

UI/EI Legislative History

The first attempt to establish a Canadian unemployment insurance program came during the depression of the 1930s. The *Employment and Social Insurance Act*, passed in 1935, was found to be unconstitutional since the federal government did not have sole jurisdiction over this area. In 1940, the federal government consulted the provinces and received unanimous approval to amend section 91 of the *British North America Act*, to provide the necessary authority for the federal government to establish an unemployment insurance program. The constitutional amendment became effective on July 10, 1940. The government then introduced and quickly passed the *Unemployment Insurance (UI) Act*, which received Royal Assent on August 7, 1940. The UI program was based on strong insurance principles and was intended to provide income protection for employees. It provided greater protection for those with below average earnings, while those with higher incomes were expected to provide a greater degree of self-insurance. In addition, the program covered only those workers who faced an unpredictable risk of job loss. Industries that faced little risk of unemployment (e.g., the public service) and industries with repeated unemployment (e.g., seasonal industries) were not covered. The program also included a higher benefit rate for claimants with dependants.

In an effort to make UI more effective in providing financial support to the unemployed, a revised UI Act was introduced in 1955. In broad terms, the new act contained a number of departures from the original. It increased benefit levels and eased qualifying conditions. Additionally, Supplementary benefits (which allowed individuals who had exhausted their regular benefits to receive benefits at a lower

rate for fixed periods) were integrated with regular benefits, to form the seasonal benefit.

A major reform of the UI Act occurred in 1971, following the release of the *White Paper on Unemployment Insurance* in 1970. In response to the paper, the UI Act of 1971 (Bill C-229) was introduced, which incorporated many of the White Paper's recommendations. In recognition of rising unemployment rates and the increasing cost of living, eligibility requirements were reduced and benefits increased. A key element of the 1971 reforms was the introduction of a uniform (eight-week) entrance requirement. Coverage was also extended to the public sector and to anyone employed for 20 or more hours per week at the applicable provincial minimum wage. At the same time, UI sickness, maternity and retirement benefits were introduced for workers with at least 20 weeks of insured employment. Furthermore, UI was made more sensitive to local labour market conditions through the introduction of extended benefits for regions with high unemployment. Additionally, a three-week special severance benefit, available to retiring insured workers who qualified for the Canada Pension Plan or the Quebec Pension Plan, and a dependency benefit rate of 75% for low-income earners were introduced. Reliance on the fund was to be deterred by treating UI benefits as taxable income.

Amendments were made to the UI Act (Bill C-69) in 1975 to respond to concerns that the program was reducing the incentive to work. To improve work incentives, the Act eliminated a three-week advance payment provision for claimants with strong labour force attachment, and removed the dependency benefit rate. In addition, the disqualification period for voluntary quits was increased from three to six weeks. Furthermore, to reflect the

standard working age, the maximum age at which an individual was insurable was reduced from 70 to 65.

Another comprehensive review of the UI program took place in 1977. In response to the recommendations, Bill C-27, the *Employment and Immigration Reorganization Act* was introduced. Among other things, Bill C-27 merged the Unemployment Insurance Commission with Manpower and Immigration to form Employment and Immigration Canada. Entrance requirements were tightened and the duration of benefits was reduced. At the same time, however, greater emphasis was placed on re-employment through developmental uses of UI, such as income maintenance for claimants on approved training, job creation and work sharing. There was also recognition that not all regions faced the same employment prospects. As a result, variable entrance requirements, ranging from 10 to 14 weeks, were introduced to better reflect local unemployment rates.

Further amendments to decrease disincentives to work and reduce reliance on UI became effective on January 1, 1979, under Bill C-14. Benefit repayment provisions were introduced, effective for the 1979 tax year, and the benefit rate was lowered to 60% from 66%. To further reduce reliance on UI, Bill C-14 included provisions requiring more work effort from new entrants and re-entrants to qualify for benefits. Similarly, repeat claimants required up to six extra weeks of work to qualify for benefits.

In 1983, Bill C-156 introduced 15 weeks of adoption benefits, effective January 1, 1984. In addition, maternity benefits were simplified and adjusted to conform to the *Canadian Human Rights Act*.

Bill C-21, introduced in 1989, made several changes to the UI program. Firstly, it provided for 10 weeks of parental benefits in addition to

the existing maternity benefits, payable to either men or women. These benefits replaced both paternity benefits, introduced in 1988, and adoption benefits, introduced in 1983. This bill also broadened special benefits (maternity, parental, sickness) to provide for a total of 30 weeks of combined special benefits. Secondly, Bill C-21 extended coverage to those aged 65 and over and, in turn, eliminated the three-week lump sum for retirement, as claimants of any age were expected to be available for work. Thirdly, a one-phase benefit structure, based on the number of insured weeks and the unemployment rate in the economic region, was introduced. Fourthly, disqualifications for voluntary leaving and misconduct were expanded. Lastly, Bill C-21 recognized that sweeping structural change in the economy made it less reasonable to assume that an unemployed worker would find a job in the same occupation or industry. To address this issue, a greater proportion of funds was allocated to active employment measures, such as occupational training, to help claimants return to work more quickly.

In 1993, the government introduced Bill C-113 to reduce program costs and avoid a greater deficit in the UI account, which would have resulted in a \$0.30 increase in premium rates under the "statutory rate" provision. To achieve this, those who voluntarily left their employment were no longer eligible to collect benefits. Furthermore, the replacement rate was reduced from 60% to 57% under Bill C-113.

Bill C-17 was introduced in 1994 and further reduced the replacement rate to 55%, with the exception of low-income individuals with children, who received a replacement rate of 60%. A 12-week minimum entrance requirement and reduced duration were also introduced under Bill C-17.

The *Employment Insurance (EI) Act, 1996* (Bill C-12), redesigned income benefits to promote greater labour force attachment and to introduce stronger insurance principles into the system. It also placed a greater emphasis on re-employment measures. Under EI, eligibility was based on hours of work, rather than weeks, to allow more part-time workers to become eligible for benefits. Changes also included a new benefit structure and new rules for frequent claimants, as well as stricter eligibility requirements for new entrants and re-entrants to the labour market. At the same time, the impact on low-income families with children was softened through the introduction of the Family Supplement. Furthermore, the Government of Canada made an offer to all provinces and territories to develop federal-provincial-territorial partnerships to respond to different labour market needs and circumstances across the country. The amount allocated to Employment Benefits and Support Measures was \$1.575 B in 1996/97. Similar programs and services were provided in provinces/territories that did not establish a partnership. More detailed information on the elements of EI reform can be found in Annex 7.

In 2000, Bill C-32 expanded parental benefits from 10 to 35 weeks, giving parents up to one year of combined maternity and parental benefits. Bill C-32 recognized the importance of the early years in the intellectual, emotional and social development of children and supported parents in balancing the demands of work and family during a child's critical first year. In addition, it reduced the number of hours of insurable employment required to qualify for maternity, parental or sickness benefits from 700 to 600 hours. To improve flexibility, a second parent sharing parental leave was no longer required to serve a second two-week waiting period and parents were able to earn the greater of \$50 or 25% of their

weekly parental benefit without a reduction in their EI benefits.

On May 10, 2001 Bill C-2 received Royal Assent introducing further modifications to EI legislation. The intensity rule, which had been implemented to discourage repeat use of EI by reducing the benefit rate of frequent EI claimants, was eliminated, retroactive to October 1, 2000. The intensity rule had proven to be ineffective in discouraging repeat use and therefore had the unintended effect of penalizing claimants who faced limited opportunities for work. The benefit repayment provision (clawback), initially introduced to reduce EI use by higher income repeat claimants, was adjusted to improve targeting and reflect changing economic realities, effective for the 2000 tax year. All first-time and special benefits claimants were exempted from the benefit repayment provision. Additionally, to simplify the structure of repayment and to ensure that these provisions were appropriately targeted to higher income earners, a single threshold for repayment was set at \$48,750 of net income with a repayment rate of 30%, and the maximum repayment was limited to 30% for a person with a net income in excess of \$48,750. Bill C-2 also introduced a new method of calculating the maximum yearly insurable earnings (MIE), effective for tax year 2001. The MIE will remain at \$39,000 until the average earnings exceed this level, at which time the MIE will be based on average earnings.

Changes were also made to the re-entrant provision to make it more responsive to parents returning to the labour force following an extended absence caring for young children. Parents re-entering the work force who received EI maternity and/or parental benefits in the four years prior to the normal two-year "look back" period can now access regular benefits with the same number of hours as

other regular claimants in their region. In addition, the Employment Insurance Fishing Regulations were adjusted retroactively to December 31, 2000, to allow self-employed fishers to access the enhanced maternity, parental and sickness benefits.

In 2001, there were two adjustments to the EI regulations. First, effective August 12, 2001, the calculation of undeclared earnings was modified to make it more equitable for claimants. Second, the Small Weeks pilot project became a national and permanent feature of the program on November 18, 2001. The Small Weeks initiative was first introduced in 1997 as a pilot project in response to concerns that accepting weeks with lower earnings (\$150 or less) resulted in a lower benefit rate on a future EI claim and as a result acted as a disincentive to accepting all available work. The Small Weeks initiative intends to encourage workers to accept all available work by having these weeks excluded in calculating the benefit rate.

On March 27, 2002 Bill C-49 received Royal Assent introducing modifications regarding access to special benefits. Parents of a newborn or newly adopted child who is hospitalized for an extended period now have a window of up to two years, instead of one year, to claim parental benefits. Effective April 21, 2002, this provides flexibility for parents who choose to wait until their child arrives home before collecting benefits. In addition, Bill C-49 changed the maximum number of combined weeks of special benefits from 50 to 65 weeks. Prior to Bill C-49, claimants could receive a maximum of 50 weeks of special benefits. Effective March 3, 2002, these provisions ensure full access to special benefits for biological mothers who claim sickness benefits prior to or following maternity or parental benefits.

In 2002 and 2003, there were two adjustments to the EI regulations. First, effective July 21, 2002, the apprentices in approved training programs who apply for EI benefits are subject to only one waiting period. This was a recognition of the fact that an apprenticeship program is a single, continuous course of study stretching over a number of years. This initiative intended to encourage workers to enter into apprenticeship programs and thereby help to fill skill shortages. Second, the Small Week threshold was increased to \$225 from \$150 on September 2003 recognizing that wages have increased.