

Employment Insurance

Farming and Other Self-Employment

THIS BROCHURE IS NOT APPLICABLE TO SELF-EMPLOYED FISHERS.
Please see Employment Insurance and Fishing (IN-203)
available at your local Service Canada Centre.



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Introduction

Generally, self-employed people are not entitled to EI benefits because of the following reasons.

- They are not employed under a contract of service (i.e., by an employer).
- They work for themselves.
- They control their own hours of work.
- Their time is primarily spent on their self-employment activities.
- They have not paid into the EI system.

Although self-employed persons do not work in insurable employment, they may qualify for EI benefits based on hours of insurable employment with other employers. If these claimants are involved in self-employment activities during the benefit period, their entitlement to EI benefits could be affected. If a claimant's involvement in a self-employment activity can be concluded to be *minor in extent*, entitlement to EI benefits may be possible.

This booklet outlines the rules for self-employed individuals and provides general information about the EI program and your rights and responsibilities.

Finally, don't forget that EI is now delivered by Service Canada—the Government of Canada's new service delivery network that brings a range of federal services and benefits together to meet your individual needs.

To find out about Service Canada call 1 800 O-Canada or visit us at servicecanada.gc.ca.

For questions specific to Employment Insurance call 1 800 206-7218 or visit us on-line at servicecanada.gc.ca.

Important Information on Pilot Projects

Under the *Employment Insurance Act* and, upon approval from Cabinet, we are allowed to set-up short-term pilot projects for a maximum of three years. The purpose of such pilot projects must be to test the potential impact of changes made to the *Employment Insurance Act* or Regulations in the future so that EI is more consistent with current industry employment, practices, trends or patterns, or would improve service to the public. In addition, the pilot project must be the only way to test the impact a change in the program would have on employees, employers and claimants.

Pilot projects can be limited to specific geographic areas or can be implemented nationally.

When you apply for EI, and if you are eligible to participate in a pilot project running in your area, you will be advised or we will automatically adjust your claim to ensure you are included and receive all the benefits to which you are entitled. A pilot project can increase benefits and/or reduce hours needed to be eligible; it can also increase weeks on claim and/or improve the service you receive.

Call the Employment Insurance, toll-free number to find out about EI pilot projects that may be applicable to you. Or, visit your local Service Canada Centre.

NOTE: For specific information on whether certain types of work are insurable, please see the brochure, *Employee or Self-Employed?* issued by the Canada Revenue Agency. You should also consult your tax services office or tax centre.

Section I

It is important to note that self-employed farmers are subject to the same criteria as any other self-employment business.

In this brochure – unless otherwise stated – the term *business* refers to all types of self-employment activities including farming.

Are You Self-Employed?

Self-employment covers situations where a person works as an independent worker or contractor, operates his or her own business, or is in a business partnership or a co-adventurer. This is different from being employed by someone else under a contract of service and having an employer-employee relationship.

In an employer-employee relationship, there is a contract of service. That is, there is a verbal or written agreement whereby an employee agrees to work, full time or part time, for an employer for a specified or indefinite period of time, in return for salary or wages. The employer has the right to decide where, when and how the work will be done.

Types of Self-Employment Arrangements

Subsection 248(1) of the Income Tax Act defines a business. Consult the Canada Revenue Agency for further information.

A **self-employed worker** is an independent worker who contracts services to companies or individuals, controls his or her own working hours and usually does not own the business.

A **sole owner** directs all the activities of the business, assumes all authorities and obligations, and is personally liable for its business debts. A sole owner may hire someone to run the operation.

A **partner** pools resources with one or others to operate a business for profit. Partners are jointly liable for the partnership's obligations and debts.

A **co-adventurer** in a business, regardless of the legal form of the business, has an interest in it with others and is involved personally in activities deemed necessary for its operation. It makes no difference whether the business is registered or incorporated. This interest in the business can take many forms, from money given or invested to an expectation of gaining from the profits.

The aforementioned types of self-employment are not usually insured under the Employment Insurance Program.

In a **corporation or limited** company, a person who controls more than 40% of the voting shares is not necessarily self-employed, but is still considered uninsurable under the *EI Act*.

If you are not sure of your status as a self-employed person, you should check with your local Service Canada Centre or the Canada Revenue Agency.

Natural Concern for Investment

People who have no direct involvement or participation in the running of the business but do have a *natural concern* for their investment would not necessarily be considered self-employed.

Ownership of all or part of a business does not prove that a person is self-employed. Self-employment is based on a person's actual activities in the business.

Minor in Extent

If your self-employment activity is so *minor in extent* that the average person would not consider it the main means of making a living, you might not be counted as working a *full working week*. As a result, you could be entitled to EI.

To be entitled to benefits, self-employed people must show that they are actually unemployed for each week they claim. Generally, a self-employed person is regarded as working a full week, is not unemployed and therefore cannot collect EI. (For EI purposes, a *full working week* is at least the same number of hours worked by other regular workers in that occupation.)

If you are a self-employed farmer or own part of a farming business, and farming is your main means of living, normally, you are not entitled to EI benefits during the period April 1 – September 30. During that time you are considered as working a *full working week* on the farm, regardless of your employment activities off the farm. However, because the farming sector is unique, during the period between the week of October 1 and the week following March 31, you may be entitled to benefits based on the loss of an off-the-farm job. As with any other self-employed business person, your activities on the farm must be considered minor in extent.

To determine how minor in extent your self-employment activities are during the time benefits are claimed, these six factors are considered:

- The time spent on these activities;
- The nature and amount of the capital and resources invested;
- The financial success or failure of the employment or business;
- The continuity of the employment or business;
- The nature of the employment or business (i.e., are the self-employment activities in line with your usual occupation or totally different); and
- Your intention and willingness to look for, and immediately accept, alternate employment.

ALL six factors are taken into consideration regarding eligibility — no single factor determines this status.

Family Members in the Family Enterprise

If family members (i.e., spouse or children) are paid employees of the family enterprise—business or farm—then they are like any other worker and can collect EI if they meet the eligibility requirements. (Please see the brochure, *Employment Insurance: Regular Benefits*, which is available at your local Service Canada Centre.)

As well, if a family member is employed outside the business or off the farm and not personally engaged in any activities deemed necessary to operate the business or farm, that person is **not** considered self-employed, even if he or she owns a share of the business or farm. However, even minor involvement in the activities of the business/farm may require that earnings from this business/farm be deducted from EI benefits.

Section II

Are You Eligible for Employment Insurance?

How to Apply for Benefits — Business and Farming

If you think you are eligible for EI benefits, apply on the Internet at servicecanada.gc.ca and click on *On-line forms and services* in the top menu bar or go to your local Service Canada Centre.

Eligibility Requirements

To be eligible for regular benefits you must:

- have paid into the EI system;
- have worked, as an employee, the number of hours* required to be eligible for EI—based on your employment history, where you live and the unemployment rate in your area;
- demonstrate that you are unemployed for each week claimed; and
- show you are available, and looking, for work.

If these requirements are met, any self-employment activities must also be examined to ensure that they are minor in extent. (Please see Section I.)

Two-Week Waiting Period

When you claim benefits, there is a two-week period at the start of your claim for which no benefits are paid. If you have earnings during this two-week period, then some, or all, of these monies will be deducted from your benefits in the first three weeks. (We will deduct up to the amount of your weekly benefit rate.)

Hours of work as a self-employed person are NOT counted. Only hours of insurable work on which you paid premiums are applicable.

*Most people will need between 420 and 700 hours of work within the last 52 weeks, or since the start of their last claim—whichever is shorter. In some instances, 910 hours or more will be needed to qualify.

For more information on regular benefits, please see *Employment Insurance: Regular benefits* (IN-200), available at your local Service Canada Centre or at servicecanada.gc.ca.

Section III

Maternity, Parental and Sickness Benefits

Self-employed people, whose self-employment has been determined to be minor in extent, may be eligible for maternity, parental or sickness benefits, if they meet the qualifying requirements.

The six circumstances used to determine whether your self-employment activities are minor in extent will be considered. (See Section I.) Benefits may only be paid for the weeks you are deemed to be unemployed.

All earnings you make while collecting maternity, parental, or sickness benefits must be declared. Earnings will be deducted dollar for dollar from maternity and sickness benefits. However, if you are receiving parental benefits, you can earn 25% of your weekly benefit or \$50—whichever is higher—without changing the amount of benefits you will receive for that week. All earnings above that limit will be deducted dollar for dollar. Please check with your local Service Canada Centre if you think you may be eligible for maternity, parental, or sickness benefits. For more information, please see our brochure, *Employment Insurance: Maternity, Parental and Sickness Benefits* (IN-201).

Compassionate Care Benefits

Compassionate care benefits are available to people who have to be temporarily away from work to provide care or support to a family member who is gravely ill with a significant risk of death. For details, contact your local Service Canada Centre or visit the Service Canada Web site at servicecanada.gc.ca. For more information please see our brochure, *Compassionate Care Benefits* (IN-057).

Section IV

Earning Income While Getting Employment Insurance Benefits

Don't forget you must declare all earnings in the weeks they are earned.

General

If you can qualify for regular benefits on the basis of insured work as an employee, you may be entitled to regular EI benefits — provided your self-employment is found to be minor in extent. All the monies you earn as an employee **and** any earnings from self-employment—gross earnings, operating expenses—must always be declared while you are claiming EI benefits.

If you are receiving EI regular benefits, you can earn up to 25% of your weekly benefit rate or \$50, whichever is higher, without changing the amount you will receive for that week.

Any earnings above that limit will be deducted dollar for dollar from your weekly benefit.

Access Code

Shortly after submitting your application for benefits, you will receive a personal Access Code. Your Access Code is printed in the shaded area at the bottom of the first statement mailed to you after you file a claim. Whether you use the Internet or telephone services to enquire about your claim or complete your reports, you will need this code and your Social Insurance Number (SIN). The Access Code is your electronic signature. It must be kept safe and should be stored separate from your SIN. Do not let others have it. They could get information or take action on your EI claim without your knowing and you will be held responsible.

How to Get Paid

All earnings and hours of work must be declared by completing a report by Internet, telephone or mail every two weeks. These reports are very important as regular payments cannot be issued without them.

Shortly after submitting your application for benefits, you will receive a notice in the mail indicating the date your first report is due, along with step by step instructions on how to complete your report by using the Internet Reporting Service at servicecanada.gc.ca and clicking on *Online forms and services* in the top menu bar, or by using the toll-free Telephone Reporting Service 1 800 531-7555 (select Option 1 for a demonstration or Option 2 to complete your report).

Regardless of whether you report via the Internet or by using a touch tone™ phone, you will be required to answer a series of questions about your employment status. After you have completed your report, you will be given the date when you report again. You will not be allowed to file your next report before this date. Mark this date on your calendar. It is important to complete your reports within three weeks from the date provided or your claim may be affected.

If you cannot complete your reports via the Internet or by using the telephone, you will need to complete the reports by mail. If this is the case, you will receive your reports by mail along with step-by-step instructions on how to complete them. Be careful not to date or send the reports in before the date shown, as this could delay your claim.

Income from Non-Farming Self-Employment

Any income you earn through self-employment while you are receiving EI must be declared in the week that the services were performed or a transaction occurred, if you were in the business of sales or farming. Your declared income should be the gross

amount from self-employment earnings less your operating expenses for that week.

Operating expenses are the costs of running your business—items used earning the revenue such as rent, materials, gas, etc. Expenses also include an allowance for depreciation on capital investments directly connected to that income. Payments for income tax, or for federal or provincial pension plans, cannot be deducted as operating expenses. You must keep records of all operating expenses you deduct, and these expenses must clearly relate to the income earned and reported for that week.

Examples:

1. You are getting \$300 (gross) a week from EI. You have \$100 (gross) in self-employment earnings in a week and your operating expenses in that week are \$30. After you deduct the operating expenses (\$30) from your earnings, you declare \$70 of earnings for that week. Since \$70 is less than 25% (\$75) of your EI benefits, your benefits are not affected that week.
2. You are getting \$300 (gross) a week from EI. You have \$200 (gross) in self-employment earnings in a week, and your operating expenses in that week are \$80. After deducting the operating expenses (\$80) from the earnings, you declare \$120 in earnings that week. Since \$120 is more than 25% (\$75) of your EI benefits, your benefits will be reduced by \$45 for that week ($\$120 \text{ minus } \$75 = \45).

Situations that determine operating expenses can vary even if the occupations are the same. For example, two bookkeepers do exactly the same work. However, one bookkeeper drives a car to different sites to do the books. The second bookkeeper has the books brought to the office. The travelling bookkeeper can deduct gas spent on work-related travel; the second bookkeeper cannot.

Money you spend for assets that continue to exist and will benefit future operating periods of business are called capital expenses and not operating expenses. These expenses cannot be deducted from your self-employment income, however the depreciation and the capital expenditure can be considered an operating expense.

Examples of capital expenses could include a car or truck used for the business, tools that are re-used from one job to another, equipment such as a tractor or cement mixer, and the purchase price of inventory. Again, you should keep records for all these expenses.

Income Earned From Farming

As well as the general conditions already covered, the earnings from the farm may affect your benefits if you are employed in farm operations. This applies to all farmers including family members who own any portion of the farm and are considered to be self-employed because they are involved in the operation of that farm business.

These earnings could be from the sale of produce, livestock, grain, wood, etc., **or** could come from government payments or subsidies to compensate for lost income. For EI purposes, 15% of **your share** of the gross sales, government payment or subsidy is considered to be your net earnings from the farm business. This rule applies even if the farm business has different net earnings for tax purposes—which may be more or less than 15% of gross revenues. The amount must be declared in the week that the sale or transaction is made or the subsidy or payment received.

What is **your share**? If you own 50% of a farm business and sales of farm produce in one week are \$500, your share would be \$250 ($500 \times 50\% = 250$).

Examples:

1. You are getting \$300 (gross) a week from EI and your share from the sale of farm produce is \$250 for one week. You must declare \$37.50 in that week ($\$250 \times 15\% = \37.50). Since \$37.50 is less than 25% of your EI benefits (\$75), your benefits will not be affected that week.
2. You are getting \$300 (gross) a week from EI and your share from the sale of farm produce is \$600 for one week. You must declare \$90 in that week ($\$600 \times 15\% = \90). Since \$90 is more than 25% of your EI benefits (\$75), your benefits will be reduced by \$15 ($\$90 \text{ minus } \$75 = \15).

As well as earnings from sales of farm products, all earnings from off-the-farm employment must also be declared on your report cards so that they can be taken into consideration.

Examples:

1. You are getting \$300 (gross) from EI and earn \$150 in a week from farm produce sales and \$50 the same week from a job off the farm. You must declare \$22.50 in farm income ($\$150 \times 15\% = \22.50) plus your \$50 earnings from off-the-farm work. $\$50 + \$22.50 = \$72.50$ in total earnings for that week. Since \$72.50 is less than 25% of your EI benefits (\$75), your benefits will not be reduced that week.
2. You are getting \$300 (gross) from EI and earn \$150 in a week from farm produce sales and \$100 the same week from a job off the farm. You must declare \$22.50 farm income ($\$150 \times 15\% = \22.50) plus your \$100 earnings from off the farm work. $\$100 + \$22.50 = \$122.50$ in total earnings for that week. Since \$122.50 is more than 25% of your EI benefits (\$75) your benefits will be reduced by \$47.50 ($\122.50 minus $\$75 = \47.50).

Remember to keep records of all costs deducted and save the receipts for all sales of farm produce.

Other Income That May Affect EI Benefits

Other monies you get while receiving EI benefits could affect your benefits, including:

- vacation pay;
- severance payments;
- bonuses; and
- retirement income from an employment pension, or a military or police pension, or from the Canada or Quebec Pension Plan or a provincial plan based on employment.

Income NOT Affecting EI Benefits

Pension income that does not affect regular or maternity, parental and sickness EI benefits includes:

- payments received from private RRSPs;
- disability pensions;
- survivor's or dependant's pensions; and
- old age security pensions.

Farmers Only

Some farm programs are not considered subsidies and would not affect your EI benefit levels, including:

- Elevator company advance payments;
- Canadian Wheat Board advances;
- Crop and hail insurance payments;
- Prairie Crop and Provincial Drought Assistance Program payments;
- Farm Purchase Program (interest rebate) payments;
- Federal excise gasoline tax refunds;
- Advance Payments Program (*Agricultural Marketing Programs Act*) loans;
- Crop insurance payments (*Farm Income Protection Act*); and
- *Farm Improvements and Marketing Co-operatives Loans Act* (FIMCLA) loans.

Please check with your local Service Canada Centre for more information on farm programs that may affect your benefit levels.

Section V

How Long Can You Receive Benefits?

The length of time you can draw benefits depends on:

- the unemployment rate in your region; and
- how long you have worked as an employee in the last 52 weeks or since your last claim—whichever is shorter.

You can receive benefits from 14 to a maximum of 45 weeks depending on the number of insurable hours you have.

How Much Will You Receive?

The basic benefit rate is 55% of your average insured earnings up to a maximum payment of \$413 per week. Depending on your personal circumstances, your benefit rate could be higher than 55%, however, the maximum payment will not change.

Higher and Lower Benefit Rates

If you are in a low-income family—a net income of less than \$25,921—with children and you receive the Canada Child Tax Benefit from Canada Revenue Agency, your benefit rate may be as high as 80%, however the maximum family supplement rate remains at \$413.00. Please see our fact sheet *Employment Insurance and the Family Supplement*.

Section VI

Protecting Employment Insurance – With Your Help

Service Canada takes its responsibility seriously when administering EI. Protecting EI from misuse is a large part of that responsibility. With your help, we can ensure that the EI system is used as it should be—a temporary support measure when people find themselves out of a job.

To make certain that the EI fund is protected, and to discourage misuse, we work with employers and claimants to ensure accuracy of information.

Mistakes Can Happen

Mistakes can happen when filing your report over the phone, on the Internet, or when completing the paper form. We have found that some of the most common errors are:

- estimating weekly earnings instead of putting in the actual amount earned;
- forgetting to declare all the earnings received;
- writing or entering the wrong number when reporting earnings; and
- adding up the number of hours incorrectly.

Some mistakes can cause a delay in payment and others could cause an error in the amount of benefits you receive—either higher or lower than your entitlement.

For example, estimating your earnings can have the following effects.

- If you estimated your earnings in any one week and your estimate was higher than the earnings you actually received, you may receive less benefits than you are entitled to have. LET US KNOW, and we'll adjust your file and ensure that you receive all the benefits to which you are entitled.
- If you estimated your earnings in any one week and your estimate was lower than the earnings you actually received, you may receive more benefits than you are entitled to have (an *overpayment*). LET US KNOW. The overpayment will have to be paid back, but we'll ensure that the repayment causes no undue hardship. As well, we can adjust your file to reflect your true status.

If you make a mistake filling out forms or reports, or if there is a change in your circumstances that could affect your EI, advise Service Canada immediately. Letting us know of a mistake as soon as you notice, or a change as it occurs, is your best way of preventing future problems with your claim and/or avoiding penalty or prosecution.

Absence from Canada

With few exceptions, claimants are not allowed to receive regular EI benefits while outside Canada. One measure we take to enforce this is to compare EI information with Customs information. If a match of information occurs we will explore the matter further. When it is found that claimants have been out of the country while collecting EI benefits, we will try to determine if they are entitled to those benefits. If not, then overpayments are established and penalties may be imposed.

Penalties can be up to three times the weekly benefit rate or three times the amount of the overpayment. As well, entrance requirements to qualify for EI in the future can be affected.

Misusing EI

Anybody who knowingly tries to obtain more benefits than they are entitled to is taking advantage of the EI system and their fellow Canadians. Knowingly holding back information or making a false or misleading statement could lead to severe monetary penalties or prosecution and may also affect your future benefits. However, if you notify Service Canada of your actions before an investigation begins, we can waive monetary penalties and prosecutions that might otherwise apply.

Interest

Interest is charged on debt resulting from intentional misrepresentation.

EI claimants, who have knowingly abused the EI program and, as a result, have an outstanding debt arising from intentional misrepresentation are charged interest on that debt. No interest will be charged on debt that arises from Service Canada errors in benefit payments.

The rate of interest is the Bank of Canada average rate plus three (3) per cent calculated daily and compounded monthly.

Some examples of when penalties could apply include:

- An EI claimant goes on an ocean holiday cruise for a month and arranges for a friend to conceal the absence by signing and returning two EI claimant reports. This results in the claimant illegally receiving \$350 in benefits for each of the four weeks. After investigation, it is proven that this was the first time the claimant and the friend had misused the EI system. As well, it is also proven that they both knew that what they did was illegal but they did it anyway.

The claimant may have to repay \$1,400 (i.e. four weeks of benefits at \$350 per week) and could receive a penalty of \$700 (i.e. \$350 for each of the two false reports filed during the holiday). The friend would also receive a penalty of \$700 for the illegal act of filing two false reports on behalf of the claimant.

- An EI claimant works for eight weeks while on claim, making \$2,500 in earnings. The claimant does not report having worked or the \$2,500 in earnings and continues to receive EI benefits totalling \$3,200. Upon investigation, it is revealed that the claimant knew that concealing the earnings was illegal. This claimant had committed a similar act the year before and had already received a \$3,000 overpayment that had to be paid back plus a \$2,000 penalty at that time. As this is the second time the claimant has misused the EI system, besides paying back the \$3,200 overpayment of EI benefits, a penalty of \$6,400 (twice the overpayment amount) could be imposed. This penalty reflects the seriousness of the claimant's act and the existence of a prior offence.

There can be many different cases where a penalty could apply, and the amount of the penalty can become very high. Depending on the circumstances, the maximum penalty can be up to three times the amount of your overpayment, three times the weekly benefit rate for every illegal act or three times the maximum benefit rate.

As well, higher entrance requirements are imposed and are based on the violation history.

Entrance requirements	Examples
<p>If the value of the overpayment on which the violation is based is less than \$1,000, you will have to work 25% more than the minimum entrance requirement to qualify for regular benefits.</p>	<p>If you would normally have required a minimum of 420 hours of work, you would need an extra 105 hours. This would bring your minimum entrance requirement to 525 hours of work to qualify.</p>
<p>If the value of the overpayment on which the violation is based is between \$1,000 and \$4,999 the entrance requirement increases by 50%.</p>	<p>If you would normally have required a minimum of 420 hours of work, you would need an extra 210 hours. This would bring your minimum entrance requirement to 630 hours of work to qualify.</p>
<p>If the value of the overpayment on which the violation is based is \$5,000 or more, the entrance requirement increases by 75%.</p>	<p>If you would normally have required a minimum of 420 hours of work, you would need an extra 315 hours. This would bring your minimum entrance requirement to 735 hours of work to qualify.</p>

For repeat violations, entrance requirements double. For example, if you normally required 420 hours, you would need 840 hours.

Section VII

Responsibilities and rights

Employment Insurance is a financial safety net to protect Canadians from hardship when they lose their jobs and are looking for work. The right to receive benefits, however, is balanced by the responsibility of each person to abide by the requirements of the law.

You have the responsibility to:

- be willing and able to work at all times;
- look actively for work and keep a record of employers whom you have contacted and when you contacted them;
- report all periods when you are not available for work;
- provide all required information and documents;
- keep appointments with our office;
- notify us of any separation from employment and the reasons for that separation;
- report all employment whether you work for someone else or for yourself;
- accurately report all earnings before deductions from employment, in the week(s) in which they were earned, as well as any other monies you may have received;
- report any absence from your area of residence; and
- report any absence from Canada.

Under most circumstances, you are not permitted to receive regular benefits for any period in which you are not in Canada.

You have the right to:

- file a claim for Employment Insurance;
- have help in making your claim;
- get help in looking for a job;
- receive benefits owing to you; and
- appeal decisions about your benefits which you feel are unjust.

Under the *Privacy Act* you have the right to see any government records which contain personal information about you.

Appeals

Many different circumstances surround EI applications and the rules on benefits. Service Canada always tries to be fair, but you might not agree with a decision. You may want to talk about this to an EI officer. This will give you the opportunity to offer any new information you may have, and will also clarify any questions surrounding the decision.

If you still want to appeal, you must write to your local Service Canada Centre stating clearly what decision(s) you disagree with and why you feel the decision is/are incorrect. This must be done within 30 days of receiving the EI decision. Don't forget to include your SIN on any additional information you supply.

For further information on the Appeals process, visit our Web site **ei-ae.gc.ca** or contact your local Service Canada Centre or see our brochure entitled *Employment Insurance: Appealing a Decision*, available from any Service Canada Centre.

Notes

Notes
