where the dispute has been settled, in whole or in part, in favour of the debtor; or
- (c) the accrual of interest on a particular penalty or amount owing would result in undue hardship to the debtor. SOR/2002-236, s. 3.

### **Deductions from Benefits for Payments to Governments and Authorities**

**57.** (1) In this section, "deduction" means a deduction from benefits that is made by the Commission pursuant to subsection 42(3) of the Act.

(2) No deduction shall be made in respect of any advance or assistance or welfare payment paid by the Government of Canada or any of its agencies, a provincial or municipal government or any other authority prescribed by this section, unless

- (a) an arrangement has been entered into between the Commission and the Government of Canada or any of its agencies, the provincial government or the municipal government or the prescribed authority in respect of the deduction; and
- (b) the person to whom the payment is made has consented pursuant to subsection 42(3) of the Act to the deduction by signing the form supplied by the Commission.

(3) The Commission may at any time terminate an arrangement entered into pursuant to subsection (2).

(4) The council of an Indian band, referred to as a "council of the band" in subsection 2(1) of the Indian Act, is a prescribed authority for the purposes of subsection 42(3) of the Act.

### **PART II - NATIONAL EMPLOYMENT SERVICE (Sections 58 to 59)**

**58.** The national employment service maintained by the Commission under subsections 60(1) and (2) of the Act shall, for the purpose of facilitating the fullest possible integration into the Canadian work force of persons who need assistance in competing in the labour market, in cooperation with interested public authorities, employers, unions and organizations representing industries and industrial sectors,

- (a) collect and analyse the available information on the situation of the labour market, including information on labour market supply and demand, the economic and employment situations of individuals, families and communities, career and learning trends, and social and community conditions, and its probable evolution, both in Canada as a whole and in different industries, occupations and areas;
- (b) make that information available systematically and promptly to interested public authorities, the employers' and workers' organizations concerned and the general public;

(c) help workers find suitable employment by

(i) making available to them information on employment opportunities locally, regionally and nationally, including information on specific job openings as well as general information on careers and occupations that are in demand in the labour market and the educational and skill requirements for those careers or occupations,

(ii) where appropriate, referring them to other sources of labour market information such as social service agencies and community employment services organizations,

(iii) obtaining from workers seeking employment such information as is necessary to effect proper referrals to employment opportunities within Canada and abroad,

(iv) in accordance with local community-based service and client targeting strategies, interviewing and counselling workers, when necessary, to assess their employment needs and assist them to develop action plans in order to address those needs, and

(v) providing them with information on the availability of special assistance where they are experiencing particular difficulty obtaining or keeping employment; and

(d) help employers find suitable workers by

(i) obtaining from them information on job vacancies and such information as is necessary to effect proper referrals of workers to the employers,

(ii) advising them on various ways to meet their employment needs, and

(iii) making available to them information on workers searching for employment.

**59.** The national employment service shall be made available at no cost to all workers whether insured or not or whether they are claiming unemployment benefits or not, and to all employers, workers' organizations and interested public and private organizations providing employment assistance services to workers.

### **PART III - REDUCTION OF PREMIUM FOR EMPLOYERS WITH WAGE-LOSS PLANS (Sections 60 to 76)**

#### **Interpretation**

**60.** The definition in this section applies to this Part.

"plan" means a wage-loss plan that covers insured persons employed by an employer, and includes a Weekly Indemnity Plan, a Special Weekly Indemnity Plan, a Cumulative Paid Sick Leave Plan and an Enhanced Cumulative Paid Sick Leave Plan referred to in sections 63, 64, 65 and 66, respectively.

## Application

61. This Part applies where insured persons, who are employed by an employer and are covered by a plan that meets the requirements of section 63, 64, 65 or 66, benefit from a reduction of the employer's premium in an amount at least equal to five-twelfths of the reduction.

### Reduction of Employer's Premium Rate

62. (1) Subject to subsection (2), an employer's premium rate fixed under section 68 of the Act shall be reduced, in respect of insured persons employed by that employer who are covered by a plan that meets the requirements of section 63, 64, 65 or 66 and is a qualifying plan pursuant to subsection 67(3), by the percentage by which

(a) the experience cost ratio calculated under subsection (3) in respect of each category of insured persons covered by such a plan is less than

(b) the first payer cost ratio calculated under subsection (4) for all insured persons.

(2) An employer's premium rate fixed under section 68 of the Act shall not be reduced in respect of

(a) an insured person who is not covered under a plan;

(b) an insured person who is covered under a plan that does not meet the requirements of section 63, 64, 65 or 66; or

(c) an insured person whose eligibility to use days of paid sick leave is deferred under a plan that meets the requirements of section 65 or 66.

(3) For the purpose of determining the experience cost ratio for a year, the Commission shall, in respect of each category of insured persons covered by plans that meet the requirements of section 63, 64, 65 or 66, divide

(a) the average cost of benefits paid under section 12 and paragraph 18(b) of the Act to insured persons whose interruption of earnings was by reason of illness, injury or quarantine

by

(b) the average amount of the yearly insurable earnings for the insured persons, with both averages being taken over the three years ending concurrently with the second year preceding the year for which the calculation is made.

(4) For the purpose of determining the first payer cost ratio for a year, the Commission shall, in respect of all insured persons, divide

(a) the average cost of benefits that would have been paid under section 12 and paragraph 18(b) of the Act to insured persons whose interruption of earnings was by reason of illness, injury or quarantine, as estimated by the Commission, if benefits payable under a group sickness or disability wage-loss indemnity plan or paid sick leave plan were disregarded for the purpose of determining benefits otherwise payable to persons under the Act,

by

(b) the average of the yearly insurable earnings for the insured persons,

with both averages being taken over the three years ending concurrently with the second year preceding the year for which the calculation is made.

## Standards

63. A Weekly Indemnity Plan shall meet the following requirements:

(a) an insured person who is employed by an employer and covered by the plan becomes eligible to claim benefits under the plan in respect of an illness or injury on or before the first day of the month following

(i) the last day of a period of not more than three months of continuous employment beginning on the day of commencement of the employment, or

(ii) if the plan is based on an hour-bank principle, the day on which the person has an accumulation of not more than 400 hours of active employment;

(b) where an insured person is required to serve an elimination period during which no benefit is payable under the plan, that period does not exceed 14 consecutive days starting with the first day of the period of incapacity due to illness or injury;

(c) benefits are paid in full under the plan regardless of

(i) the amount of the benefits that are payable to an insured person under the Act, and

(ii) the amount of the benefits, payable from any other source, that do not constitute earnings under section 35;

(d) the benefits payable to an insured person under the plan are equivalent to an amount that is equal to or greater than 55% of the insured person's normal weekly insurable earnings;

(e) subject to the elimination period referred to in paragraph (b), full benefits payable to an insured person under the plan are reinstated

(i) in the case of the recurrence of an illness or injury, after three months of active employment following their most recent absence due to that illness or injury or, where the plan is based on an hour-bank principle, after the accumulation of the first 400 hours of active employment by that person following their most recent absence due to that illness or injury, and

(ii) in the case of a new illness or injury, after one month of active employment following their most recent absence due to another illness or injury or, where the plan is based on an hour-bank principle, after the accumulation of the first 150 hours of active employment by that person following their most recent absence due to another illness or injury;

(f) in any case not referred to in paragraph (e) and subject to the elimination period referred to in paragraph (b), benefits are payable under the plan in respect of an illness or injury until the earliest of

(i) the end of a period of at least 15 weeks during which the benefits are paid,

(ii) the end of the period of incapacity due to the illness or injury,

(iii) the date the insured person retires, and

(iv) the date of the insured person's separation from employment for any reason other than illness or injury, where notice of the separation was given before the onset of the illness or the occurrence of the injury; and

(g) the only conditions precluding the payment of benefits under the plan to an insured person to whom they would be otherwise payable are conditions that preclude payment to an insured person

(i) who is not under the care of a licensed physician,

(ii) whose illness or injury is covered by federal or provincial laws respecting workers' compensation, the *Canada Pension Plan* or An Act respecting the *Québec Pension Plan*, where amounts paid under those laws or Acts constitute earnings under section 35,

(iii) whose illness or injury is intentionally self-inflicted,

(iv) whose illness or injury results from service in the armed forces,

(v) whose illness or injury results from war or participation in a riot or in a disturbance of the public order,

(vi) who becomes ill or is injured during a leave of absence or a period of paid vacation,

(vii) who is in receipt of benefits under section 22, 23 or 23.1 of the Act,

(viii) whose illness or injury is sustained while committing a criminal offence,

(ix) who is engaged in employment for a wage or profit during any period for which the person claims benefits under the plan,

(x) who becomes ill or is injured after having lost employment by reason of a stoppage of work attributable to a labour dispute at the place where the person was employed, if the person's right to benefits under the plan is reinstated on their return to active employment,

(xi) who is an inmate of a prison or similar institution,

(xii) who is not entitled to benefits payable under the Act because the person is not in Canada,

(xiii) whose illness results from the use of drugs or alcohol and who is not receiving continuing treatment for the use of drugs or alcohol,

(xiv) whose illness or injury, resulting from a motor vehicle accident, is covered by a provincial plan described in paragraph 35(2)(d),

(xv) who is receiving a retirement pension from the employer,

(xvi) who is absent from work because of plastic surgery performed solely for cosmetic purposes, except where the need for surgery is attributable to an illness or injury, or

(xvii) who, in the case of a recurring disability, is receiving benefits under a group long-term disability plan that contains a reinstatement provision, where the reinstatement period under that plan does not exceed six months.  
SOR/2003-393, s. 11.

**64.** A Special Weekly Indemnity Plan shall meet the following requirements:

(a) the plan must be provided or financed, in whole or in part, by an employer that is Her Majesty in right of a province, a provincial Crown corporation, a municipal authority or a public authority of a province or an institution primarily controlled, supported or financed by a province;

(b) the plan must satisfy all the requirements of section 63, except the requirements of paragraphs 63(e) and (f);

(c) subject to the elimination period referred to in paragraph 63(b), full benefits payable under the plan to an insured person are reinstated after one month of active employment following their most recent absence due to illness or injury; and

(d) in any case not referred to in paragraph (c) and subject to the elimination period referred to in paragraph 63(b), benefits under the plan are payable with respect to the insured person's illness or injury until the earliest of

(i) the end of a period of at least 52 weeks during which the benefits are paid,

(ii) the end of the period of incapacity due to the illness or injury,

(iii) the date the insured person retires, and

(iv) the date of the insured person's separation from employment resulting from any reason other than illness or injury, where notice of the separation was given before the onset of the illness or the occurrence of the injury.

**65.** A Cumulative Paid Sick Leave Plan shall meet the following requirements:

(a) the plan must satisfy all the requirements of section 63, except the requirements of paragraphs 63(e) and (f);

(b) the plan must credit an insured person covered by the plan, after the completion of the period referred to in subparagraph 63(a)(i) or after the accumulation of the number of hours referred to in subparagraph 63(a)(ii), with one or more days of paid sick leave for each subsequent full month of active employment, of which at least one day per month is available only for the insured person's illness or injury, while the insured person remains at home because of pregnancy or to care for a child or children referred to in subsection 23(1) of the Act or while the insured person is providing care or support to a family member referred to in subsection 23.1(2) of the Act;

(c) notwithstanding paragraph (b), the plan may

(i) allow the paid sick leave credit referred to in that paragraph to be prorated in relation to the total period of active employment in a month,

(ii) preclude the accumulation of paid sick leave for a month in which the insured person has not been actively employed for at least twice the number of hours in the insured person's normal work week, and

(iii) allow the insured person to use paid sick leave while remaining at home because of pregnancy or to care for a child or children referred to in subsection 23(1) of the Act or while providing care or support to a family member referred to in subsection 23.1(2) of the Act;

(d) where eligibility to use paid sick leave is deferred in the case of an insured person who is employed on a temporary basis or is serving a probationary period, it cannot be deferred for a period greater than 12 months beginning on the day the insured person commences employment or joins the plan;

(e) the days of paid sick leave available only in respect of the insured person's illness or injury, or while the insured person remains at home because of pregnancy or to care for a child or children referred to in subsection 23(1) of the Act or while the insured person provides care or support to a family member referred to in subsection 23.1(2) of the Act, that are not used for those purposes must be accumulated at the rate prescribed in paragraphs (b) and (c), and the maximum number of days of paid sick leave that may be so accumulated is not less than 75 working days; and

(f) subject to the elimination period referred to in paragraph 63(b), benefits are payable under the plan with respect to the insured person's illness or injury until the earliest of

(i) the end of a period of at least 75 working days during which the benefits are paid,

(ii) the end of the period of incapacity due to the illness or injury,

(iii) the exhaustion of all accumulated paid sick leave,

(iv) the date the insured person retires, and

(v) the date of the insured person's separation from employment for any reason other than illness or injury, where notice of the separation was given before the onset of the illness or the occurrence of the injury. SOR/2003-393, s. 12.

**66. An Enhanced Cumulative Paid Sick Leave shall meet the following requirements:**

(a) the plan must satisfy all the requirements of section 65, except the requirements of paragraph 65(b), subparagraph 65(c)(i) and paragraphs 65(e) and (f);

(b) the plan must credit an insured person covered by the plan, after the completion of the period referred to in subparagraph 63(a)(i) or after the accumulation of the number of hours referred to in subparagraph 63(a)(ii), with one and two thirds or more days of paid sick leave for each subsequent full month of active employment, of which at least one and two thirds days per month are available only for the insured person's illness or injury, while the insured person remains at home because of pregnancy or to care for a child or children referred to in subsection 23(1) of the Act or while the insured person is providing care or support to a family member referred to in subsection 23.1(2) of the Act;

(c) notwithstanding paragraph (b), the plan may allow the paid sick leave credit referred to in that paragraph to be prorated in relation to the total period of active employment in a month;

(d) the days of paid sick leave available only in respect of the insured person's illness or injury, while the insured person remains at home because of pregnancy or to care for a child or children referred to in subsection 23(1) of the Act, or while the insured person is providing care or support to a family member referred to in subsection 23.1 (2) of the Act, that are not used for those purposes, must be accumulated at the rate prescribed in paragraphs (b) and (c), and the maximum number of days of paid sick leave that may be so accumulated is not less than 125 working days; and

(e) subject to the elimination period referred to in paragraph 63(b), benefits are payable under the plan with respect to the insured person's illness or injury until the earliest of

(i) the end of a period of at least 125 working days during which the benefits are paid,

(ii) the end of the period of incapacity due to the illness or injury,

(iii) the exhaustion of all accumulated paid sick leave,

(iv) the date the insured person retires, and

(v) the date of the insured person's separation from employment for any reason other than illness or injury, where notice of the separation was given before the onset of the illness or the occurrence of the injury. SOR/2003-393, s. 13.

**67.** (1) A plan that meets the requirements of section 63, 64, 65 or 66 shall be evidenced by a formal written commitment, including one or a combination of any of the following:

(a) a union or association agreement;

(b) an industry-wide plan;

(c) a private carrier insurance policy;

(d) an undertaking contained in an employees' handbook;

(e) a board of directors' resolution that has been implemented;

(f) an undertaking contained in a personnel policy bulletin; or

(g) a memorandum or other document addressed to employees by their employer.

(2) Subject to section 70, where a plan referred to in section 63, 64, 65 or 66 becomes a qualifying plan or ceases to be a qualifying plan under subsection (4) at any time during the year for which a reduction of the employer's premium is made under subsection 62(1), the reduction shall apply to the number of months in the year during which the plan is a qualifying plan.

(3) A plan is a qualifying plan when it satisfies all the requirements of subsection (1) and section 63 or 64 or, subject to subsection (5), section 65 or 66.

(4) For the purpose of determining when a plan becomes or ceases to be a qualifying plan under this Part, where the plan becomes or ceases to be a qualifying plan

(a) on or before the 15th day of a month, it shall be considered to have done so on the first day of that month; and

(b) after the 15th day of a month, it shall be considered to have done so on the first day of the following month.

(5) A plan referred to in section 65 or 66 is considered to be a qualifying plan as of the date an application is made for a reduction of the employer's premium or the date it becomes a qualifying plan under subsection (4), whichever is later, if, on that date, each insured person covered by the plan is credited

(a) in the case of a plan referred to in section 65, with a number of days of paid sick leave equal to 72 minus the maximum number of days that could have been accumulated by the insured person since its commencement or during the six years preceding that date,



whichever is the shorter period; and

(b) in the case of a plan referred to in section 66, with a number of days of paid sick leave equal to 120 minus the maximum number of days that could have been accumulated by the insured person since its commencement or during the six years preceding that date, whichever is the shorter period.

### **Application for Reduction of Employer's Premium Rate**

**68.** (1) An application for a reduction of the employer's premium in respect of a category of insured persons shall be made to the Commission by an employer and shall

(a) be accompanied by a copy of the documents that represent the formal commitment referred to in subsection 67(1) or, where those documents have been provided to the Commission with a previous application and have since been amended, by a copy of the amendment;

(b) provide all the information necessary to determine whether the plan meets the requirements of this Part; and

(c) be accompanied by the employer's undertaking that the insured persons will benefit from the reduction of the employer's premium in an amount at least equal to five twelfths of the reduction, as required by subsection 69(1) of the Act.

(2) Where an application referred to in subsection (1) is incomplete or where the Commission requires further information or documentation in order to make a decision on the application and the Commission requests that information or documentation from the employer, the employer shall provide the information or documentation within 30 days after the request is made, and where the information or documentation is not provided to the Commission within that time, an officer of the Commission shall make a decision on the existing information or documentation.

**69.** (1) For the purposes of an application for a reduction of the employer's premium rate, an employer shall group the insured persons employed by the employer into the following categories:

(a) insured persons who are covered by a plan that satisfies the requirements of section 63;

(b) insured persons who are covered by a plan that satisfies the requirements of section 64;

(c) insured persons who are covered by a plan that satisfies the requirements of section 65, except the insured persons referred to in paragraph 65(d);

(d) insured persons who are covered by a plan that satisfies the requirements of section 66, except the insured persons referred to in paragraph 65(d); and

(e) all other insured persons, including those referred to in paragraph 65(d).

(2) Where insured persons are grouped by an employer as required by subsection (1), the employer shall

(a) on notification by the Commission that the plan satisfies the requirements of section 63, 64, 65 or 66, request immediately from the Canada Customs and Revenue Agency a separate account number in respect of each category of insured persons referred to in that subsection;

(b) notify the Commission immediately on receipt of those account numbers;

(c) beginning not later than with the first remittance for the first month from which the employer's premium reduction is applicable, remit to the Canada Customs and Revenue

Agency the employer's premium payable in respect of insured persons in each category under those account numbers; and

(d) for each year for which the employer is notified that the employer's plan satisfies the requirements of section 63, 64, 65 or 66, submit to the Canada Customs and Revenue Agency, in respect of each separate account number, an information return showing, in respect of all insured persons in the category for which the separate account number was issued, the total amount of insurable earnings, the total amount of employees' premiums and the total amount of employer's premiums. SOR/2003-43, s. 3

**70.** Where an employer makes an initial application for a reduction of the employer's premium in respect of a category of insured persons covered by a plan that is a qualifying plan under subsection 67(3), and where under section 72 an officer of the Commission has decided that the employer meets the requirements for a premium reduction under this Part, the effective date of the reduction established under subsection 62(1) is

(a) the first day of the month following the month in which the application is made, where the application is made on or before the 15th day of that month; or

(b) the first day of the second month following the month in which the application is made, where the application is made after the 15th day of that month.

**71.** Where an employer has been issued a notice of a reduced premium rate for a year, the employer shall make an annual renewal application within 30 days after the date that a renewal application form is issued to the employer by the Commission.

**72.** Where an application for a reduction of the employer's premium has been made by an employer, an officer of the Commission shall decide whether the employer meets the requirements for receiving a premium reduction under this Part and shall notify the applicant of the decision and of the rate at which premiums are to be remitted.

**73.** An employer who makes an application referred to in subsection 69(4) of the Act shall produce evidence that a qualifying plan pursuant to paragraph 67(3) was in effect during the period in respect of which the application is made.

### **Modification of Plans**

**74.** Where a plan on the basis of which a reduction of the employer's premium has been granted is revised or modified in whole or in part or is cancelled, the employer shall notify the Commission of the revision, modification or cancellation within 30 days after the revision, modification or cancellation.

### **Appeals**

**75.** An employer may appeal to the Commission a decision made pursuant to section 72 of these Regulations or pursuant to subsection 69(4) of the Act or a new decision made pursuant to subsection 69(5) of the Act, within one year after the day on which notice of the decision or new decision is sent to the employer.

### **Transitional Provisions**

**76.** The Commission may reconsider an application by an employer for a reduction of the employer's premium for the year 1995 where the employer

(a) has made the application before December 4, 1994;

(b) has been considered for a premium reduction for the year 1995; and

(c) would have been entitled to a greater premium reduction if the application had been made on or after December 4, 1994.

## **PART III.1**

### **REDUCTION OF PREMIUMS FOR EMPLOYEES COVERED BY A PROVINCIAL PLAN AND FOR THEIR EMPLOYERS**

#### **DIVISION 1**

##### **GENERAL**

##### **Interpretation**

**76.01** The definitions in this section apply in this Part.

"provincial benefits" means allowances, money or other benefits, paid to a person under a provincial plan because of pregnancy or in respect of the care by that person of one or more of their new-born children or one or more children placed with them for the purpose of adoption. (*prestations provinciales*)

"provincial plan" means a plan, established under a provincial law, that provides for the payment of provincial benefits and in respect of which an agreement has been entered into between the Government of Canada and the province to establish a system for reducing employer's and employee's premiums where the payment of those benefits would have the effect of reducing or eliminating benefits payable under section 22 or 23 of the Act. (*régime provincial*)

"variable administrative costs" means the amount of direct operating costs incurred to provide benefits under sections 22 and 23 of the Act that fluctuate with the number of claims for such benefits that are processed, not including any fixed operating costs related to the administration of the Act. (*frais administratifs variables*)

#### **Adaptation of the Act and these Regulations**

**76.02** For the purposes of this Part, the Act and these Regulations are adapted as provided in this Part.

#### **DIVISION 2**

##### **PREMIUM REDUCTION SYSTEM**

##### **Standards**

**76.03** A provincial plan shall, beginning on the day on which it takes effect, meet the following requirements:

(a) the plan must provide for the payment of provincial benefits;

(b) the plan must, at a minimum, cover substantially the same persons as those who are insured persons under the Act;

(c) the global amount of provincial benefits payable to a person under the plan must be substantially equivalent to or greater than the global amount of benefits payable to a claimant under section 22 or 23 of the Act;

(d) the plan must provide that an applicant who has received at least one week of provincial benefits under it shall continue to receive such benefits for their full period of entitlement, even if, after receiving that first week of benefits, they become a resident of a different province;

(e) the plan must provide for premium adjustment payments to be made to the Receiver General by the province where the plan is established in respect of employer's and employee's premiums paid under the plan in respect of employees who are not covered by the plan because of their residency; and

(f) the plan must provide for the sharing, by the province with the Government of Canada, of information obtained in the course of administering the plan that is necessary for the administration of a premium reduction system established by this Part, as well as information prepared from that information.

### Premium Reduction

**76.04** The employee's and employer's premiums payable under sections 67 and 68 of the Act, respectively, shall be reduced as provided by sections 76.05 and 76.06 in the circumstances where the payment of provincial benefits to insured persons under a provincial plan would have the result referred to in subsection 69(2) of the Act in respect of benefits payable to those persons under section 22 or 23 of the Act.

**76.05** The premium reduction to be applied to employer's and employee's premiums shall be calculated by applying the premium reduction rate determined in accordance with section 76.06.

**76.06 (1)** The premium reduction rate for a year is the rate determined by subtracting the rate determined under paragraph (b) from the rate determined under paragraph (a), by dividing the result by 2.4 and by rounding off the quotient obtained from that division in accordance with section 66.4 of the Act:

(a) the rate determined by adding the following results, namely,

(i) the result obtained by dividing the estimated total amount of all benefits that will be paid under sections 22 and 23 of the Act in respect of that year to all claimants who are not covered by a provincial plan by the estimated total amount of insurable earnings in that year of all persons who are not covered by such a plan, and

(ii) the result obtained by dividing the estimated total amount of the variable administrative costs that will be incurred in that year to provide benefits under sections 22 and 23 of the Act to all claimants who are not covered by a provincial plan by the estimated total amount of insurable earnings in that year of all persons who are not covered by a provincial plan; and

(b) the rate determined by adding the following results, namely,

(i) the result obtained by dividing the estimated total amount of all benefits that will be paid under sections 22 and 23 of the Act in respect of that year to all claimants who are covered by a provincial plan by the estimated total amount of insurable earnings in that year of all persons who are covered by a provincial plan, and

(ii) the result obtained by dividing the estimated total amount of the variable administrative costs that will be incurred in that year to provide benefits under sections 22 and 23 of the Act to all claimants who are covered by a provincial plan

by the estimated total amount of insurable earnings in that year of all persons who are covered by a provincial plan.

(2) Actuarial estimates shall be used to determine the estimated amounts referred to in subsection (1).

(3) The results referred to in paragraphs (1)(a) and (b) shall be determined having regard to the same factors as those set out in subsections 65.3(1) and (2) of the Act.

**76.07** (1) The premium reduction rate determined under section 76.06 shall be made available to the public by the Commission as soon as possible after it is determined.

(2) The reference to "premium rates" in the second sentence of section 66.5 of the Act shall be read as including a reference to the premium reduction rate determined in accordance with subsection 76.06(1).

**76.08** The reimbursement amount paid by the Province of Quebec in accordance with section 4.5 of the Entente finale Canada-Québec sur le régime québécois d'assurance parentale, signed on March 1, 2005, shall be paid to the Receiver General and shall be considered as if it were an amount required to be paid into the Consolidated Revenue Fund under section 72 of the Act and shall be

(a) paid into the Consolidated Revenue Fund; and

(b) credited to the Employment Insurance Account and charged to the Consolidated Revenue Fund under paragraph 73(a) of the Act.

### **DIVISION 3**

#### **ENTITLEMENT**

##### **Disentitlement**

**76.09** (1) Subject to subsection (2), every claimant is disentitled to be paid benefits under section 22 or 23 of the Act if they are entitled to receive provincial benefits under a provincial plan.

(2) Subsection (1) does not apply if, at the request of the claimant, it is determined by the Commission that the amount of provincial benefits the claimant is entitled to receive under the provincial plan is not substantially equivalent to or greater than the amount of benefits that they are entitled to receive under section 22 or 23 of the Act.

(3) Every claimant who has received, or has applied for and is entitled to receive, provincial benefits under a provincial plan in respect of any week is disentitled to be paid benefits in respect of that same week under

(a) Part I of the Act, other than benefits under section 22 or 23 of the Act; or

(b) the *Employment Insurance (Fishing) Regulations*.

(4) For greater certainty, subsections (1) to (3) apply in respect of a claimant who has applied for and is entitled to receive provincial benefits under a provincial plan even if the claimant, after making that application, ceases to reside in the province where that plan was established.

(5) For greater certainty, where two persons are caring for the same child or children and one of them is a claimant referred to in subsection (4), subsections (1) to (3) apply in respect of the other person.

### **New Entrant or Re-entrant**

**76.1** (1) An insured person is considered not to be a new entrant or a re-entrant to the labour force for the purpose of subsection 7(4.1) of the Act 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) 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) 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 7(4.1) of the Act, had they not been paid provincial benefits,".

### **Insured Participant — Part II of the Act**

**76.11** A person is considered to be an insured participant for the purpose of paragraph 58(1)(b) of the Act if they would have been entitled to receive special benefits under section 22 or 23 of the Act and would have had a benefit period established for that purpose within the time required by that paragraph, had they not been paid provincial benefits.

### **Prescribed Hours and Weeks**

**76.12** (1) Paragraph 12(1)(a) is considered to include a week in respect of which a claimant is paid provincial benefits.

(2) Paragraph 12(2)(d) is considered to include a week in respect of which a claimant is paid provincial benefits as a prescribed week that is not to be taken into account when determining what weeks are within the rate calculation period.

### **Week Not Counted to Extend Qualifying Period**

**76.13** The reference to "a week during which the person was in receipt of benefits" in subsection 8(5) of the Act shall be read as including a week for which the person was paid provincial benefits.

### **Extension of the Benefit Period**

**76.14** (1) For the purpose of extending a claimant's benefit period under subsection 10(13), (13.1), (13.2) or (13.3) of the Act, each of the following references is considered to include a reference to the corresponding type of provincial benefits:

(a) a reference in paragraph 10(13)(b), (13.1)(b), (13.2)(b) or (13.3)(b) of the Act 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 10(13)(c), (13.1)(c), (13.2)(c) or (13.3)(c) of the Act 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 claimant's benefit period under subsection 10(13) of the Act, the reference following paragraph 10(13)(c) of the Act to "each of paragraphs 12(3)(a), (b) and (c)" shall be read as a reference to "paragraph 12(3)(c)".

(3) For the purpose of extending a claimant's benefit period under subsection 10(13.1) of the Act, the reference following paragraph 10(13.1)(c) of the Act to "each of paragraphs 12(3)(b), (c) and (d)" shall be read as a reference to "each of paragraphs 12(3)(c) and (d)".

(4) For the purpose of extending a claimant's benefit period under subsection 10(13.2) of the Act, the reference following paragraph 10(13.2)(c) of the Act to "each of paragraphs 12(3)(a), (b) and (d)" shall be read as a reference to "paragraph 12(3)(d)".

(5) For the purpose of extending a claimant's benefit period under subsection 10(13.3) of the Act, the reference following paragraph 10(13.3)(c) of the Act to "each of those paragraphs" shall be read as a reference to "each of paragraphs 12(3)(c) and (d)".

**76.15** If the child or children of a claimant 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 claimant's benefit period is considered to be extended under subsection 10(12) of the Act by the number of weeks during which the child or children are hospitalized.

#### **Reduction of Benefits**

**76.16** The benefits payable under section 22 or 23 of the Act to a claimant in respect of any week in respect of which the claimant has received or is entitled to receive provincial benefits shall be reduced as provided by section 76.17.

**76.17** An amount equal to the amount of the provincial benefits that a claimant has received or is entitled to receive in respect of any week under a provincial plan shall be deducted from the amount of benefits payable under section 22 or 23 of the Act to the claimant in respect of that same week, in addition to any deductions referred to in section 19 and subsections 22(5) and 23(3.5) of the Act.

#### **No Double Counting of Weeks**

**76.18** Where a week of provincial benefits has been taken into account for the purpose of any of sections 76.1 to 76.14 or 76.19, no week of benefits paid under section 22 or 23 of the Act shall be taken into account for that same purpose.

#### **Payment of Benefits**

**76.19** (1) Subject to subsection (2), each week of provincial benefits paid to a claimant is considered to be a week of benefits paid under the Act and counts as a week for the purpose of calculating

(a) the overall maximum number of weeks for which benefits may be paid in a benefit period under paragraphs 12(3)(a) and (b) of the Act taken together; and

(b) the maximum number of weeks referred to in paragraph 12(4)(a) or (b) of the Act for which benefits may be paid.

(2) Where a provincial plan provides for the optional payment of provincial benefits at an accelerated rate, such that the maximum amount of a particular type of provincial benefit payable

under the plan may be paid to the claimant over fewer weeks, and the claimant is paid those benefits at the accelerated rate, the number of weeks of benefits that those weeks of provincial benefits represent under the Act shall be determined by multiplying the number of weeks of the particular type of provincial benefits paid to the claimant by the result obtained by dividing the maximum number of such weeks of benefits payable at the non-accelerated rate by the maximum number of such weeks of benefits payable at the accelerated rate.

(3) If the determination of the number of weeks under subsection (2) results in a number that contains a fraction of a week, the number shall be rounded to the nearest multiple of one week or, if the amount is equidistant from two multiples of one week, to the higher multiple.

**76.2** If the maximum number of weeks referred to in paragraph 12(3)(a) or (b) or (4)(a) or (b) of the Act is less than the maximum number of weeks for which the corresponding types of benefits may be paid under a provincial plan, the excess number of weeks for which provincial benefits may be paid shall not be taken into account for the purpose of determining the maximum number of weeks referred to in that paragraph.

### **Persons Making Claims Under Different Regimes**

**76.21** (1) Subsection (2) applies in respect of two persons who are caring for the same child or children and who do not reside in the same province at the time the first one of them makes an application under section 22 or 23 of the Act or an application for provincial benefits.

(2) Subject to subsection (3), where one of the two persons referred to in subsection (1) has applied for and is entitled to receive benefits under section 23 of the Act (referred to in this section as "the claimant") and the other person has applied for and is entitled to receive provincial benefits (referred to in this section as "the provincial applicant"), unless they have entered into an agreement as to the number of weeks of such benefits they will each respectively apply for or there is a court order respecting the sharing of those weeks of benefits,

(a) if the number of weeks of benefits that the claimant would otherwise be entitled to receive under section 23 of the Act is an even number, the number of weeks of benefits payable to the claimant is half that number; and

(b) if that number is an odd number,

(i) where the claimant made the earlier application, one week of those benefits plus half of the remaining weeks of benefits is payable to the claimant, and

(ii) where the provincial applicant made the earlier application, half the number of weeks of benefits remaining, after deducting one week, are payable to the claimant.

(3) The maximum number of weeks of benefits that may be paid to the claimant under section 23 of the Act shall not be greater than the maximum number of weeks for which benefits may be paid under paragraph 12(3)(b) of the Act, less the number of weeks of provincial benefits that are paid to the provincial applicant, taking into account any weeks of provincial benefits that are paid at the accelerated rate referred to in subsection 76.19(2), if applicable.

### **Waiving of the Waiting Period**

**76.22** The reference in paragraph 40(6)(b) to "allowances, payments or other moneys are payable to the claimant by the claimant's employer or former employer as sick leave pay" shall be read as a reference to "allowances, payments or other moneys were payable to the claimant by the claimant's employer or former employer as sick leave pay or provincial benefits were paid to the claimant".



## Coming Into Force of Provincial Plan — Transition

**76.23** For greater certainty,

(a) if a birth or a placement for the purpose of adoption takes place before the day on which this Part comes into force, the Act applies in respect of any claim for benefits made in respect of that birth or placement; and

(b) if a claimant has, before the day on which this Part comes into force, been paid one week or more of benefits under section 22 or 23 of the Act in respect of a birth or a placement for the purpose of adoption, the Act continues to apply in respect of any claim relating to that birth or placement.

## DIVISION 4

### PREMIUM AND ADJUSTMENT PAYMENTS — PROVINCIAL PLANS

#### Premium for Insured Person Covered in a Province by a Provincial Plan but Working in Another Province

**76.24** Where an insured person who is covered by a provincial plan is employed by an employer in a province that has no provincial plan, the employer shall not take into account any premium reduction for the purpose of

(a) deducting the amount required to be deducted as or on account of the employee's premiums by paragraph 82(1)(a) of the Act; or

(b) remitting the amount of the employer's premium required to be remitted in respect of that employee by paragraph 82(1)(b) of the Act.

#### Premium for Insured Person Working in a Province that Has a Provincial Plan but Not Covered by that Plan

**76.25** Where an insured person is employed by an employer in a province that has a provincial plan and the insured person is not covered by that plan, the employer shall take into account any premium reduction for the purpose of

(a) deducting the amount required to be deducted as or on account of the employee's premiums by paragraph 82(1)(a) of the Act; and

(b) remitting the amount of the employer's premium required to be remitted in respect of that employee by paragraph 82(1)(b) of the Act.

#### Premium Adjustment for Employees Residing in a Province that Has a Provincial Plan but Working in a Province that Has No Provincial Plan

**76.26** (1) The Minister of National Revenue shall pay to a province that has a provincial plan a premium adjustment consisting of the total of the amounts that represent the premium reduction in respect of

(a) all amounts that are deducted by employers in a year, as or on account of employee's premiums, for every employee referred to in section 76.24 who resides in that province on December 31 of that year; and

(b) all amounts that are remitted by employers in a year as employer's premiums for every employee referred to in section 76.24 who resides in that province on December 31 of that year.

(2) The payment referred to in subsection (1) may be made by the Commissioner of Customs and Revenue.

#### **Premium Adjustment — Credits and Debits**

**76.27** (1) Any amount paid by a province to the Receiver General on account of a premium adjustment shall be considered to be an amount paid as or on account of premiums under paragraph 72(a) of the Act and shall be

(a) paid into the Consolidated Revenue Fund; and

(b) credited to the Employment Insurance Account and charged to the Consolidated Revenue Fund under paragraph 73(a) of the Act.

(2) Any amount paid under section 76.26 to a province on account of a premium adjustment shall be paid out of the Consolidated Revenue Fund and charged to the Employment Insurance Account as if it were an amount required to be paid out of that Fund and charged to that Account by subsection 77(1) of the Act.

#### **Overpayment and Refund of Employee's Premiums**

**76.28** (1) If a province that has a provincial plan has paid to the Receiver General a premium adjustment that corresponds to the amount of employees' premiums deducted in respect of an employee under that plan, that amount shall be taken into account as though the amount of the premium adjustment had been paid on account of the employee's premiums under the Act for the purpose of determining whether there has been an overpayment by the employee for the purpose of sections 95 and 96 of the Act.

(2) Where a premium adjustment in respect of employees' premiums referred to in paragraph 76.26(1)(a) and a premium adjustment in respect of employers' premiums referred to in paragraph 76.26(1)(b) has been paid to a province that has a provincial plan, the amount of those premium adjustments shall not be taken into account for the purposes of sections 95 and 96 of the Act.

### **DIVISION 5**

#### **ADMINISTRATIVE MATTERS**

##### **Social Insurance Number**

**76.29** A claimant's social insurance number shall be used for the purpose of facilitating the exchange, between the Government of Canada and a province, of information obtained with respect to a claimant under provincial law or the Act.

##### **Disclosure of Information**

**76.3** The Canada Customs and Revenue Agency and the Minister of National Revenue are authorized to disclose to a province that has a provincial plan information necessary for the administration of this Part that has been obtained by the Agency or the Minister under the Act or these Regulations and any information prepared from that information. SOR/2005-366, s. 1

## PART IV - PILOT PROJECTS (Sections 77 to 77.6)

### Pilot Project for Exemption from the Requirement to Make Periodic Claims for Benefits for Weeks of Unemployment in the Benefit Period

77. (1) The Commission shall establish Pilot Project No. 1 for the purpose of assessing the cost, the validity of payment, the operational impact and the effect on customer service to claimants of exempting them from the requirement in sections 49 and 50 of the Act to make periodic claims for benefits.

(2) The definitions in this subsection apply in this section.

"condition of entitlement to benefits" means any requirement, circumstance or condition referred to in subsection 49(1) of the Act.

"period of eligibility" means

(a) in respect of the benefits referred to in subparagraph (3)(d)(i)

(i) the aggregate of the waiting period referred to in section 13 of the Act and the period described in subsection 22(2) of the Act and any extension of the period described in subsection 22(2) of the Act, or

(ii) the aggregate of the period referred to in subsection 23(2) of the Act and the waiting period referred to in section 13 of the Act, unless that waiting period has already been taken into account for the purposes of subparagraph (i); and

(b) in respect of the benefits referred to in subparagraph (3)(d)(ii), the period during which the claimant attends a course or program, referred to in paragraph 25(1)(a) of the Act, that is an apprenticeship course or an apprenticeship program.

(3) A claimant is eligible to participate in Pilot Project No. 1 where

(a) the claimant resides in Canada;

(b) the claimant makes an initial claim for benefits or a claim in respect of which subsection 26(2) applies;

(c) the claimant's period of eligibility begins on or after June 30, 1996 and ends not later than June 26, 1999; and

(d) the claimant makes a claim for benefits in respect of every week of unemployment in the claimant's period of eligibility

(i) for either of the reasons referred to in paragraphs 12(3)(a) and (b) of the Act, or

(ii) under section 25 of the Act, to attend an apprenticeship course or an apprenticeship program.

(4) A claimant who is eligible to participate in Pilot Project No. 1 and who wishes to participate in the project shall complete and sign a form, supplied by the Commission, agreeing that

(a) to the best of the claimant's knowledge at the time of signing the form, there are no conditions of entitlement to benefits that will not be fully met for each week in the period of eligibility following the waiting period, except in respect of earnings that may be deducted pursuant to section 19, 22 or 23 of the Act during that period; and

(b) should the claimant cease to meet a condition of entitlement to benefits at any time

during the period of eligibility where failure to meet that condition has the effect of reducing or eliminating any benefits for any week in the period of eligibility, the claimant will notify the Commission of the condition as soon as possible.

(5) For the purposes of sections 49 and 50 of the Act, a claimant who participates in Pilot Project No. 1 is, for the purpose of this section, deemed to have made a claim for benefits for every week of unemployment in the claimant's period of eligibility.

(6) Where the Commission becomes aware that the claimant does not meet a condition of entitlement to benefits during the claimant's period of eligibility, the Commission may terminate the claimant's participation in Pilot Project No. 1 as of the date on which the Commission becomes aware of the claimant's failure to meet the condition.

(7) Paragraph (3)(a) ceases to be in force on April 1, 1997.

### **Pilot Project Extending the Benefit Period of Certain Claimants**

**77.1** (1) The Commission establishes Pilot Project No. 5 for the purpose of assessing the effect of allowing claimants who are entitled to benefits for one or more weeks for which they receive or are entitled to receive an indemnity payment described in paragraph 35(2) (f) to choose not to be paid benefits for those weeks.

(2) Pilot Project No. 5 includes all claimants

(a) whose benefit period begins or ends during the Pilot Project;

(b) who receive or are entitled to receive an indemnity payment described in paragraph 35(2) (f) during their benefit period; and

(c) who are entitled to benefits for one or more weeks for which they receive or are entitled to receive an indemnity payment described in paragraph 35(2) (f).

(3) A claimant who chooses not to be paid benefits to which they are entitled for one or more weeks for which they receive or are entitled to receive an indemnity payment described in paragraph 35(2) (f) is, for the purposes of paragraph 10 (10) (d) of the Act, deemed to have proved that they are not entitled to benefits for those weeks.

(4) The following applies to a claimant who, after being paid benefits for one or more weeks for which they received or were entitled to receive an indemnity payment described in paragraph 35(2) (f), chooses not to be paid benefits:

(a) if the Commission informed the claimant about Pilot Project No. 5 before the claimant was paid benefits, subsection (3) does not apply in respect of the week or weeks for which a benefit was paid; and

(b) if the Commission did not inform the claimant about the Pilot Project before the claimant was paid benefits, subsection (3) applies in respect of the week or weeks for which a benefit was paid and the claimant must repay the benefits paid.

(5) A claimant may rescind a choice made by them under subsection (3). A claimant who rescinds shall be paid benefits to which they are entitled.

(6) Pilot Project No. 5 does not apply to a week preceding the week in which this section comes into force or a week following the week in which this section ceases to have effect.

## **Pilot Project Relating to Increased Weeks of Benefits**

**77.2** (1) The Commission establishes Pilot Project No. 6 for the purpose of assessing the costs and impact of increasing weeks of benefits in selected economic regions.

(2) Pilot Project No. 6 includes each claimant

(a) whose benefit period is established in the period beginning on June 6, 2004 and ending on June 4, 2006; and

(b) who, at the time the benefit period is established, is ordinarily resident in a region described in Schedule I that is set out in Schedule II.1.

(3) Despite subsection 12(2) of the Act, the maximum number of weeks for which benefits may be paid in a benefit period that is established for a claimant who is included in Pilot Project No. 6 shall be determined in accordance with the table set out in Schedule II.2 by reference to the regional rate of unemployment that applies to the claimant and the number of hours of insurable employment of the claimant in their qualifying period.

## **Pilot Project for Calculating Benefit Rate Based On Claimant's 14 Highest Weeks of Insurable Earnings**

**77.3** (1) Pilot Project No. 7 is established for the purpose of testing whether paying benefits based on calculating the rate of weekly benefits using the insurable earnings from a claimant's 14 highest weeks of insurable earnings in the qualifying period would encourage claimants to accept all available work.

(2) Pilot Project No. 7 applies in respect of every claimant whose benefit period is established on or after October 30, 2005 and who is ordinarily resident in a region described in Schedule I that is set out in Schedule II.3, other than a claimant in respect of whom the *Employment Insurance (Fishing) Regulations* apply.

(3) For the purposes of Pilot Project No. 7,

(a) subsections 14(2), (4) and (4.1) of the Act do not apply;

(b) the reference in subsection 14(3) of the Act to "the rate calculation period" shall be read as a reference to "the qualifying period";

(c) the references in section 24.1 of these Regulations to "the rate calculation period" shall be read as references to "the qualifying period";

(d) section 24.2 of these Regulations does not apply;

(e) the insurable earnings in a claimant's qualifying period shall be the aggregate of

(i) the insurable earnings from not more than the 14 highest weeks of insurable earnings in that period, not including any insurable earnings paid or payable to the claimant in the qualifying period under section 24.1, and

(ii) any insurable earnings paid or payable to the claimant in the qualifying period under section 24.1; and

(f) a claimant's weekly insurable earnings shall be determined by dividing the insurable earnings in the claimant's qualifying period, determined in accordance with paragraph (e), by 14.

(4) If a claimant's insurable earnings have been reported on the record of employment by pay period, the Commission shall

(a) allocate the amount of insurable earnings proportionately over the pay period; or

(b) where the claimant or the employer provides evidence of the amount of insurable earnings actually earned by the claimant in any week within the pay period, allocate the amount of insurable earnings proportionately over the other weeks in that pay period.

### **Pilot Project Increasing Allowable Earnings from Employment While Claimant is Receiving Benefits**

**77.4** (1) Pilot Project No. 8 is established for the purpose of testing whether increasing the amount of a claimant's allowable earnings from employment while the claimant is receiving benefits would encourage more claimants to accept employment while receiving benefits.

(2) Pilot Project No. 8 applies in respect of every claimant who, at the time their benefit period is established, is ordinarily a resident in a region described in Schedule I that is set out in Schedule II.4.

(3) For the purpose of Pilot Project No. 8, subsection 19(2) of the Act is adapted such that the maximum allowable earnings shall be

(a) \$75, if the claimant's rate of weekly benefits is less than \$188; and

(b) 40% of the claimant's rate of weekly benefits, if that rate is \$188 or more.

### **Pilot Project Providing Increased Access to Employment and Unemployment Benefits for New Entrants and Re-entrants**

**77.5** (1) Pilot Project No. 9 is established for the purpose of testing the labour market impact of decreasing, for new entrants and re-entrants to the labour force who have access to employment programs established under Part II of the Act, the number of hours of insurable employment required in order for them to qualify for benefits.

(2) Pilot Project No. 9 applies in respect of every claimant who is a new entrant or a re-entrant to the labour force, whose benefit period is established on or after December 11, 2005 and who is ordinarily resident in a region described in Schedule I that is set out in Schedule II.5, other than a claimant in respect of whom the *Employment Insurance (Fishing) Regulations* apply.

(3) For the purposes of Pilot Project No. 9,

(a) the reference in paragraph 7(3)(b) of the Act to "910 or more hours of insurable employment" shall be read as a reference to "not less than 840 and not more than 909 hours of insurable employment";

(b) the reference in paragraph 7.1(2)(a) of the Act to "1,138 hours" shall be read as a reference to "1,050 hours";

(c) the reference in paragraph 7.1(2)(b) of the Act to "1,365 hours" shall be read as a reference to "1,260 hours";

(d) the reference in paragraph 7.1(2)(c) of the Act to "1,400 hours" shall be read as a reference to "1,294 hours"; and

(e) subsection 27(1) of the Act does not apply in respect of a referral made by the Commission under subsection (4).

(4) The Commission shall refer every claimant who meets the requirements of subsection (2) and has had the number of hours of insurable employment required by subsection 7(3) or 7.1(2) of the Act, as applicable and as adapted by subsection (3), to an appropriate agency to have their employment needs assessed and to determine whether skills training or other employment assistance would be of benefit to them in their search for suitable employment.

### **Pilot Project Relating to Extended Benefits**

**77.6** (1) Pilot Project No. 10 is established for the purpose of assessing the costs and impact of extending the number of weeks of benefits in selected economic regions.

(2) Pilot Project No. 10 includes each claimant

(a) whose benefit period is established in the period beginning on June 11, 2006 and ending on December 9, 2007; and

(b) who, at the time the benefit period is established, is ordinarily resident in a region described in Schedule I that is set out in Schedule II.6.

(3) Despite subsection 12(2) of the Act, the maximum number of weeks for which benefits may be paid in a benefit period that is established for a claimant who is included in Pilot Project No. 10 shall be determined in accordance with the table set out in Schedule II.7 by reference to the regional rate of unemployment that applies to the claimant and the number of hours of insurable employment of the claimant in their qualifying period.

SOR/97-245, s. 1; SOR/97-265, s. 1; SOR/98-551, s. 1; SOR/2000-17, s. 1; SOR/2000-268, s. 1; SOR/2001-495, s. 2; SOR/2002-364, s.3; SOR/2004-146, s. 1; SOR/2004-193, s. 1; SOR/2005-317, s. 1; SOR/2005-368 s. 1 ; 2005/369, s. 1; SOR/2006-166, s. 1

## **PART V - ADMINISTRATIVE PROVISIONS (Sections 78 to 92)**

### **Boards of Referees**

**78.** (1) Wherever practicable, members of a board of referees shall be selected in rotation from each of the panels established under subsection 111(3) of the Act.

(2) No person shall be a member of a board of referees for the consideration of a case

(a) in which that person is or has been a representative of the claimant or the employer;

(b) by which that person is or may be directly affected; or

(c) in which that person has taken any part in the proceedings either on behalf of an association or as a witness or otherwise.

(3) Any claim for benefits or any question that is appealed to a board of referees may be considered if

(a) the chairperson and one half of the members of the board are present; and

(b) the claimant or the claimant's representative and the employer or the employer's representative consent.

(4) In the case of a tie vote in an appeal referred to in subsection (3), the chairperson has a casting vote.

### **Appeals to a Board of Referees**

**79.** An appeal to a board of referees from a decision of the Commission shall be in writing, shall contain a statement of the grounds of appeal, and shall be filed at the office of the Commission from which the claimant, the employer or the person who is the subject of the decision received notification of the Commission's decision.

### **Hearings Before a Board of Referees**

**80.** (1) A claimant may apply for a hearing before a board of referees

(a) where the claimant appeals to the board under section 114 of the Act, at the time of filing the appeal; and

(b) where the claimant's claim for benefits is appealed by the employer under section 114 of the Act, within seven days after receipt of the notice of appeal.

(2) An employer may apply for a hearing before a board of referees

(a) where the employer appeals to the board under section 114 of the Act, at the time of filing the appeal; and

(b) where a claimant appeals to the board under section 114 of the Act, within seven days after receipt of the notice of appeal.

(3) A person, other than a claimant or an employer, who is the subject of a decision of the Commission and who appeals to a board of referees under section 114 of the Act may apply for a hearing before the board at the time of filing the appeal.

(4) An application for a hearing before a board of referees shall be in writing and be filed at the office of the Commission at which the appeal is filed.

(5) The chairperson of a board of referees may at any time direct that there shall be a hearing and, where an application for a hearing before the board has been filed under this section, shall grant a hearing.

(6) A person required to attend a hearing before a board of referees shall be notified, in writing, by the chairperson of the board or by an officer of the Commission.

(7) The chairperson of a board of referees is authorized to determine the procedure at a hearing before the board.

**81.** (1) Where a claimant and an employer have applied under subsections 80(1) and (2), respectively, for a hearing before a board of referees in respect of the same appeal, and oral evidence concerning a circumstance of sexual or other harassment mentioned in subparagraph 29(c)(i) of the Act is to be given at the hearing, the chairperson of the board of referees (in this section referred to as "the chairperson")

(a) may exclude from the hearing, on application by the claimant or employer, the claimant or the employer, any representative of the claimant or the employer, or any person who is



or may be a witness, during the time that oral evidence is being given; and

(b) shall set the date and time at which that oral evidence is to be given.

(2) Where oral evidence is given at a hearing in the absence of a claimant or an employer who has been excluded under subsection (1), the chairperson shall direct that the evidence be provided to the excluded claimant or employer, as the case may be, by making available to that claimant or employer a copy of the audio recording of that evidence

(a) on the same day that the evidence is given; or

(b) where it is not feasible to do so on that day, on the next working day.

(3) Where oral evidence is made available to an excluded claimant or employer in accordance with subsection (2), the excluded claimant or employer, as the case may be, may respond to that evidence orally at a hearing before the board of referees in the absence of all other persons excluded under paragraph (1)(a)

(a) on the same day that the evidence is made available; or

(b) where it is not feasible to do so on that day, within such time, reasonable in the circumstances, as may be fixed by the chairperson.

(4) Where a response has been provided by a claimant or an employer in accordance with subsection (3),

(a) the chairperson shall direct that the response be communicated to the claimant or employer who did not provide that response, in the manner and within the time set out in subsection (2); and

(b) the claimant or employer who did not provide that response may respond to that response in the manner and within the time set out in subsection (3).

## **Investigation and Report**

**82.** The chairperson of a board of referees may, at any time prior to the decision of the board, refer any question arising in relation to a claim for benefits to the Commission for investigation and report.

## **Decision of a Board of Referees**

**83.** (1) A board of referees shall give each of the parties interested in an appeal a reasonable opportunity to make representations concerning any matter before the board.

(2) Where any member of a board of referees dissents from the decision of the board, the reason for the dissent shall be recorded in the minutes of the proceedings of the board.

(3) When a board of referees has made its decision, the chairperson of the board shall file the decision at the office of the Commission from which notice of the Commission's decision was received.

(4) The appellant and any other party interested in an appeal shall be notified in writing of the board of referees' decision.

## **Suspension of Benefits Pending Appeal**

**84.** Benefits are not payable in accordance with a decision of a board of referees if, within 21 days after the day on which a decision is given, the Commission appeals to the umpire on the ground that the board has erred in law. SOR/2002-154, S.8

### **Appeals to the Umpire**

**85.** (1) An appeal brought by the Commission pursuant to section 115 of the Act shall

- (a) be made in writing;
- (b) contain a statement of the grounds of appeal; and
- (c) be filed at the office of the umpire.

(2) An appeal pursuant to section 115 of the Act at the instance of a claimant, an employer, an association of which the claimant or employer is a member or any other person who is the subject of the decision of a board of referees shall

- (a) be made in writing;
- (b) contain a statement of the grounds of appeal; and
- (c) be filed at the office of the Commission at which that decision was communicated pursuant to subsection 83(3).

(3) Where an appeal referred to in subsection (1) or (2) is filed, the Commission shall, within 60 days after the day on which it is filed,

- (a) prepare a docket containing
  - (i) a copy of the appeal,
  - (ii) all documents that have been considered by the board of referees during the appeal,
  - (iii) the transcript, if any, of the evidence given before the board of referees during the appeal, and
  - (iv) the written decision of the board of referees;

- (b) file the docket at the office of the umpire; and
- (c) mail a copy of the docket to each interested party.

(4) The Commission may file a statement of observations and representations in connection with an appeal at the office of the umpire and mail a copy thereof to each interested party, within the time provided by subsection (3) or such further time as the umpire may allow under section 116 of the Act.

(5) The appellant or any person or association that has a direct interest in an appeal or the decision thereon may, within 15 days after the day on which the docket referred to in subsection (3) is filed or within such further time as the umpire may allow under section 116 of the Act, file a statement of observations and representations at the office of the Commission where the appeal was filed, and the Commission shall forward the statement forthwith to the umpire.

(6) The question as to whether any person or association has a direct interest in an appeal referred to in subsection (1) or (2) or the decision thereon shall be decided by the umpire.

(7) Subject to section 86, the umpire may, at any time after the period of time referred to in subsection (5), render a decision on the basis of the documents filed.

### **Hearings Before the Umpire**

**86.** (1) The appellant, the Commission or any person or association having a direct interest in a decision of a board of referees or an appeal from such a decision may apply in writing to an umpire for a hearing and the umpire shall, after receiving the application, grant a hearing.

(2) Notwithstanding subsection (1), the umpire may at any time direct that there shall be a hearing.

(3) Subject to subsection (4), an application for a hearing shall, within 15 days after the day on which the docket referred to in subsection 85(3) is filed or within such further time as the umpire may allow under section 116 of the Act, be filed at the office of the Commission, and the Commission shall forward the application to the umpire.

(4) An application for a hearing that is made by the Commission may be filed at the office of the umpire at any time before the umpire has rendered a decision.

(5) At least 14 days prior to a hearing referred to in subsection (1), the Registrar of the office of the umpire shall give a notice in writing to each of the following persons:

(a) the appellant;

(b) the Commission;

(c) any person or association having a direct interest in the hearing; and

(d) such other persons or associations as the umpire may direct.

### **Decision of the Umpire**

**87.** (1) A decision of an umpire shall be given in writing and a copy of the decision shall be sent to

(a) the appellant;

(b) the Commission;

(c) any person or association having a direct interest in the decision; and

(d) such other persons or associations as the umpire may direct.

(2) Where, in respect of a claim for benefits, an application is made by the Commission under the *Federal Courts Act* for judicial review of the decision of the umpire, benefits are not payable in respect of that claim until the final determination of the claim.

(3) Where, in respect of a claim for benefits, an umpire has declared a provision of the Act or these Regulations to be ultra vires and an application is made by the Commission under the *Federal Courts Act* for judicial review of the decision of the umpire, benefits are not payable in respect of any other claim for benefits made after the decision of the umpire until the final determination of the claim under review, where the benefits would not otherwise be payable in respect of any such subsequent claim if the provision had not been declared ultra vires.  
2002, c. 8, ss. 182 (3).

## Payment of Benefits Pending a Coverage Decision

**88.** (1) Subject to subsection (2), where a request is made to an officer of the Canada Customs and Revenue Agency under paragraph 90(1) (a), (b), (c) or (d) of the Act for a ruling on the question of whether a claimant is or was employed in insurable employment for any number of hours in a particular period of employment or alleged employment, no benefits are payable in respect of any hour that is the subject of the ruling until the later of

(a) the day on which the officer's ruling on the question becomes final; and

(b) the day on which

(i) where an appeal from the ruling of that officer is made to the Minister of National Revenue, the decision of the Minister becomes final,

(ii) where an appeal from the decision of the Minister of National Revenue is filed with the Tax Court of Canada pursuant to section 103 of the Act, the decision of the Tax Court becomes final,

(iii) where an application is made to the Federal Court of Appeal pursuant to section 28 of the *Federal Courts Act* to review and set aside the decision of the Tax Court of Canada, the decision of the Federal Court of Appeal becomes final, or

(iv) if an application is made to the Supreme Court of Canada for leave to appeal from the decision of the Federal Court of Appeal, the final decision of the Supreme Court of Canada is given.

(2) Subsection (1) does not apply if the claimant qualifies to receive benefits under the Act on the basis of hours of insurable employment other than the hours that are the subject of the application. SOR/2003-43, s. 4; 2002, c. 8, ss. 182 (3).

## Social Insurance Numbers

**89.** (1) The definitions in this subsection apply in this section.

"Canadian citizen" " means citizen as in the *Citizenship Act*. (*citoyen canadien*).

"permanent resident" has the same meaning as in subsection 2(1) of the *Immigration and Refugee Protection Act*. (*résident permanent*)

"registration" means registration with the Commission under section 138 or 139 of the Act.

"status" means status with respect to the laws governing Canadian citizenship or immigration into Canada.

(2) Every person who is required by section 138 of the Act to be registered and who has not previously been registered shall apply to the Commission for registration within three days after becoming employed in insurable employment.

(3) Every application for the registration of a person shall be made in the form and manner required by the Commission, shall be accompanied by such documents and other information as is sufficient to determine the identity and status of the person, and shall contain the following information in respect of the person, namely,

(a) full name;

(b) name at birth, if it differs from the person's name at the time of the application;

- (c) date of birth;
- (d) place of birth;
- (e) mother's full name at birth; and
- (f) father's full name at birth.

(4) Subject to subsections (5) and (6), an application for registration of a person shall be made and signed by the person or by that person's legal representative or legal guardian or, where that person is unable to sign their name, the person may attest the application by making their mark in the presence of two witnesses who shall sign the application.

(5) An application for registration of a person who is under 12 years of age shall be made and signed by a parent or by the legal guardian of the person.

(6) Where an agreement providing for registration at birth has been made between the Commission and the government of the province where a person was born, an application for the registration of that person may be made and signed by the official responsible for such registration in that province.

(7) Where an application is made in accordance with subsection (3) in respect of a person who has not previously been registered, the Commission may register the person and assign a Social Insurance Number to the person, notwithstanding the absence of the signature or the mark and signatures required by subsection (4).

(8) Where a person who is required by law to have a Social Insurance Number is unwilling or unable to complete an application for registration because of religious beliefs or for other reasons, the Commission may register the person and assign a Social Insurance Number to that person, if the information it has in respect of that person is sufficient to determine the person's identity and status.

(9) Every application for the registration of a person who is in Canada, who is not a Canadian citizen or a permanent resident and in respect of whom the Minister of Citizenship and Immigration has, in accordance with section 90 of the *Immigration and Refugee Protection Act*, directed the Commission to issue a Social Insurance Number Card shall be accompanied by, in addition to the documents and information described in subsection (3), the grounds that support the application.

(10) Every application for the registration of a person who is not in Canada, who is not a Canadian citizen or a permanent resident and in respect of whom the Minister of Citizenship and Immigration has, in accordance with section 90 of the *Immigration and Refugee Protection Act*, directed the Commission to issue a Social Insurance Number Card shall be accompanied by, in addition to the documents and information described in subsection (3), the grounds that support the application.

(10.1) The Commission shall issue to each person described in subsection (9) or (10) who meets the applicable requirements set out in this section a Social Insurance Number Card that bears a number beginning with the digit "9".

(10.2) Subject to subsection (10.4), on or after March 30, 2003, every Social Insurance Number Card issued to a person described in subsection (9) shall bear an expiry date that is

(a) if an expiry date is indicated on the person's authorization to remain in Canada as determined by the Minister of Citizenship and Immigration, the same as the expiry date on the authorization; and

(b) if no expiry date is indicated on the person's authorization to remain in Canada as determined by the Minister of Citizenship and Immigration, two years after the date on which that Minister authorized the person to remain in Canada.

(10.3) On or after March 30, 2003, every Social Insurance Number Card that is issued to a person described in subsection (10) shall bear an expiry date which shall be five years after the date on which it is issued.

(10.4) A Social Insurance Number Card that is issued under subsection (10.1) is valid for a maximum of five years beginning on the date on which it is issued.

(10.5) In the case of a Social Insurance Number Card that was issued to persons other than Canadian citizens or permanent residents before March 30, 2003 and that has no expiry date, the card holder shall, on or before April 3, 2004, provide the Commission with documents and other information that are sufficient to confirm the identity and status of the card holder in accordance with subsection (3) and to establish that the person continues to require a Social Insurance Number Card.

(10.6) The Commission shall issue a new Social Insurance Number Card that bears a number beginning with the digit "9" and an expiry date in accordance with subsection (10.2) or (10.3), as applicable, to the card holder referred to in subsection (10.5) who meets the requirements of that subsection.

(10.7) Subject to subsection (10.8), no person shall use a Social Insurance Number Card or its number on or after

(a) in the case of a person described in subsection (10.5), April 3, 2004; and

(b) in the case of any other person, the expiry date indicated on their Social Insurance Number Card.

(10.8) If a Social Insurance Number Card issued under subsection (10.1) has expired, the Commission shall issue a new Social Insurance Number Card to the card holder if the documents and other information provided to the Commission, by the card holder or by a federal department or agency that is referred to in the *Treasury Board Manual*, Chapter 3-4, as amended from time to time, that relates to the use of the social insurance number, are sufficient to confirm the identity and status of that card holder in accordance with subsection (3) and to establish that the card holder continues to require a Social Insurance Number Card.

(11) Where a person who has been issued a Social Insurance Number Card that bears a number beginning with the digit "9" becomes a Canadian citizen or a permanent resident, the Commission shall, on application by the person, void that Social Insurance Number and, in its place, assign a new Social Insurance Number that begins with a digit other than "9" and issue a new Social Insurance Number Card to the person.

(12) Where a Social Insurance Number Card issued to a person has been lost, destroyed or defaced, the person may apply to the Commission for a new Social Insurance Number Card.

(13) Where a registered person named in an application for a new Social Insurance Number Card under subsection (12) or under section 140 of the Act is not a Canadian citizen or a permanent resident and has previously been assigned a Social Insurance Number that begins with a digit other than "9", the Commission shall void that number and assign a new Social Insurance Number that begins with the digit "9" and issue a new Social Insurance Number Card that bears an expiry date in accordance with subsection (10.2) or (10.3), as applicable.

(14) An application for a new Social Insurance Number Card under subsection (11) or (12) or under section 140 of the Act shall be made in the form and manner required by the Commission and shall contain

(a) the information and documents required by subsection (3); and

(b) the Social Insurance Number of the registered person or, if the number is not known to the person, a statement that the person previously had a Social Insurance Number.

(15) An employer who hires a person in insurable employment shall request the employee to produce to the employer a Social Insurance Number Card within three days after the employee commences employment.

(16) Subject to subsection (17), every person who becomes employed in insurable employment shall produce their Social Insurance Number Card to their employer within three days after commencing employment.

(17) Every person referred to in subsection (2) who becomes employed in insurable employment before being registered shall produce their Social Insurance Number Card to their employer within three days after receiving it.

(18) Where an employer is unable to ascertain the Social Insurance Number of a person who becomes employed in insurable employment, the employer shall report the matter to the local office of the Commission within six days after the person commences such employment and shall provide such information as will enable the Commission to determine the identity of the person.

(19) Every registered person employed in insurable employment who, in accordance with subsection (11) or (13), is assigned a new Social Insurance Number shall produce their new Social Insurance Number Card to their employer within three days after receiving it.

(20) A Social Insurance Number card shall not be imported or exported by any person by means of a confirmed delivery service unless the importation or exportation is verified by the Commission at the time of the importation or exportation as not being for a prohibited use described in subsection 141(1) of the Act. SOR/97-31, s. 22; SOR/2003-109, s. 1.

## **Electronic Systems**

**90.** Where any information is provided to the Commission in electronic or other form for the purposes of the Act or the regulations made under the Act, it shall be provided in a form and manner approved by the Commission.

**91.** (1) A claimant who makes an initial claim for benefits, or a claim for benefits for a week of unemployment, by telephone or other electronic means, and provides the information required by section 50 of the Act, is deemed

(a) to have expressed an intention to make a claim for benefits and to have made such a claim for the purposes of section 48 or 49 of the Act, as the case may be; and

(b) to have supplied the information recorded on the dated printout from the Commission's computerized benefit pay system as responses to the questions posed by the interactive response system by telephone or other electronic means.

(2) A claimant who provides their Social Insurance Number and the following information by telephone or other electronic means is deemed to have signed their respective claim for benefit:

(a) in the case of an initial claim for benefits, their date of birth and, if the initial claim is made by electronic means, the maiden name of the claimant's mother; and

(b) in the case of a claim for benefits for a week of unemployment, their personal identification number.

(3) A claim for benefits that is made by the means referred to in subsection (1) is deemed to have been made on the day that the information is received and recorded by the Commission's computerized benefit pay system.

(4) For greater certainty, sections 38 and 135 of the Act apply to a declaration made by electronic means.

(5) The acts and omissions specified in subsections 38(1) and 135(1) of the Act are deemed to include the acts and omissions of a person who knowingly attempts to interfere with the operation of the electronic systems used in the administration of the Act, and the penalty provided for by subsection 38(2) of the Act and the punishment provided for by subsection 135(3) of the Act are deemed to include the right to refuse access to those electronic systems to such a person.  
SOR/2002-274, s.4

### **Direct Deposit of Benefits**

**92.** (1) For the purposes of this section, sections 2 and 4 to 8 of the *Direct Deposit Regulations* apply.

(2) Subject to subsection (7), a claimant shall have their benefits deposited directly to their bank account if the claimant has provided the Commission with the number of an active account registered in the claimant's name in a financial institution in Canada.

(3) A claimant is responsible for the accuracy of the data supplied by the claimant in order to register for the direct deposit of benefits.

(4) In the absence of any evidence to the contrary, the following documents together constitute evidence of the transfer of funds to a claimant's account and the payment of benefits to the claimant:

(a) a document certified by a person acting for the Commission to be an extract from the record authorizing a direct deposit transaction, in respect of the claimant, to be directed to the financial institution where the account of the claimant is located; and

(b) a certified extract of the records of that financial institution indicating the crediting of the amount of the deposit to the account of the claimant.

(5) In order to terminate the direct deposit of benefits, the claimant shall notify the Commission.

(6) For greater certainty, sections 38 and 135 of the Act apply to declarations made in the context of the payment of benefits under this section.

(7) The acts and omissions specified in subsections 38(1) and 135(1) of the Act are deemed to include the acts or omissions of a person who knowingly attempts to interfere with the operation of the electronic systems used for the direct deposit of benefits, and the penalty provided for by subsection 38(2) of the Act and the punishment provided for by subsection 135(3) of the Act are deemed to include the right to refuse access to those electronic systems to such a person.

(8) Unless otherwise advised by the claimant, the Commission may redirect the deposit of benefits from an active account at a financial institution the number of which was provided to the Commission by the claimant to another financial institution, branch or account number when the financial institution notifies the Commission of a change of the financial institution, branch or account number. SOR/2002-274, s.5

### **PART VI - ALTERNATE ACCESS TO SPECIAL BENEFITS (Section 93)**

**93.** (1) An insured person who does not qualify to receive benefits under section 7 of the Act and who is claiming special benefits qualifies to receive the special benefits if the person



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

(b) has had 600 or more hours of insurable employment in their qualifying period.

(c) [Repealed SOR/2000-393, s. 3]

(2) Notwithstanding section 9 of the Act, where an insured person who qualifies under subsection (1) to receive special benefits makes an initial claim for benefits, a benefit period shall be established in respect of 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, 23, and 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) 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 claimant's benefit period, a sufficient number of hours of insurable employment that, when added to the hours in the claimant's qualifying period, equal or exceed the number of hours required under section 7 of the Act determined by reference to the week in which the benefit period began; and

(b) any regular benefits or additional special benefits are payable to the claimant in that benefit period in accordance with the Act, based on the hours of insurable employment 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/2000-393 s. 2 and 3; SOR/2003-393, s. 14.

## **PART VII - TRANSITIONAL PROVISIONS AND COMING INTO FORCE (Sections 94 to 95)**

### **Transitional Provisions**

[SOR/97-31, s. 23]

**94.** During the period beginning on June 30, 1996 and ending on January 4, 1997, a reference to "hours" in each of the following provisions shall be read as a reference to "weeks", with such modifications as the circumstances require:

(a) subsection 35(3);

(b) paragraph 35(7)(e);

(c) subparagraph 37(2)(c)(ii);

(d) subparagraph 56(2)(b)(iv);

(e) section 88; and

(f) subsection 93(5).

**94.1** Where, for the purposes of the Act and in respect of a benefit period established on or after January 5, 1997, a claimant presents evidence of a week of insurable employment that occurred before January 1, 1997, that week of insurable employment shall be considered to represent 35 hours of insurable employment. SOR/97-31, s. 24.

**94.2** Where, for the purposes of the Act and in respect of a benefit period established on or after January 5, 1997, a claimant presents evidence of insurable employment that occurred before January 1, 1997,

(a) the weeks of insurable employment shall be considered to fall consecutively backward beginning on whichever of the following days occurred first:

(i) the last day of the last pay period in 1996, and

(ii) the last day of remunerated insurable employment if that day falls before the last pay period in 1996; and

(b) if the number of weeks of insurable employment is

(i) 20 or less, the insurable earnings are considered to be for that number of weeks, and

(ii) greater than 20, the insurable earnings are considered to be for the last 20 weeks in the period of employment. SOR/97-31, s. 24.

**94.3** For the purpose of providing for the transition from weeks of insurable employment to hours of insurable employment where the remuneration for the last pay period beginning in December 1996 is paid to an insured person by their employer on or after January 1, 1997,

(a) the employer shall assess the insurability of the employment of that final pay period under these Regulations as they read on January 1, 1997; and

(b) the claimant shall, for the purposes of sections 7 and 12 of the Act, be determined to have worked in insurable employment for the greater of

(i) the number of hours provided for by section 94.1, and

(ii) the number of hours actually worked in each week or part of a week of insurable employment, of the final pay period, that falls in 1996.  
SOR/97-31, s. 24.

**94.4** Where, after January 5, 1997, section 59.1 of the *Unemployment Insurance Regulations*, as it read on June 29, 1996, applies and where the application of that section requires the consideration of insured weeks of employment in 1996 or earlier, section 94.1 of these Regulations shall be applied to convert those weeks in 1996 or earlier into hours and the number of weeks stipulated by paragraphs 59.1(2)(a) and (b) of the *Unemployment Insurance Regulations* shall be converted into an hourly equivalent by multiplying the number of weeks required by 35. SOR/97-310, s. 8.

### Coming Into Force

**95.** (1) Except as otherwise provided in this Part, these Regulations come into force on June 30, 1996.

(1.1) Sections 10 to 12 come into force on January 1, 1997.

(2) Sections 19 to 21 come into force on January 1, 1997.

(3) Sections 22 to 24 and 34, the Table to subsection 55(7) and paragraph 93(1)(c) come into force on January 5, 1997.

(4) The provision set out in Part I of Schedule III applies during the period beginning on June 30, 1996 and ending on December 31, 1996.

(4.1) The provision set out in Part I.1 of Schedule III applies in place of section 12 listed in subsection (1.1) during the period beginning on September 12, 1996 and ending on December 31, 1996.

(5) The provisions set out in Part II of Schedule III apply in place of the provisions listed in subsections (2) and (3) from June 30, 1996 until the coming into force of those provisions. SOR/96-436, s. 1.

## **SCHEDULE I**

### **(Subsection 18(1), 77.2(2), 77.3(2), 77.4(2), 77.5(2) and 77.6(2))**

[SOR/ 2001-495, s.3; SOR/2005-317, s. 2; SOR/ 2005-368, s.2; SOR/2005-369, s. 2; SOR/2006-166, s.2]

## **REGIONS FOR THE PURPOSES OF PARTS I AND VIII OF THE ACT**

### **Interpretation**

**1.** (1) The definitions in this subsection apply in this Schedule.

"census agglomeration" means a census agglomeration within the meaning of the Statistics Canada document entitled Standard Geographical Classification SGC 1996;

"census division" means a census division within the meaning of the Statistics Canada document entitled Standard Geographical Classification SGC 1996;

"census metropolitan area" means a census metropolitan area within the meaning of the Statistics Canada document entitled Standard Geographical Classification SGC 1996;

"census subdivision" means a census subdivision within the meaning of the Statistics Canada document entitled Standard Geographical Classification SGC 1996;

(2) For greater certainty, a reference in this schedule to the Standard Geographical Classification SGC 1996 is a reference to that document, including the Supplement to the Standard Geographical Classification (SGC 1996) Northwest Territories and the Supplement to the Standard Geographical Classification (SGC 1996) Nunavut. SOR/2000-17, s. 2

### **Regions**

#### **Ontario**

**2.** (1) The region of Ottawa, consisting of the portion of the Census Metropolitan Area of Ottawa—Hull that lies in the Province of Ontario.

(1.1) The region of Kingston, consisting of the Census Agglomeration of Kingston.

- (1.2) The region of Central Ontario, consisting of
- (a) the portion of Census Division No. 11 that is not part of the Census Agglomeration of Kingston;
  - (b) the portion of Census Division No. 18 that is not part of the Census Metropolitan Area of Oshawa or the Census Metropolitan Area of Toronto;
  - (c) the portion of Census Division No. 43 that is not part of the Census Metropolitan Area of Toronto; and
  - (d) Census Division Nos. 12 to 16, 41, 42, 44 and 46.
- (2) The region of Eastern Ontario, consisting of
- (a) those portions of Census Division Nos. 2 and 7 that are not part of the Census Metropolitan Area of Ottawa-Hull;
  - (b) the portion of Census Division No. 10 that is not part of the Census Agglomeration of Kingston; and
  - (c) Census Division Nos. 1, 9 and 47.
- (3) The region of Northern Ontario, consisting of
- (a) those portions of Census Division Nos. 52 and 53 that are not part of the Census Metropolitan Area of Sudbury;
  - (b) the portion of Census Division No. 58 that is not part of the Census Metropolitan Area of Thunder Bay; and
  - (c) Census Division Nos. 48, 49, 51, 54, 56, 57, 59 and 60.
- (4) The region of Oshawa, consisting of the Census Metropolitan Area of Oshawa.
- (5) The region of Toronto, consisting of the Census Metropolitan Area of Toronto.
- (6) The region of Hamilton, consisting of the Census Metropolitan Area of Hamilton.
- (7) The region of St. Catharines, consisting of the Census Metropolitan Area of St. Catharines—Niagara.
- (8) The region of London, consisting of the Census Metropolitan Area of London.
- (9) The region of Niagara, consisting of
- (a) the portion of Census Division No. 26 that is not part of the Census Metropolitan Area of Hamilton or the Census Metropolitan Area of St. Catharines—Niagara;
  - (b) the portion of Census Division No. 34 that lies east of and is not part of the Census Metropolitan Area of London; and
  - (c) Census Division Nos. 28 and 29.
- (10) The region of Windsor, consisting of the Census Metropolitan Area of Windsor.
- (11) The region of Kitchener, consisting of the Census Metropolitan Area of Kitchener.

(12) The region of Huron, consisting of

(a) the portion of Census Division No. 34 that is not part of the Census Metropolitan Area of London or the region of Niagara;

(b) the portion of Census Division No. 37 that is not part of the Census Metropolitan Area of Windsor; and

(c) Census Division Nos. 36 and 38.

(13) The region of South Central Ontario, consisting of

(a) the portion of Census Division No. 22 that is not part of the Census Metropolitan Area of Toronto;

(b) the portion of Census Division No. 30 that is not part of the Census Metropolitan Area of Kitchener;

(c) the portion of Census Division No. 39 that is not part of the Census Metropolitan Area of London; and

(d) Census Division Nos. 23, 31, 32 and 40.

(14) The region of Sudbury, consisting of the Census Metropolitan Area of Sudbury.

(15) The region of Thunder Bay, consisting of the Census Metropolitan Area of Thunder Bay.

(16) [ Repealed, SOR 2000-268, s.2 ]

SOR 2000-268, s.2

[Corrected, July 19, 2000, Canada Gazette Part I, Vol. 134, No. 15(E)]

## Quebec

**3.** (1) The region of Gaspésie-Îles-de-la-Madeleine, consisting of Census Division Nos. 1 to 8 and 98.

(2) The region of Quebec, consisting of the Census Metropolitan Area of Quebec City.

(3) The region of Central Quebec, consisting of

(a) those portions of Census Division Nos. 21 and 22 that are not part of the Census Metropolitan Area of Quebec City;

(b) those portions of Census Division Nos. 37 and 38 that are not part of the Census Metropolitan Area of Trois-Rivières;

(c) those portions of Census Division Nos. 41, 42, 44 and 45 that are not part of the Census Metropolitan Area of Sherbrooke;

(d) those portions of Census Division Nos. 52, 60, 75 and 76 that are not part of the Census Metropolitan Area of Montreal;

(e) the portion of Census Division No. 82 that is not part of the Census Metropolitan Area of Ottawa-Hull; and

- (f) Census Division Nos. 31 to 36, 39, 40, 48, 49, 50, 51, 53, 61, 62, 63, 77, 78, 80 and 90.
- (4) The region of Trois-Rivières, consisting of the Census Metropolitan Area of Trois-Rivières.
- (5) The region of South Central Quebec, consisting of
  - (a) those portions of Census Division Nos. 19 and 24 that are not part of the Census Metropolitan Area of Quebec City; and
  - (b) Census Division Nos. 26, 27, 29 and 30.
- (6) The region of Sherbrooke, consisting of the Census Metropolitan Area of Sherbrooke.
- (7) The region of Montérégie, consisting of
  - (a) those portions of Census Division Nos. 55, 57, 59, 70 and 71 that are not part of the Census Metropolitan Area of Montreal; and
  - (b) Census Division Nos. 46, 47, 54, 56, 68 and 69.
- (8) The region of Montreal, consisting of the Census Metropolitan Area of Montreal.
- (9) The region of North Western Quebec, consisting of Census Division Nos. 79, 83 to 89 and 99.
- (10) The region of Hull, consisting of the portion of the Census Metropolitan Area of Ottawa—Hull that lies in the Province of Quebec.
- (11) The region of Lower Saint Lawrence and North Shore, consisting of
  - (a) the portion of Census Division No. 94 that is not part of the Census Metropolitan Area of Chicoutimi-Jonquière; and
  - (b) Census Division Nos. 9 to 18, 28, 91, 92, 93, 95, 96 and 97.
- (12) The region of Chicoutimi—Jonquière, consisting of the Census Metropolitan Area of Chicoutimi—Jonquière. SOR 2000-268, s.3

## **Nova Scotia**

- 4. (1) The region of Eastern Nova Scotia, consisting of
  - (a) Census Division Nos. 13 to 18; and
  - (b) the portion of Census Division No. 9 that is not part of the Census Metropolitan Area of Halifax.
- (2) The region of Halifax, consisting of the Census Metropolitan Area of Halifax.
- (3) The region of Western Nova Scotia, consisting of Census Division Nos. 1 to 8, 10, 11 and 12.
- (4) [Repealed, SOR 2000-268, s. 4]
- (5) [Repealed, SOR 2000-268, s. 4]

SOR 2000-268, s. 4

## **New Brunswick**

5. (1) The region of Fredericton-Moncton-Saint John, consisting of
- (a) Census Division Nos. 1 and 5;
  - (b) the portion of Census Division No. 2 that is part of the Census Metropolitan Area of Saint John;
  - (c) Census Subdivision Nos. 1303001, 1303004, 1303005, 1303006, 1303008, 1303011, 1303012, 1303013 and 1303016;
  - (d) the portion of Census Division No. 4 that is part of the Census Metropolitan Area of Saint John;
  - (e) the portion of Census Division No. 6 that is part of the Census Agglomeration of Moncton;
  - (f) Census Subdivision Nos. 1307019, 1307022, 1307028 and 1307045; and
  - (g) the portion of Census Division No. 10 that is part of the Census Agglomeration of Fredericton.
- (2) The region of Madawaska-Charlotte, consisting of
- (a) the portion of Census Division No. 2 that is not part of the Census Metropolitan Area of Saint John;
  - (b) Census Division Nos. 11, 12 and 13; and
  - (c) Census Subdivision Nos. 1310004, 1310005, 1310006, 1310007, 1310008, 1310011, 1310012, 1310013, 1310014, 1310016, 1310021, 1310024, 1310025 and 1310054.
- (3) The region of Restigouche-Albert, consisting of
- (a) Census Division Nos. 8, 9, 14 and 15;
  - (b) Census Subdivision Nos. 1303014 and 1303018;
  - (c) the portion of Census Division No. 4 that is not part of the Census Metropolitan Area of Saint John;
  - (d) the portion of Census Division No. 6 that is not part of the Census Agglomeration of Moncton;
  - (e) Census Subdivision Nos. 1307001, 1307002, 1307004, 1307005, 1307007, 1307008, 1307009, 1307011, 1307012, 1307013, 1307014, 1307016, 1307024, 1307029 and 1307052; and
  - (f) Census Subdivision Nos. 1310036 and 1310037.  
SOR 2000-268, s. 5

## **Manitoba**

6. (1) The region of Winnipeg, consisting of the Census Metropolitan Area of Winnipeg.
- (2) The region of Southern Manitoba, consisting of
  - (a) those portions of Census Division Nos. 2, 10, 13 and 14 that are not part of the Census Metropolitan Area of Winnipeg; and
  - (b) Census Division Nos. 3, 4, 5, 6, 7, 8, 9, 15, 16, 17 and 20.
- (3) The region of Northern Manitoba, consisting of
  - (a) the portion of Census Division No. 12 that is not part of the Census Metropolitan Area of Winnipeg; and
  - (b) Census Division Nos. 1, 18, 19, 21, 22 and 23.

## **British Columbia**

7. (1) The region of Southern Interior British Columbia, consisting of Census Division Nos. 1, 3, 5, 7, 33, 35, 37 and 39.
- (2) The region of Vancouver, consisting of the Census Metropolitan Area of Vancouver.
- (3) The region of Victoria, consisting of the Census Metropolitan Area of Victoria.
- (4) The region of Southern Coastal British Columbia, consisting of
  - (a) the portion of Census Division No. 17 that is not part of the Census Metropolitan Area of Victoria; and
  - (b) the portion of Census Division No. 9 that is not part of the Census Agglomeration of Abbotsford; and
  - (c) Census Division Nos. 19, 21, 23, 25, 27, 29 and 31.
- (4.1) The region of Abbotsford, consisting of the Census Agglomeration of Abbotsford.
- (5) The region of Northern British Columbia, consisting of Census Division Nos. 41, 43, 45, 47, 49, 51, 53, 55, 57 and 59. SOR 2000-268, s. 6

## **Prince Edward Island**

8. The region of Prince Edward Island, consisting of the Province of Prince Edward Island.

## **Saskatchewan**

9. (1) The region of Regina, consisting of the Census Metropolitan Area of Regina.
- (2) The region of Saskatoon, consisting of the Census Metropolitan Area of Saskatoon.
- (3) The region of Southern Saskatchewan, consisting of
  - (a) the portion of Census Division No. 6 that is not part of the Census Metropolitan Area of Regina;



(b) the portion of Census Division No. 11 that is not part of the Census Metropolitan Area of Saskatoon;

(c) the portion of Census Division No. 12 that is not part of the Census Metropolitan Area of Saskatoon and not part of the Census Agglomeration of North Battleford; and

(d) Census Division Nos. 1 to 5, 7 to 10 and 13.

(4) The region of Northern Saskatchewan, consisting of

(a) the portion of Census Division No. 12 that is part of the Census Agglomeration of North Battleford; and

(b) Census Division Nos. 14 to 18.

SOR 2000-268, s. 7

### **Alberta**

10. (1) The region of Calgary, consisting of the Census Metropolitan Area of Calgary.

(2) The region of Edmonton, consisting of the Census Metropolitan Area of Edmonton.

(3) The region of Southern Alberta, consisting of

(a) the portion of Census Division No. 6 that is not part of the Census Metropolitan Area of Calgary;

(b) those portions of Census Division Nos. 10 and 11 that are not part of the Census Metropolitan Area of Edmonton; and

(c) Census Division Nos. 1 to 5, 7, 8, 9, 14, 15, 18 and 19.

(4) The region of Northern Alberta, consisting of Census Division Nos. 12, 13, 16 and 17.

SOR 2000-268, s. 8

### **Newfoundland**

11. (1) The region of St. John's, consisting of the portion of the Census Metropolitan Area of St. John's that is not part of Census Subdivision Nos. 01557 and 01559 of Census Division No. 1.

(2) The region of Newfoundland/Labrador, consisting of

(a) Census Subdivision Nos. 01557 and 01559 and the portion of Census Division No. 1 that is not part of the Census Metropolitan Area of St. John's; and

(b) Census Division Nos. 2, 3, 4, 5, 6, 7, 8, 9 and 10.

### **Yukon**

12. The region of Yukon, consisting of the Yukon Territory.

### **Northwest Territories**

13. The region of the Northwest Territories, consisting of the Northwest Territories.

### **Nunavut**

14. The region of Nunavut, consisting of Nunavut.

SOR/97-245, s. 2; SOR/2000-17, s. 3; SOR/2000-268, s. 9

**SCHEDULE II**  
**(Subsection 36(17))**

**WEEKLY ANNUITY EQUIVALENTS FOR A LUMP SUM OF \$1,000**  
**ACCORDING TO AGE OF CLAIMANT**

**Table**

	<b>Column I</b>	<b>Column II</b>
<b>Item</b>	<b>Age of Claimant</b>	<b>Weekly Annuity Equivalent</b>
1.	19 and under	\$ 1.25
2.	20	1.26
3.	21	1.26
4.	22	1.26
5.	23	1.26
6.	24	1.27
7.	25	1.27
8.	26	1.27
9.	27	1.28
10.	28	1.28
11.	29	1.29
12.	30	1.29
13.	31	1.29
14.	32	1.30
15.	33	1.30
16.	34	1.31
17.	35	1.32
18.	36	1.32
19.	37	1.33
20.	38	1.34
21.	39	1.34
22.	40	1.35
23.	41	1.36
24.	42	1.37
25.	43	1.38
26.	44	1.39
27.	45	1.40
28.	46	1.41
29.	47	1.43

**Table**

	<b>Column I</b>	<b>Column II</b>
<b>Item</b>	<b>Age of Claimant</b>	<b>Weekly Annuity Equivalent</b>
30.	48	1.44
31.	49	1.45
32.	50	1.47
33.	51	1.48
34.	52	1.50
35.	53	1.52
36.	54	1.54
37.	55	1.56
38.	56	1.58
39.	57	1.61
40.	58	1.63
41.	59	1.66
42.	60	1.69
43.	61	1.72
44.	62	1.75
45.	63	1.79
46.	64	1.83
47.	65	1.87
48.	66	1.92
49.	67	1.97
50.	68	2.02
51.	69	2.08
52.	70	2.14
53.	71	2.20
54.	72	2.27
55.	73	2.35
56.	74	2.43
57.	75	2.52
58.	76	2.61
59.	77	2.71
60.	78	2.81
61.	79	2.93
62.	80	3.04
63.	81	3.17
64.	82	3.30

**Table**

	<b>Column I</b>	<b>Column II</b>
<b>Item</b>	<b>Age of Claimant</b>	<b>Weekly Annuity Equivalent</b>
65.	83	3.44
66.	84	3.60
67.	85	3.76
68.	86	3.93
69.	87	4.12
70.	88	4.33
71.	89	4.56
72.	90 or more	4.81

## **SCHEDULE**

*(Section 2)*

### **SCHEDULE II.1**

*(Paragraph 77.2(2)(b))*

**[SOR/2004-146, s. 2]**

#### **REGIONS INCLUDED IN PILOT PROJECT NO. 6**

Northern Ontario  
Sudbury  
Central Quebec  
Chicoutimi—Jonqui re  
Gasp sie— les-de-la-Madeleine  
Lower Saint Lawrence and North Shore  
North Western Quebec  
Trois-Rivi res  
Eastern Nova Scotia  
Western Nova Scotia  
Madawaska—Charlotte  
Restigouche—Albert  
Northern Manitoba  
Northern British Columbia  
Southern Coastal British Columbia  
Southern Interior British Columbia  
Prince Edward Island  
Northern Saskatchewan  
Northern Alberta  
Newfoundland/Labrador  
St. John's  
Yukon  
Northwest Territories  
Nunavut

**SCHEDULE**  
(Section 1)

**SCHEDULE II.2**  
(Subsection 77.2(3))  
[SOR/2004-193, s. 1]

**TABLE OF WEEKS OF BENEFITS FOR PILOT PROJECT NO. 6**

Number of hours of insurable employment in qualifying period	Regional Unemployment Rate											
	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	0	0	0	0	0	0	0	0	31	33	35	37
455 - 489	0	0	0	0	0	0	0	29	31	33	35	37
490 - 524	0	0	0	0	0	0	28	30	32	34	36	38
525 - 559	0	0	0	0	0	26	28	30	32	34	36	38
560 - 594	0	0	0	0	25	27	29	31	33	35	37	39
595 - 629	0	0	0	23	25	27	29	31	33	35	37	39
630 - 664	0	0	22	24	26	28	30	32	34	36	38	40
665 - 699	0	20	22	24	26	28	30	32	34	36	38	40
700 - 734	19	21	23	25	27	29	31	33	35	37	39	41
735 - 769	19	21	23	25	27	29	31	33	35	37	39	41
770 - 804	20	22	24	26	28	30	32	34	36	38	40	42
805 - 839	20	22	24	26	28	30	32	34	36	38	40	42
840 - 874	21	23	25	27	29	31	33	35	37	39	41	43
875 - 909	21	23	25	27	29	31	33	35	37	39	41	43
910 - 944	22	24	26	28	30	32	34	36	38	40	42	44
945 - 979	22	24	26	28	30	32	34	36	38	40	42	44
980 - 1014	23	25	27	29	31	33	35	37	39	41	43	45
1015 - 1049	23	25	27	29	31	33	35	37	39	41	43	45
1050 - 1084	24	26	28	30	32	34	36	38	40	42	44	45
1085 - 1119	24	26	28	30	32	34	36	38	40	42	44	45
1120 - 1154	25	27	29	31	33	35	37	39	41	43	45	45
1155 - 1189	25	27	29	31	33	35	37	39	41	43	45	45
1190 - 1224	26	28	30	32	34	36	38	40	42	44	45	45
1225 - 1259	26	28	30	32	34	36	38	40	42	44	45	45
1260 - 1294	27	29	31	33	35	37	39	41	43	45	45	45
1295 - 1329	27	29	31	33	35	37	39	41	43	45	45	45
1330 - 1364	28	30	32	34	36	38	40	42	44	45	45	45
1365 - 1399	28	30	32	34	36	38	40	42	44	45	45	45
1400 - 1434	29	31	33	35	37	39	41	43	45	45	45	45
1435 - 1469	30	32	34	36	38	40	42	44	45	45	45	45
1470 - 1504	31	33	35	37	39	41	43	45	45	45	45	45
1505 - 1539	32	34	36	38	40	42	44	45	45	45	45	45
1540 - 1574	33	35	37	39	41	43	45	45	45	45	45	45
1575 - 1609	34	36	38	40	42	44	45	45	45	45	45	45
1610 - 1644	35	37	39	41	43	45	45	45	45	45	45	45
1645 - 1679	36	38	40	42	44	45	45	45	45	45	45	45
1680 - 1714	37	39	41	43	45	45	45	45	45	45	45	45
1715 - 1749	38	40	42	44	45	45	45	45	45	45	45	45

1750 - 1784	39	41	43	45	45	45	45	45	45	45	45	45	45
1785 - 1819	40	42	44	45	45	45	45	45	45	45	45	45	45
1820 -	41	43	45	45	45	45	45	45	45	45	45	45	45

## SCHEDULE

*(Section 3)*

### SCHEDULE II.3

(Subsection 77.3(2))

**[SOR/2005-317, s. 3]**

#### REGIONS INCLUDED IN PILOT PROJECT NO. 7

Central Quebec  
 Chicoutimi—Jonquière  
 Eastern Nova Scotia  
 Gaspésie—Îles-de-la-Madeleine  
 Lower Saint Lawrence and North Shore  
 Madawaska—Charlotte  
 Newfoundland/Labrador  
 North Western Quebec  
 Northern Alberta  
 Northern British Columbia  
 Northern Manitoba  
 Northern Ontario  
 Northern Saskatchewan  
 Northwest Territories  
 Nunavut  
 Prince Edward Island  
 Restigouche—Albert  
 Southern Coastal British Columbia  
 St. John's  
 Sudbury  
 Trois-Rivières  
 Western Nova Scotia  
 Yukon

## **SCHEDULE**

*(Section 3)*

### **SCHEDULE II.4**

(Subsection 77.4(2))

**[SOR/2005-368, s. 3]**

#### **REGIONS INCLUDED IN PILOT PROJECT NO. 8**

Central Quebec  
Chicoutimi—Jonquière  
Eastern Nova Scotia  
Gaspésie—Îles-de-la-Madeleine  
Lower Saint Lawrence and North Shore  
Madawaska—Charlotte  
Newfoundland/Labrador  
North Western Quebec  
Northern Alberta  
Northern British Columbia  
Northern Manitoba  
Northern Ontario  
Northern Saskatchewan  
Northwest Territories  
Nunavut  
Prince Edward Island  
Restigouche—Albert  
Southern Coastal British Columbia  
St. John's  
Sudbury  
Trois-Rivières  
Western Nova Scotia  
Yukon



## **SCHEDULE**

*(Section 3)*

### **SCHEDULE II.5**

(Subsection 77.5(2))

**[SOR/2005-369, s. 3]**

#### **REGIONS INCLUDED IN PILOT PROJECT NO. 9**

Central Quebec  
Chicoutimi—Jonquière  
Eastern Nova Scotia  
Gaspésie—Îles-de-la-Madeleine  
Lower Saint Lawrence and North Shore  
Madawaska—Charlotte  
Newfoundland/Labrador  
North Western Quebec  
Northern Alberta  
Northern British Columbia  
Northern Manitoba  
Northern Ontario  
Northern Saskatchewan  
Northwest Territories  
Nunavut  
Prince Edward Island  
Restigouche—Albert  
Southern Coastal British Columbia  
St. John's  
Sudbury  
Trois-Rivières  
Western Nova Scotia  
Yukon

**SCHEDULE**

*(Section 3)*

**SCHEDULE II.6**

(Paragraph 77.6(2)(b))

**[SOR/2006-166, s. 3]**

REGIONS INCLUDED IN PILOT PROJECT NO. 10

Central Quebec  
Chicoutimi-Jonquière  
Eastern Nova Scotia  
Gaspésie—Îles-de-la-Madeleine  
Lower Saint Lawrence and North Shore  
Madawaska—Charlotte  
Newfoundland/Labrador  
North Western Quebec  
Northern British Columbia  
Northern Manitoba  
Northern Ontario  
Northern Saskatchewan  
Northwest Territories  
Nunavut  
Prince Edward Island  
Restigouche—Albert  
St. John's  
Sudbury  
Trois-Rivières  
Western Nova Scotia  
Yukon

**SCHEDULE II.7**  
*(Subsection 77.6 (3))*  
**[SOR/2006-166, s. 3]**

**TABLE OF WEEKS OF BENEFITS FOR PILOT PROJECT NO. 10**

Number of hours of insurable employment in qualifying period	Regional Unemployment Rate											
	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	0	0	0	0	0	0	0	0	31	33	35	37
455 - 489	0	0	0	0	0	0	0	29	31	33	35	37
490 - 524	0	0	0	0	0	0	28	30	32	34	36	38
525 - 559	0	0	0	0	0	26	28	30	32	34	36	38
560 - 594	0	0	0	0	25	27	29	31	33	35	37	39
595 - 629	0	0	0	23	25	27	29	31	33	35	37	39
630 - 664	0	0	22	24	26	28	30	32	34	36	38	40
665 - 699	0	20	22	24	26	28	30	32	34	36	38	40
700 - 734	19	21	23	25	27	29	31	33	35	37	39	41
735 - 769	19	21	23	25	27	29	31	33	35	37	39	41
770 - 804	20	22	24	26	28	30	32	34	36	38	40	42
805 - 839	20	22	24	26	28	30	32	34	36	38	40	42
840 - 874	21	23	25	27	29	31	33	35	37	39	41	43
875 - 909	21	23	25	27	29	31	33	35	37	39	41	43
910 - 944	22	24	26	28	30	32	34	36	38	40	42	44
945 - 979	22	24	26	28	30	32	34	36	38	40	42	44
980 - 1014	23	25	27	29	31	33	35	37	39	41	43	45
1015 - 1049	23	25	27	29	31	33	35	37	39	41	43	45
1050 - 1084	24	26	28	30	32	34	36	38	40	42	44	45
1085 - 1119	24	26	28	30	32	34	36	38	40	42	44	45
1120 - 1154	25	27	29	31	33	35	37	39	41	43	45	45
1155 - 1189	25	27	29	31	33	35	37	39	41	43	45	45
1190 - 1224	26	28	30	32	34	36	38	40	42	44	45	45
1225 - 1259	26	28	30	32	34	36	38	40	42	44	45	45
1260 - 1294	27	29	31	33	35	37	39	41	43	45	45	45
1295 - 1329	27	29	31	33	35	37	39	41	43	45	45	45
1330 - 1364	28	30	32	34	36	38	40	42	44	45	45	45
1365 - 1399	28	30	32	34	36	38	40	42	44	45	45	45
1400 - 1434	29	31	33	35	37	39	41	43	45	45	45	45
1435 - 1469	30	32	34	36	38	40	42	44	45	45	45	45
1470 - 1504	31	33	35	37	39	41	43	45	45	45	45	45
1505 - 1539	32	34	36	38	40	42	44	45	45	45	45	45
1540 - 1574	33	35	37	39	41	43	45	45	45	45	45	45
1575 - 1609	34	36	38	40	42	44	45	45	45	45	45	45
1610 - 1644	35	37	39	41	43	45	45	45	45	45	45	45
1645 - 1679	36	38	40	42	44	45	45	45	45	45	45	45
1680 - 1714	37	39	41	43	45	45	45	45	45	45	45	45
1715 - 1749	38	40	42	44	45	45	45	45	45	45	45	45

1750 - 1784	39	41	43	45	45	45	45	45	45	45	45	45
1785 - 1819	40	42	44	45	45	45	45	45	45	45	45	45
1820 -	41	43	45	45	45	45	45	45	45	45	45	45

## SCHEDULE III

(Section 95)

### INTERIM PROVISIONS

#### PART I

**1. The following is added before section 7:**

**6.1** (1) Subject to subsection (2), the employment with an employer in any week of a person whose cash earnings are less than 20 per cent of the maximum weekly insurable earnings and who is employed for less than 15 hours is excluded from insurable employment.

(2) Where the cash earnings of a person for a pay period described in any of the following paragraphs are paid or payable to the person otherwise than in respect of weeks, subsection (1) does not apply to the employment of that person during any such pay period:

(a) a pay period that is a multiple of a week where

(i) the person has cash earnings for each week in the pay period, and the cash earnings for the pay period are equal to or exceed an amount that is a like multiple of the amount of cash earnings referred to in subsection (1), or

(ii) the person is employed in each week in the pay period and the total number of hours of employment in the pay period is equal to or exceeds a number of hours that is a like multiple of 15;

(b) a pay period that is a semi-monthly pay period where

(i) the person has cash earnings for each week or part of a week that falls in the pay period, and the cash earnings for the pay period are equal to or exceed an amount that is  $2 \frac{1}{6}$  times the amount of cash earnings referred to in subsection (1), or

(ii) the person is employed in each week or part of a week that falls in the pay period, and the total number of hours of employment in the pay period is 33 hours or more;

(c) a pay period that is a monthly pay period where

(i) the person has cash earnings for each week or part of a week that falls in the pay period, and the cash earnings for the pay period are equal to or exceed an amount that is  $4 \frac{1}{3}$  times the amount of cash earnings referred to in subsection (1), or

(ii) the person is employed in each week or part of a week that falls in the pay period, and the total number of hours of employment in the pay period is 65 hours or more;

(d) a pay period of seven consecutive days that begins on a day other than Sunday, where

(i) the person has cash earnings for the pay period and the cash earnings for the pay period are equal to or exceed 20 per cent of the maximum weekly insurable earnings, or

(ii) the person is employed in the pay period for a total number of hours that is equal to or exceeds 15 hours; or

(e) a pay period that consists of more than one period of seven consecutive days and that begins on a day other than Sunday, where

(i) the person has cash earnings for each period of seven consecutive days in the pay period, and the cash earnings for the pay period are equal to or exceed the product obtained by multiplying the amount of cash earnings referred to in subsection (1) by the number of periods of seven consecutive days in the pay period, or

(ii) the person is employed in each period of seven consecutive days in the pay period and the total number of hours of employment in the pay period is equal to or exceeds the product obtained by multiplying 15 by the number of periods of seven consecutive days in the pay period.

## **PART I.1**

### **1.1 The following applies in place of section 12:**

#### **Prescribed Weeks**

**12. (1)** For the purposes of paragraph 7(4)(c) of the Act, a prescribed week is:

(a) a week in respect of which a claimant has received or will receive

(i) workers' compensation payments, other than a lump sum or pension paid in full and final settlement of a claim made for workers' compensation payments,

(ii) under a wage-loss indemnity plan, any earnings by reason of illness, injury, quarantine, pregnancy or care of a child or children referred to in subsection 23(1) of the Act,

(iii) indemnity payments referred to in paragraph 35(2)(f), or

(iv) earnings because of which, pursuant to section 19 of the Act, no benefits are payable to the claimant;

(b) a week in which the claimant was

(i) attending a course or program of instruction or training to which the claimant was referred by the Commission or by an authority designated by the Commission,

(ii) employed under the Self-employment employment benefit or the Job Creation Partnerships employment benefit established by the Commission under section 59 of the Act or under a similar benefit that is provided by a provincial government or other organization and is the subject of an agreement under section 63 of the Act,

(iii) prevented from establishing an interruption of earnings by virtue of the allocation of earnings pursuant to section 36,

(iv) serving a week of the waiting period, or

(v) disqualified; or

(c) a week of unemployment due to a stoppage of work attributable to a labour dispute at the factory, workshop or other premises at which the claimant was employed.

(2) For the purposes of subsection (1), where a week is taken into account under any paragraph or subparagraph of that subsection, that week may not be taken into account under any other paragraph or subparagraph of that subsection.

## **PART II**

### **2. The following applies in place of sections 19 to 21:**

#### **Information Relating to Employment History**

**19.** (1) Every employer who employs a person in insurable employment shall, if that person has an interruption of earnings, complete a record of employment in quadruplicate with respect to that person on a form supplied by the Commission.

(2) Subject to subsection (3), copies of the record of employment completed pursuant to subsection (1) shall be distributed in the following manner:

(a) the copies marked "Employee's copy: Part 1" and "Employee's copy: Part 2" shall be delivered or mailed to the insured person not later than five days after the later of

(i) the first day of the interruption of earnings, and

(ii) the day on which the employer becomes aware of the interruption of earnings;

(b) the copy marked "Commission's copy" shall be mailed to the Commission within the time limit set out in paragraph (a); and

(c) the copy marked "Employer's copy" shall be kept and retained as a part of the employer's records and books of account in accordance with subsection 87(3) of the Act.

(3) If, for reasons beyond the employer's control, the employer is unable to deliver or mail the copies marked "Employee's copy: Part 1" and "Employee's copy: Part 2" of the completed record of employment to the insured person within the time limit set out in paragraph (2)(a), the employer shall retain them until

(a) such time as they are requested by the Commission or insured person, or

(b) 52 weeks after the time limit set out in paragraph (2)(a), whichever is earlier.

(4) The number of weeks of insurable employment and insurable earnings reported in a record of employment with respect to an insured person shall be as determined and allocated pursuant to Parts III and IV of the Act and any regulations made under those Parts, but sections 35 and 36 of these Regulations shall not apply in respect of any such determination.

(5) Where the earnings of a claimant for a pay period that is current when the claimant has a lay-off or separation from employment cannot be ascertained with accuracy, the employer may estimate the earnings for that period.

**20.** (1) Where an employer has failed to deliver a record of employment to an insured person or the Commission pursuant to section 19 or the employer is not available or is unable to provide information respecting the employment history and insurable earnings of a claimant because the employer's records are destroyed or lost, a claimant may provide a statement containing evidence of their employment history and insurable earnings.

(2) All the weeks of insurable employment reported in a record of employment shall be determined to have occurred consecutively and to be weeks that immediately preceded and included the week in which the lay-off or separation occurred.

(3) Notwithstanding subsection 19(4) and section 23, for the purposes of Part I of the Act, the number of weeks of insurable employment in any one employment period of a claimant shall not be greater than the number of weeks or part weeks that falls within that employment period.

(4) Where a bankrupt employer or the trustee of the bankrupt employer has not provided the Commission with a record of employment for an insured person, the Commission may, in respect of that person, determine the number of insurable weeks and the amount of insurable earnings for benefit purposes on the basis of the payroll and personnel records of the bankrupt employer provided to the Commission by the trustee.

**3. The following applies in place of sections 22 to 24.**

**22.** The earnings to be taken into account for the purpose of determining the average weekly insurable earnings for the purposes of section 14 of the Act as set out in section 6 of Schedule II to the Act are those earnings for which a premium was payable.

**23.** For the purposes of Part I of the Act, where a claimant's earnings were paid or payable in the qualifying period for a period otherwise than in respect of weeks (hereinafter called the "pay period"), the number of weeks that are to be taken as weeks of insurable employment in any one employment period shall

(a) where the pay period consists of seven consecutive days and begins on a day other than Sunday and

(i) the claimant has cash earnings for each pay period and the cash earnings for the pay period are equal to or exceed 20 per cent of the maximum weekly insurable earnings, or

(ii) the claimant is employed in each pay period for a total number of hours that is equal to or exceeds 15 hours,

be equal to the number of pay periods; and

(b) where the pay period consists of more than one period of seven consecutive days and begins on a day other than Sunday and

(i) the claimant has cash earnings for each period of seven consecutive days in the pay period, and the cash earnings for the pay period are equal to or exceed the product obtained by multiplying the amount of cash earnings referred to in paragraph (a) by the number of periods of seven consecutive days in the pay period, or

(ii) the claimant is employed in each period of seven consecutive days in the pay period, and the total number of hours of employment in the pay period is equal to or exceeds the product obtained by multiplying 15 by the number of periods of seven consecutive days in the pay period,

be equal to the number of periods of seven consecutive days in the pay period.

**4. The following applies in place of section 34:**

**34.** (1) A dependant of a claimant or of the spouse of a claimant is a person who is related to the claimant or the spouse in the manner described in subsection 251(6) of the *Income Tax Act*.

(2) The spouse of a claimant is the person who is married to the claimant, and includes a person described in subsection 252(4) of the *Income Tax Act*.

(3) For the purposes of paragraph 14(1)(b) of the Act as set out in section 6 of Schedule II to the Act, the following circumstances are prescribed as circumstances which must exist in relation to one or more dependants of a claimant or of the spouse of the claimant:

(a) a child tax benefit as provided for in section 122.61 of the *Income Tax Act* is payable to either the claimant or the spouse during the month in which the claimant makes a claim for the benefit rate prescribed by paragraph 14(1)(b) of the Act as set out in section 6 of Schedule II to the Act; or

(b) the claimant or the spouse provides support to a dependant of the claimant or of the spouse of the claimant.

5. The following applies in place of the table to subsection 55(7):

<b>Table</b>	
<b>Column I</b>	<b>Column II</b>
<b>Number of Weeks of Insurable Employment</b>	<b>Number of Weeks of Benefits</b>
12	10
13	10
14	11
15	11
16	12
17	12
18	13
19	13
20	14
21	14
22	15
23	15
24	16
25	17
26	17
27	17
28	18
29	18
30	19
31	19
32	20
33	20
34	21



**Table**

<b>Column I</b>	<b>Column II</b>
<b>Number of Weeks of Insurable Employment</b>	<b>Number of Weeks of Benefits</b>
35	21
36	22
37	22
38	23
39	23
40	24
41	25
42	26
43	27
44	28
45	29
46	30
47	31
48	32
49	33
50	34
51	35
52	36

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**6. The following applies in place of paragraph 93(1)(c):**

(c) has had 20 or more weeks of insurable employment in their qualifying period.  
SOR/96-436, s. 2.