

IN THE PRIVY COUNCIL

No. 101 of 1936

ON APPEAL FROM THE
SUPREME COURT OF CANADA

IN THE MATTER of a REFERENCE re THE EMPLOYMENT
& SOCIAL INSURANCE ACT

B E T W E E N

THE ATTORNEY GENERAL OF CANADA
Appellant

- and -

THE ATTORNEYS GENERAL OF THE
PROVINCES OF ONTARIO, QUEBEC,
NEW BRUNSWICK, BRITISH COLUMBIA,
MANITOBA, ALBERTA and
SASKATCHEWAN Respondents

THE EMPLOYMENT & SOCIAL INSURANCE ACT 25-26
GEO. V CHAP. 38.

CHARLES RUSSELL & CO.
37, NORFOLK STREET,
STRAND, W.C.2.

25-26 GEORGE V.

CHAP. 38.

An Act to establish an Employment and Social Insurance Commission, to provide for a National Employment Service, for Insurance against Unemployment, for aid to Unemployed Persons, and for other forms of Social Insurance and Security, and for purposes related thereto.

[Assented to 28th June, 1935.]

WHEREAS the Dominion of Canada was a signatory, as Preamble.
Part of the British Empire, to the Treaty of Peace made between the Allied and Associated Powers and Germany, signed at Versailles, on the 28th day of June, 1919; and whereas the said Treaty of Peace was confirmed by The Treaties of Peace Act 1919; and whereas, by Article 23 of the said Treaty, each of the signatories thereto agreed that they would endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and by Article 427 of the said Treaty declared that the well-being, physical, moral and intellectual, of industrial wage-earners is of supreme international importance; and whereas it is desirable to discharge the obligations to Canadian Labour assumed under the provisions of the said Treaty; and whereas it is essential for the peace, order and good government of Canada to provide for a National Employment Service and Insurance against unemployment, and for other forms of Social Insurance and for the purpose of maintaining on equitable terms, interprovincial and international trade, and to authorize the creation of a National Fund out of which benefits to unemployed persons throughout Canada will be payable and to provide for levying contributions from employers and workers for the maintaining of the said Fund and for contributions thereto by the Dominion: Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1.

SHORT TITLE.

Short title. **1.** This Act may be cited as *The Employment and Social Insurance Act.*

INTERPRETATION.

Definitions. **2.** (1) In this Act and in any regulation or order made thereunder unless the context otherwise requires,

"Commission". (a) "Commission" means the Employment and Social Insurance Commission created by this Act;

"Contribution" or "contributions". (b) "contribution" or "contributions," in relation to the number counted for the purposes of determining benefit rights and the duration of benefits of an insured contributor on an application for unemployment benefit, means full weekly contribution or contributions, as the case may be, after making allowance for the number of unemployed days for which contributions were paid in respect of him and in respect of which he is entitled to a refund of contributions paid by him by reason of having been unemployed during those days;

"Day". (c) "day", means a period of twenty-four hours from twelve o'clock in the afternoon to the same hour of the next day or such other period of twenty-four hours as the Commission may for any general or special purpose prescribe;

"Employment Service". (d) "employment service", includes employment offices organized and administered as provided by this Act;

"Insurance year". (e) "insurance year", means such period of not less than fifty-two or more than fifty-three weeks as may be prescribed by regulation in that behalf;

"Minister". (f) "Minister", means the Minister designated by the Governor in Council for the purposes of this Act;

"Person". (g) "person" means a person of either sex;

"Prescribed". (h) "prescribed", means prescribed by regulation of the Commission;

"Regulation". (i) "regulation", means any regulation made in the manner prescribed by this Act;

"Trade dispute". (j) "trade dispute", means any dispute between employers and employees, or between employees and employees, which is connected with the employment or non-employment, or the terms or conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises, or not.

Construction of certain expressions in this Act. (2) In this Act and in any regulation or order made thereunder, unless the context otherwise requires, each of the following expressions shall have the meaning assigned thereto in the provisions of this Act hereinafter in this subsection respectively mentioned:

- (a) "an insured contributor," subsection one of section twenty;
- (b) "benefit year," section twenty-four;
- (c) "calendar week," Second Schedule, Part II, paragraph ten;
- (d) "child," Third Schedule, Part II, paragraph six;
- (e) "continuously unemployed," subsection four of section twenty;
- (f) "continuous period of unemployment," subsection four of section twenty;
- (g) "employer's contribution," subsection three of section seventeen;
- (h) "employed persons," subsection one of section fifteen;
- (i) "insurable employment," subsection one of section fifteen;
- (j) "statutory conditions," section nineteen and subsection one of section twenty;
- (k) "unemployment benefit," section nineteen;
- (l) "unemployment books," subsection two of section eighteen;
- (m) "unemployment cards," subsection two of section eighteen;
- (n) "Unemployment Insurance Advisory Committee," section thirty-six;
- (o) "Unemployment Insurance Fund," subsection one of section seventeen and subsection one of section thirty-five;
- (p) "unemployment insurance stamps", subsection two of section eighteen.

3. The remainder of this Act may be referred to as follows:— Division
into Parts.

PART I, sections four to nine inclusive, relating to the Employment and Social Insurance Commission;

PART II, sections ten to fourteen inclusive, relating to Employment Service;

PART III, sections fifteen to thirty-eight inclusive, relating to Unemployment Insurance;

PART IV, sections thirty-nine to forty-one inclusive, relating to National Health;

PART V, sections forty-two to forty-eight inclusive, General.

PART I.

EMPLOYMENT AND SOCIAL INSURANCE COMMISSION

4. (1) This Act shall be administered by a Commission to be called "The Employment and Social Insurance Com-

mission," which shall consist of a Chief Commissioner and two other Commissioners appointed by the Governor in Council.

How chosen.

(2) Of the said Commissioners, other than the Chief Commissioner, one shall be appointed after consultation with organizations representative of workers and the other after consultation with organizations representative of employers.

Quorum:
vacancy.

(3) Two Commissioners shall be a quorum and no vacancy in the Commission shall impair the right of the remaining Commissioners to act.

Decision of
majority.

(4) The decision of the majority of the Commissioners present at any meeting shall be the decision of the Commission, and in the event of a tie the Chief Commissioner shall have a second or casting vote.

Casting
vote.

Body
corporate.

(5) The Commission shall be a body corporate having capacity to contract and to sue and be sued in the name of the Commission.

Power to
hold pro-
perty.

(6) The Commission shall have power, for the purposes of this Act, to acquire, hold and dispose of personal property, and with the approval of the Governor in Council, real property.

Head Office.

(7) The head office of the Commission shall be in the city of Ottawa in the Dominion of Canada.

Duration of
office.

5. (1) Each Commissioner shall, subject to his earlier removal for cause or permanent incapacity hold office for a period of ten years from the date of his appointment, but his office shall become vacant upon his attaining the age of seventy years.

Eligible for
reappoint-
ment.

(2) A Commissioner upon expiration of his term of office, if under seventy years of age, shall be eligible for reappointment.

Absence or
incapacity.

(3) In the event of absence or temporary incapacity of any Commissioner the Governor in Council may appoint a person to act in his stead during such absence or incapacity.

Vacancy.

(4) Any vacancy arising in the Commission shall be filled within a period of four months.

Salaries of
Commis-
sioners.

6. The Chief Commissioner and the other members of the Commission shall be paid such salaries as may from time to time be fixed by the Governor in Council, and they shall devote their whole time to the performance of the duties of their respective offices, and reside in the city of Ottawa or within ten miles thereof.

Commission
to undertake
investiga-
tions.

7. (1) In addition to the powers and duties of the Commission as otherwise provided by this Act, the Commission shall, as soon as practicable after appointment, undertake investigations for the purpose of making proposals to the Governor in Council for—

- (a) providing unemployment insurance for the employments excepted from the operation of Part III of this Act, or for any of them, either by extending thereto the provisions of that Part, with such modifications, if any, as may be found necessary, or by special or supplementary schemes; Extension of insurance to excepted employments.
- (b) making provision for the assistance, during unemployment, of persons Assistance for unemployed.
- (i) ordinarily employed in any of the employments excepted from the operation of Part III of this Act; or
- (ii) ordinarily employed in insurable employment but who for the time being are not entitled to unemployment insurance benefit under this Act; and
- (c) providing, in co-operation with educational authorities and institutions, or otherwise, either generally or in certain areas or for any class or classes of such persons— Training of unemployed.
- (i) physical and industrial training with a view to maintaining or increasing their industrial fitness, skill and efficiency, or enlarging their knowledge of the industry in which they normally seek employment; or
- (ii) training and instruction in some occupation, trade or handicraft; or
- (iii) employment in any work, having regard for their capacity, training and experience, with a view to re-habilitating them for regular employment.

(2) Proposals concerning assistance within the meaning of paragraph (b) of subsection one of this section may include proposals for the establishment of savings or any other funds derived either wholly out of contributions made by such persons or any of them while in employment or partly out of contributions so made and partly out of contributions made by the employers of such persons, or any other plan of assistance. Schemes of assistance.

(3) The Commission shall from time to time report to the Governor in Council their conclusions and recommendations based on any investigation made as hereinbefore in this section provided, and if any such report includes recommendations for the establishment of any fund under paragraph (b) of subsection one of this section, the recommendations shall be made on the basis that any such fund shall be maintained wholly distinct and separate from any other funds. Report to Governor in Council.

(4) The Unemployment Insurance Advisory Committee, established under Part III of this Act, shall report to the Governor in Council on any recommendations made by the Commission in respect of the matters specified in paragraphs (a) and (b) of subsection one of this section. Report by Advisory Committee on recommendation of Commission.

8.

Officers and employees to be appointed under Civil Service Act.

8. (1) The Commission may, subject to the approval of the Governor in Council, employ such officers, clerks and employees for the purposes of this Act as the Commission may determine, and all appointments of officers, clerks and employees so employed by the Commission shall be made in pursuance of the *Civil Service Act*.

Technical and professional employees for special purposes.

(2) For the purposes of any investigation, or for any other purpose of this Act, the Commission may, subject to the approval of the Governor in Council, from time to time temporarily employ such persons of technical and professional attainments as the Commission may deem necessary.

Cost of administration to be provided by Parliament.

(3) The costs of administration of this Act, including remuneration of Commissioners, officers, clerks and employees, shall be paid out of moneys provided by Parliament.

Power of Commission under Inquiries Act.

9. (1) For the purposes of any investigations undertaken by the Commission under the provisions of this Act, the Commission shall have the powers of a Commissioner under the *Inquiries Act*.

Notice of investigation.

(2) The Commission shall give such public notice as they consider sufficient of their intention to investigate any matters which under this Act they are empowered to investigate, and they shall receive any representations submitted to them by persons or associations of persons appearing to the Commission to have an interest in the matters under investigation.

PART II.

EMPLOYMENT SERVICE.

Organization of Employment Service.

10. The Commission shall organize an employment service for the Dominion of Canada, in manner hereinafter provided, and shall be responsible for the constitution and management of such employment service and the direction, maintenance and control of all employment offices established as hereinafter provided.

Regional divisions: Central Offices.

11. (1) The Commission shall establish such regional divisions as they may deem expedient and desirable, and there shall be a central office in each such division at such place as the Commission may determine, and all employment offices provided for under the next succeeding subsection of this section which are within any such division shall be directed and controlled by the Commission through the central office of that division.

Employment offices.

(2) The Commission shall establish employment offices within each regional division at such places as they may deem expedient and desirable for the purposes of this Act.

(3)

(3) The central office within each regional division shall be a clearing house for collecting from and distributing to the employment offices therein information concerning employers seeking workers and workers seeking employment.

Central office clearing house.

(4) The Commission shall co-ordinate the services of the central offices so that the information obtained in any regional division may be available to workers and employers in other regional divisions.

Co-ordination of central offices.

12. (1) The Commission shall collect information concerning employers requiring workers and workers seeking employment and to the extent the Commission considers necessary shall make the same available at the employment offices.

Collection of information.

(2) The Commission may request any person to make written returns of such information as the Commission may deem necessary for the purposes of this Act, and failure to comply with any such request shall be an offence against this Act and shall on summary conviction render liable any person in default to a fine not exceeding fifty dollars or to imprisonment for a period not exceeding one month, or to both fine and imprisonment.

Failure to make returns an offence.

13. (1) The Commission may for any central office or for any employment office, establish a local committee for the purpose of advising and otherwise assisting the Commission.

Local committees.

(2) Each such committee shall include members chosen after consultation with local organizations representative of workers and an equal number after consultation with employers.

How chosen.

14. (1) The Commission may make regulations authorizing advances by way of loan towards meeting the expenses of workers travelling to places where employment has been found for them through an employment office.

Advances to workers seeking employment.

(2) Any sum advanced in accordance with such regulations shall be a debt due by the worker to the Commission and recoverable by process of law.

Recovery of loans.

(3) All advances made in accordance with regulations made under this section shall be made out of moneys provided by Parliament for that purpose, and all repayments of such advances shall be paid into the Consolidated Revenue Fund of Canada.

Moneys provided by Parliament.

PART III.

PART III.

UNEMPLOYMENT INSURANCE

Insured Persons

Persons to be insured against unemployment "employed persons" defined.

15. (1) Subject to the provisions of this Act, all persons of the age of sixteen years and upwards who are engaged in any of the employments specified in Part I of the First Schedule to this Act, not being employments specified as excepted employments in Part II of that Schedule (in this Act referred to as "employed persons"), shall be insured against unemployment in manner provided by this Act, and the employment in which any such person is engaged shall in this Act be referred to as "insurable employment."

Power to enlarge or restrict excepted employments.

(2) Where it appears to the Commission that the terms and conditions of service of, and the nature of the work performed by, any class of persons employed in an excepted employment are so similar to the terms and conditions of service of, and the nature of the work performed by, a class of persons employed in an insurable employment as to result in anomalies in the operation of this Act, the Commission may, by regulations either unconditionally or subject to such conditions as may be specified in the regulations, either:—

- (a) provide for including the class of persons employed in insurable employment among the classes of persons employed in excepted employment; or
- (b) provide for including the class of persons employed in excepted employment among the classes of persons employed in insurable employment.

Persons in insurable employment to an inconsiderable extent.

(3) The Commission may by regulations provide, subject to such exceptions and conditions as the Commission think fit, for adding any class of employment to the excepted employments but only as respects persons who are in any week employed in that class of employment to such extent (being in the opinion of the Commission inconsiderable) as may be specified in the regulations.

Exemptions.

16. (1) Where any employed person proves that he is either:—

Persons entitled to certificates of exemption.

- (a) a person who is employed in an occupation which is seasonal and does not ordinarily extend over more than twenty-four weeks in any year and who is not ordinarily employed in any other occupation which is insurable employment; or
- (b) a person who habitually works for less than the ordinary working day;

Certificate of exemption.

he shall be entitled to a certificate exempting him from liability to contribute under this Act and while holding such certificate shall not be insured under this Act.

(2) All claims for exemption shall be made to the Commission in the prescribed form and certificates of exemption shall be granted only by the Commission.

Certificate by Commission.

Contributions.

17. (1) The funds required for providing unemployment benefit and for making any other payments which under this Act are to be made out of the Unemployment Insurance Fund, established under this Part of this Act, shall be derived partly from moneys provided by Parliament, partly from contributions by employed persons and partly from contributions by the employers of those persons, which contributions shall be paid by means of revenue stamps as hereinafter provided, or otherwise as may be prescribed by the Commission.

Contributions by employed persons and employers.

(2) Subject to the provisions of this Act, every employed person and every employer of any such person shall be liable to pay contributions in accordance with the provisions of the Second schedule to this Act.

Rates of contribution.

(3) Except where regulations under this Act otherwise prescribe, the employer shall in the first instance be liable to pay both the contribution payable by himself (in this Act referred to as "the employer's contribution") and also, on behalf of the employed person, the contribution payable by that person, and subject to any such regulations shall be entitled to recover from the employed person, by deduction from his wages or otherwise, the amount of the contributions so paid by him on behalf of the employed person.

Employer liable for both contributions but may recover from employee.

(4) The employer of a person who holds a certificate of exemption under this Act shall be liable to pay the like contributions as would be payable by him as employer's contributions if that person were a person insured under this Act, and in this Act any reference to the employer's contribution shall be construed as including a contribution payable under this subsection.

Employer's contribution payable in respect of exempted person.

(5) The regulations made under this Act shall provide for the return to a person and to his employer of any contributions paid by them or either of them within the prescribed period under the erroneous belief that the contributions were payable in respect of that person, subject, in the case of that person's contributions, to the deduction of any amount received by him in respect of unemployment benefit to which he was erroneously deemed to be entitled by reason of the contributions so paid in respect of him: Provided that no return of contributions shall be made under this provision except on an application made in the prescribed manner and within the prescribed period, not being less than one year from the date on which the contributions were paid.

Return of contributions paid in error.

Payment and recovery of contributions subject to rules. (6) The payment of contributions and the recovery of contributions paid by employers on behalf of employed persons shall be subject to the rules in Part II of the Second Schedule to this Act.

Payment by stamps or otherwise 18. (1) The Governor in Council may by regulation provide for the payment of contributions by means of revenue stamps (in this Act referred to as "unemployment insurance stamps") affixed to or impressed upon books or cards (in this Act respectively referred to as "unemployment books" and "unemployment cards"), and such stamps and the devices for impressing the same shall be prepared and issued in such manner as may be prescribed by such regulation.

Power to make regulations as to payment of contributions. (2) Subject to the provisions of this Part, the Commission may make regulations providing for any matters relating to the payment and collection of contributions payable under this Act, and in particular for—

- (a) regulating the manner, times and conditions in, at and under which payments are to be made;
- (b) the entry in or upon unemployment books or cards of particulars of contributions and benefits paid in respect of the persons to whom the unemployment books or cards relate;
- (c) the issue, sale, custody, production and delivery up of unemployment books or cards and the replacement of unemployment books or cards which have been lost, destroyed or defaced; and
- (d) the offering of reward for the return of an unemployment book or card which has been lost and for the recovery from the person responsible for the custody of the book or card at the time of its loss of any reward paid for the return thereof.

Unemployment Benefit.

Right of insured person to unemployment benefit. 19. Every person who being insured under this Act is unemployed and in whose case the conditions laid down by this Act (in this Act referred to as "statutory conditions") are fulfilled, shall be entitled, subject to the provisions of this Act (including Part II of the Third Schedule thereof) to receive payments (in this Act referred to as "unemployment benefit") at weekly or other prescribed intervals at such rates as are authorized by or under Part I of the Third Schedule to this Act, so long as the statutory conditions continue to be fulfilled and so long as he is not disqualified under this Act for the receipt of unemployment benefit.

20. (1) Subject to the provisions hereinafter contained, the statutory conditions for receipt of unemployment benefit by a person insured under this Act (in this Act referred to as "an insured contributor") are—

Statutory conditions for receipt of unemployment benefit.

(i) that contributions for not less than forty full weeks (exclusive of any days of unemployment for which, pursuant to the provisions of the Second Schedule to this Act, he is entitled to a refund of contributions paid by him) have been paid in respect of him while employed in insurable employment during a period not exceeding two years immediately preceding the date on which a claim for benefit is made;

(ii) that he has made application for unemployment benefit in the prescribed manner, and proves that since the date of the application he has been continuously unemployed; and

(iii) that he is capable of and available for work but unable to obtain suitable employment.

(2) In determining whether an insured contributor has proved that the first statutory condition is fulfilled in his case, no account shall be taken of any contributions paid in respect of him for any period during which he was not *bonâ fide* employed in insurable employment, nor for any period during which he was exempt from the provisions of this Act.

Account taken only of contributions when *bonâ fide* employed.

(3) If an insured contributor proves in the prescribed manner that he was during any period, falling within the two years specified in the first statutory condition, incapacitated for work by reason of some specific disease or bodily or mental disablement, or employed in any of the employments specified in Part II of the First Schedule to this Act, or engaged in business on his own account, the first statutory condition shall have effect as if for the said period of two years there were substituted a period of two years increased by the said periods of incapacity or of such employment or business engagement as aforesaid, but so as not to exceed in any case four years.

Enlargement of first statutory condition.

(4) Any three days of unemployment, whether consecutive or not, within a period of six consecutive days shall be treated as a continuous period of unemployment, and any two such continuous periods separated by a period of not more than six weeks shall be treated as one continuous period of unemployment, and the expressions "continuously unemployed" and "continuous period of unemployment" shall be construed accordingly.

Meaning of continuous period of unemployment.

(5) Any period during which a person

(i) fails to fulfil the second or third statutory condition, or

(ii) is, under the provisions of this Act, disqualified for receiving benefit, or

Period of disqualification not to count in continuous period of unemployment unless due to disease or disablement.

(iii) is, under the provisions of this Act, deemed not to be unemployed,

shall be excluded in the computation of continuous periods of unemployment unless that person proves that the failure to fulfil the said statutory conditions or the disqualification for receiving benefit was due to incapacity for work arising from some definite disease or bodily or mental disablement.

Continuous unemployment to begin on date of application.
Proviso.

(6) A continuous period of unemployment shall be deemed to begin on the date on which the insured contributor makes application for benefit in the prescribed manner: Provided that regulations may be made authorizing some earlier date to be substituted for the date of application

(i) where good cause is shown for delay in making application; or

(ii) for the purpose of computing the first week of a continuous period of unemployment in a case in which the applicant, upon a claim for benefit which begins his benefit year, proves in the prescribed manner that a continuous period of unemployment was in fact current at the date of that application.

Employment which is unsuitable within the third statutory condition.

(7) An insured contributor shall not be deemed to have failed to fulfil the third statutory condition by reason only that he has declined—

Unemployment due to trade dispute.

(a) an offer of employment arising in consequence of a stoppage of work due to a trade dispute; or

Employment at low wages or on unfavourable conditions.

(b) an offer of employment at wages lower, or on conditions less favourable, than those which he might reasonably have expected to obtain, having regard to those which he habitually obtained in his usual occupation, or would have obtained had he continued to be so employed; or

Employment less favourable than observed by agreements between employers and employees.

(c) an offer of employment in his usual occupation at wages lower, or on conditions less favourable, than those observed by agreement between employers and employees, or failing any such agreement, than those recognized by reasonable and fair employers;

Proviso.

Provided that after the lapse of such an interval from the date on which an insured contributor becomes unemployed as, in the circumstances of the case, is reasonable, employment shall not be deemed to be unsuitable by reason only that it is employment of a kind other than employment in the usual occupation of the insured contributor, if it is employment at wages not lower and on conditions not less favourable than those observed by agreement between employees and employers or, failing any such agreement, than those recognized by reasonable and fair employers, but no insured contributor shall be disqualified for receipt of benefit by reason only of his refusal to accept

employment if by acceptance thereof he would lose the right—

(i) to become a member of, or

(ii) to continue to be a member and to observe the lawful rules of, or

(iii) to refrain from becoming a member of, any association, organization or union of workers.

Right to membership in organizations of workers preserved.

(8) Notwithstanding that the employment of an insured contributor has terminated, he shall not be deemed to be unemployed—

Periods not counted in computing unemployment.

(a) during any period for which he continues to receive wages by way of compensation for loss of, and substantially equivalent to, the remuneration he would have received if his employment had not terminated, or,

While in receipt of compensation substantially equivalent to wages lost.

(b) on any day on which he is following an occupation from which he derives any remuneration or profit, unless that occupation could ordinarily be followed by him in addition to his usual employment and outside the ordinary working hours of that employment, and the remuneration or profit received therefrom for that day does not exceed one dollar, or where the remuneration or profit is payable or is earned in respect of a period longer than a day, the remuneration or profit does not on the daily average exceed that amount,

While following any occupation for remuneration unless outside ordinary working hours.

nor shall an insured contributor be deemed to be unemployed

(i) on any day which is recognized as a holiday for his grade or class or shift in the occupation or at the factory, workshop or other premises at which he is employed, or

Holidays.

(ii) on any day of any calendar week during which he works for the number of days or the number of shifts which constitutes the full week's work for his grade or class or shift in the occupation or at the factory, workshop or other premises of his employment.

In excess of number of shifts for week.

21. An insured contributor shall be disqualified for receiving unemployment benefit—

Disqualifications for unemployment benefit.

(a) if he has lost his employment by reason of a stoppage of work, which was due to a trade dispute at the factory, workshop or other premises at which he was employed, except where he has, during a stoppage of work, become *bonâ fide* employed elsewhere in the occupation which he usually follows, or has become regularly engaged in some other occupation, but this disqualification shall last only so long as the stoppage of work continues, and shall not apply in any case in which the insured contributor proves

Loss of work due to trade dispute.

(i) that he is not participating in, or financing or directly interested in the trade dispute which caused the stoppage of work, and

(ii)

(ii) that he does not belong to a grade or class of workers of which immediately before the commencement of the stoppage there were members employed at the premises at which the stoppage is taking place any of whom are participating in or financing or directly interested in the dispute,

and where separate branches of work which are commonly carried on as separate businesses in separate premises are carried on in separate departments on the same premises, each of those departments shall, for the purposes of this provision, be deemed to be a separate factory or workshop or separate premises as the case may be; or

Disqualification on proof by an officer of the Commission of neglect by insured contributor to avail himself of opportunity for work.

(b) if on a claim for benefit it is proved by an officer of the commission that the claimant—

(i) after a situation in any employment which is suitable in his case has been notified to him by an employment office or other recognized agency, or by or on behalf of an employer as vacant or about to become vacant, has without good cause refused or failed to apply for such situation, or refused to accept such situation when offered to him, or

(ii) has neglected to avail himself of an opportunity of suitable employment, or

(iii) has without good cause refused or failed to carry out any written direction given to him by an officer of the employment office with a view to assisting him to find suitable employment (being directions which were reasonable having regard both to the circumstances of the claimant and to the means of obtaining that employment usually adopted in the district in which the claimant resides); or

Loss of work due to misconduct.

(c) if he has been discharged from his employment by reason of his own misconduct or if he voluntarily leaves his employment without just cause; or

While an inmate of public institution.

(d) while he is an inmate of any prison or an institution supported wholly or partly out of public funds, or, subject to the provisions of this Act, while he is a resident, whether temporarily or permanently, out of Canada; or

While in receipt of old age pension.

(e) while he is in receipt of an old age pension under an Old Age Pensions Act.

Period of disallowance of benefit in certain cases.

22. Where a claim for benefit by an insured contributor is disallowed by the court of referees or the umpire, on the ground

(a) that the third statutory condition is not fulfilled in his case; or

(b) that he is disqualified under paragraph (b) or (c) of the next preceding section of this Act for receiving benefit, the court of referees or the umpire shall declare the insured

contributor to be disentitled to benefit for a period not exceeding six weeks beginning from such date as may be determined by the court of referees or the umpire as the case may be.

23. (1) An insured contributor shall, if the statutory conditions are fulfilled in his case, and if he is not disqualified under this Act, be entitled to receive in a benefit year, benefit

Duration of benefit.

(a) for periods not exceeding in the aggregate seventy-eight days of continuous unemployment, and

Ordinary benefit days.

(b) for additional days of which the maximum number shall be computed in manner provided by the next succeeding subsection.

Additional days.

(2) An insured contributor in respect of whom not less than one hundred contributions have been paid during the complete insurance years, not exceeding five, last preceding the benefit year for which the computation of additional days is made shall be qualified for additional days determined as of the beginning of such benefit year equal to one day for every contribution paid in respect of him as an insured contributor for the insurance years aforesaid, less one day for every three days for which benefit has been paid to him for his benefit years, if any, which ended in the period, not exceeding five years, immediately preceding his benefit year for which the computation is made:

Computation of additional days.

Provided that for the purposes of this subsection,

Proviso.

(i) fractions of a day shall be disregarded,

(ii) every two contributions paid in respect of an insured contributor under the age of eighteen years shall be reckoned as one contribution, and

(iii) the number of additional days so computed shall not in any case be deemed to continue the benefit rights of the insured contributor beyond the end of his benefit year.

(3) An insured contributor who has in any benefit year exhausted his benefit rights shall not thereafter be entitled to benefit for any day in that benefit year, nor shall he become entitled to benefit in his next benefit year before the Monday next after the end of the calendar week for which there is paid in respect of him the last of the thirteen contributions specified in paragraph (b) of the next succeeding section.

Benefit not to extend beyond benefit year.

(4) In calculating contributions for the purposes of the two next preceding subsections of this section, no account shall be taken of any contributions paid in respect of any insured contributor for any period during which he was not *bonâ fide* employed in insurable employment, nor for any period during which he was exempted under the provisions of section sixteen of this Act.

Only periods of *bonâ fide* employment to count in computing benefits.

Adjustment of benefits on account of contributions or benefits paid in error.

(5) The Commission may prescribe by regulations the circumstances in which and the extent to which contributions paid in error and sums paid to a person by way of benefit while he was not entitled thereto are to be taken into account for the purposes of this and the next succeeding section.

Proof of first statutory condition at beginning of benefit year only.

(6) After an insured contributor has at the beginning of his benefit year proved that the first statutory condition is fulfilled in his case, then, subject to and in accordance with regulations made by the Commission, he shall be treated throughout the remainder of that benefit year as if that condition continued to be so fulfilled.

Definition of benefit year.

24. For all the purposes of this Act, the expression "benefit year" shall mean, in relation to an insured contributor, the period of twelve months beginning on the date on which, on an application for benefit, he proves for the first time

(a) that the first statutory condition is fulfilled in his case; and

(b) also, in the case only of an insured contributor who has exhausted his benefit rights in his last preceding benefit year, that thirteen contributions have been paid in respect of him since the Sunday last before the last day for which he received benefit;

and every subsequent period of twelve months commencing on the date on which that contributor on a claim for benefit proves the matters aforesaid for the first time after the termination of his last preceding benefit year.

Error in benefit year: rectification.

(2) If it is found that any insured contributor has been treated as having begun his benefit year on any date by reason of his having been wrongly treated as having proved any of the matters aforesaid on that date, his benefit year shall nevertheless be deemed to have begun on that date, but he shall not be entitled to benefit during the remainder of that benefit year until he proves the matters aforesaid.

Special classes of insured persons. Casual workers.

Seasonal workers.

Intermittent workers.

25. (1) This section applies to certain special classes of insured contributors, being

(a) persons who habitually work for less than a full week;

(b) persons whose normal employment is for portions of the year only in occupations which are seasonal;

(c) persons whose normal employment is in an occupation in which their services are not normally required for the full week or who owing to personal circumstances are not normally employed for the full week;

Married women.

(d) married women who, since marriage or in any prescribed period subsequent to marriage, have had less

than the prescribed number of contributions paid in respect of them; and

- (e) persons who by custom of their occupation, trade or industry or pursuant to their agreement with an employer are paid, in whole or in part, by the piece or on a basis other than that of time.

(2) Where it appears to the Commission that the application of the provisions of this Act in the determination of benefits for any of the said classes would result in anomalies, having regard for the benefits of other classes of insured contributors, the Commission may from time to time make regulations which shall, in relation to the classes of persons to whom this section applies, impose such additional conditions and terms with respect to contributions and the payment thereof and with respect to the receipt of benefit and such restrictions on the amount and period of benefit and on the number of days of any period of continuous unemployment to be excluded from the benefit period, and make such modifications in the provisions of this Act relating to the determination of claims for benefit and the meaning of "continuous period of unemployment", as may appear necessary to remove or substantially remove the anomalies.

Power to make regulations in respect of special classes.

(3) The Commission shall give such public notice as they consider sufficient of their intention to make regulations under this section and shall receive any representations which may be made to them with respect thereto.

Notice of intention to make regulations.

(4) Regulations made in pursuance of this section may apply either generally to all the persons specified in subsection one of this section or to any class of those persons or to any portion of such a class, or with respect to them or any of them, in any specified area.

Regulations may apply generally or otherwise.

26. Subject to the provisions of this Act, every assignment of, or charge on, and every agreement to assign or charge, any of the benefits conferred by this Act, shall be void, and, on an assignment for the benefit of creditors being made by any person entitled to any such benefit, the benefit shall not pass to any trustee or other person acting on behalf of his creditors.

Benefits inalienable.

Determination of Questions.

27. (1) If any question arises—

- (a) as to whether any employment or any class of employment is or will be such employment as to make the person engaged therein an employed person within the meaning of this Act or whether a person is or was an employed person within the meaning of this Act; or

Determination of questions by Commission concerning the rights of persons and appeals to the Exchequer Court.

- (b) whether a person or class of persons is or is not, or was or was not, a person or class of persons to whom a special or supplementary scheme under this Act applies or applied; or
- (c) as to who is or was the employer of any employed person; or
- (d) as to the rate of contribution payable under or in pursuance of this Act by or in respect of any person or class of persons or as to the rates of contribution payable in respect of any employed person by the employer and that person respectively; or
- (e) whether a person was or was not employed in any excepted employment during any period falling within the period of two years specified in the first statutory condition;

the question shall be decided by the Commission.

Regard to nature of work of employed person.

(2) In determining any question as to whether any occupation, in which a person is or has been engaged, is or was such as to make him an employed person within the meaning of this Act, regard shall be had to the nature of the work on which he is or was engaged rather than to the business of the person by whom he is or was employed.

Commission may revise decision.

(3) The Commission may, on new facts being brought to their notice, revise any decision given under this section.

Regulations governing procedure.

(4) The Governor in Council may make regulations prescribing the procedure under this section.

Insurance Officer: Referee: Umpire.

Insurance officers.

28. (1) The Commission may in each regional division established under section eleven of this Act employ such number of persons as the Governor in Council may approve, to be insurance officers for such division.

Chairmen of court of referees.

(2) The Governor in Council may, in each such regional division designate such number of persons as are deemed necessary to be chairmen of courts of referees in each such division.

Umpires, and deputy-umpires.

(3) The Governor in Council may, from amongst the Judges of the Exchequer Court of Canada and of the Superior Courts of the provinces of Canada, designate an umpire and such number of deputy-umpires as the Governor in Council may deem necessary for the purposes of this Act, and, subject to the provisions of this Act, may prescribe their jurisdiction; and unless the context otherwise requires, any reference to the umpire shall include a reference to a deputy-umpire.

Court of referees.

29. (1) A court of referees for the purposes of this Act shall consist of one or more members chosen to represent

employers, with an equal number of members chosen to represent insured contributors, and a chairman appointed as provided in the next preceding section of this Act.

(2) Panels of persons chosen to represent employers and insured contributors respectively shall be constituted by the Commission for such districts and such trades or groups of trades as the Commission may think fit, and the members of a court of referees to be chosen to represent employers and insured contributors shall be selected from those panels in the prescribed manner.

Panels of members of courts of referees.

(3) Subject as aforesaid, the constitution of courts of referees shall be determined by regulations under this Act.

Subject to regulations.

(4) Regulations under this Act may provide that any claim or question which is reported or referred to a court of referees may, with the consent of the claimant or the person or association in whose case the question arises, but not otherwise, be proceeded with in the absence of any member or members of the court other than the chairman, and in any such case the court shall, notwithstanding anything in this Act, be deemed to be properly constituted, and the chairman shall, if the number of the members of the court is an even number, have a second or casting vote.

Court may not proceed if chairman absent.

(5) The Commission may pay such remuneration to the chairman and other members of a court of referees, and such travelling and other allowances to any such chairman or members or to any persons required to attend before any such court, and such other expenses in connection with any court of referees as the Commission determines, and any such payments shall be treated as costs of administration of this Act.

Remuneration of chairman and members; expenses of persons required to attend.

Claim Procedure.

30. (1) All claims for benefit, and all questions arising in connection with such claims, shall be submitted forthwith for examination to one of the insurance officers.

Examination and determination of claims.

(2) The insurance officer shall forthwith take into consideration any claim submitted to him for examination under this section, and if he is of opinion that the claim ought to be allowed, he may himself allow the claim.

Insurance officer may allow claim.

(3) If the insurance officer is not satisfied that a claim ought to be allowed he may either refer the claim (so far as practicable within fourteen days from the date on which the claim was submitted to him for examination) to the court of referees for their decision or, subject to the provisions of this subsection, himself disallow the claim. Provided that

Insurance officer may disallow claim or refer to court of referees.

(a) the insurance officer shall not himself disallow a claim on any of the following grounds, namely—

(i) that the third statutory condition is not fulfilled; or

(ii) that the claimant is disqualified by reason of his having been discharged from his employment by reason of his own misconduct or having voluntarily left his employment without just cause, or by reason of the provisions of paragraph (b) of section twenty-one of this Act; or

(iii) that the claimant does not fulfil one or more of the additional conditions or terms for the receipt of benefit imposed by regulations made under this Act, or is subject to restrictions on the amount or period of benefit imposed by such regulations; and

(b) the insurance officer shall refer to the court of referees any question whether the claimant is liable to have deductions made under any of the provisions of this Act from any benefit to which he is, or may become, entitled.

Appeals of claimant to court of referees.

(4) Where a claim is disallowed by the insurance officer, the claimant may at any time within twenty-one days of the date on which the decision of the insurance officer is communicated to him, or within such further time as the Commission may in any particular case for special reasons allow, appeal in the prescribed manner to the court of referees.

Appeal to umpire.

(5) Subject as hereinafter provided, an appeal shall lie to the umpire from any decision of a court of referees as follows:

(a) At the instance of an insurance officer, in any case;

(b) at the instance of an association of employed persons of which the claimant is a member, in any case;

(c) at the instance of the claimant

(i) without leave in any case in which the decision of the court of referees is not unanimous; and

(ii) with the leave of the chairman of the court of referees in any other case; so however, that where leave to appeal is not granted when the decision of the court of referees is given, an application for such leave may be made by the claimant in such form, and within such time after the date of the decision, as may be prescribed by regulations made by the Commission under this Act, and any application for leave to appeal shall be granted by the chairman if it appears to him that there is a principle of importance involved in the case or any other special circumstance by reason of which leave to appeal ought to be given.

Findings of a court of referees in writing.

(6) A court of referees shall record their decisions in writing and shall include in the record of every decision a statement of their findings on questions of fact material to the decision.

(7) Where the chairman of a court of referees grants leave to appeal to the umpire from the decision of the court, the chairman shall record in writing a statement of the grounds on which leave to appeal is granted.

Chairman to record grounds for granting appeal to umpire.

(8) An appeal under subsection five of this section must be brought within six months of the date of the decision of the court of referees or such longer period as the umpire may in any case for special reasons allow.

Appeal within six months.

(9) For the purposes of paragraph (b) of subsection five of this section, a claimant for benefit shall not, in relation to any appeal, be deemed to be a member of any association of employed persons unless he was a member thereof on the last date on which he was employed before the claim subject to the appeal was made, and has continued to be a member thereof until the date when the appeal is made, and no such association shall be deemed to be an association of employed persons for the purposes of this section unless an important and declared part of its functions is the furtherance of the interests of its members in relation to their employment and unemployment, and the question whether any association is or is not an association of employed persons for the purpose of this section shall be for the decision of the umpire.

Associations which may appeal on behalf of a claimant member.

(10) The decision of the umpire on any appeal from the court of referees shall be final.

Decisions of umpire final.

(11) If on an appeal to the umpire from a decision of a court of referees any person affected by the decision is requested by the umpire to attend before him on the consideration of the appeal and so attends, he shall be paid out of moneys provided by Parliament for meeting the costs of administration of this Act such travelling and other allowances, including compensation for loss of remunerative time, as the Commission may determine.

Expenses of persons required to attend appeal.

(12) An insurance officer, a court of referees or the umpire, on new facts being brought to his or their knowledge, may revise a decision given in any particular case, and where any such revision is made, the revised decision shall have effect as if it had been an original decision, and the foregoing provisions of this section shall apply accordingly.

Insurance officer, court of referees, or umpire may revise a decision given.

(13) Where a claim for benefit is allowed by a court of referees, benefit shall be payable in accordance with the decision of the court of referees notwithstanding that an appeal to the umpire is pending, unless the appeal has been brought on the ground that the claimant ought to be disqualified under the provisions of paragraph (a) of section twenty-one of this Act and within twenty-one days of the date on which the decision of the court of referees was given, and any benefit paid in pursuance of the provisions of this subsection shall be treated, notwithstanding that

Decision of court of referees to have effect pending appeal to umpire: exception.

the final determination of the question is adverse to the claim, as having been duly paid and shall not be recoverable from the insured contributor.

References to claims for benefit: construction.

(14) In this section references to claims for benefit shall be construed as including references to questions arising in relation to such claims, and references to allowing or disallowing a claim shall be construed as including references to determining a question in favour of or adversely to a claimant.

Legal Proceedings

Penalty for obtaining benefit or avoiding any payment through misrepresentation.

31. (1) If for the purpose of obtaining any benefit or payment under this Part of this Act, either for himself or for any other person, or for the purpose of avoiding any payment to be made by himself under this Part of this Act, or enabling any other person to avoid any such payment, any person knowingly makes any false statement or false representation, he shall be guilty of an offence against this Act and liable on summary conviction to imprisonment for a term not exceeding three months, with or without hard labour.

Penalty for failure to pay contributions or for contravention of Act or regulations.

(2) If any employer or employed person has failed or neglected to pay any contributions which he is liable under this Part of this Act to pay, or if any employer or employed person or any other person is guilty of any contravention of or non-compliance with any of the requirements of this Part of this Act or the regulations made thereunder in respect of which no penalty is provided, or if any employer deducts or attempts to deduct from the wages or other remuneration of an employed person the whole or any part of the employer's contribution, he shall be guilty of an offence against this Act and for each offence, be liable on summary conviction, to a fine not exceeding fifty dollars, or to imprisonment for a period not exceeding three months, or to both fine and imprisonment.

Penalty for sale or improper use of unemployment books, cards, stamps, etc.

(3) Every person who buys, sells, or offers for sale, takes or gives in exchange or pawns or takes in pawn, any unemployment card, unemployment book, or used unemployment insurance stamp, or any document or thing used in the administration of this Part of this Act, shall be guilty of an offence against this Act and for each offence be liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding three months, or to both fine and imprisonment.

Power to take and conduct proceedings.

32. (1) Proceedings for an offence under this Part of this Act shall not be instituted except by or with the consent in writing of the Commission or by an inspector or other officer appointed under this Act and authorized in that behalf by special or general directions of the Commission.

(2) Proceedings for an offence under this Part of this Act may be commenced at any time within three months from the date on which evidence, sufficient in the opinion of the Commission to justify a prosecution for the offence, comes to its knowledge, or within twelve months after the commission of the offence, whichever period is the longer.

Proceedings may be commenced within three months of evidence of offence.

(3) For the purpose of the next preceding subsection, a certificate purporting to be signed by the Commission as to the date on which such evidence as aforesaid came to its knowledge shall be conclusive evidence thereof.

Certificate of Commission evidence of date.

33. (1) Where an employer has failed or neglected to pay any contributions which under this Part of this Act he is liable to pay in respect of any employed person in his employment, or has failed or neglected to comply, in relation to any such person, with the requirements of any regulations relating to the payment and collection of contributions, and by reason thereof that person has lost in whole or in part the unemployment benefit to which he would have been entitled under this Part of this Act, he shall be entitled to recover from the employer as a civil debt a sum equal to the amount of the unemployment benefit so lost.

Civil proceedings by employee against employer for neglect to comply with Act.

(2) Proceedings under subsection one of this section may at the instance of an employed person be instituted by the Commission on behalf of such employed person.

Proceedings may be instituted by Commission.

(3) If it is found at any time that any person, by reason of the non-disclosure or misrepresentation by him of a material fact (whether the non-disclosure or the misrepresentation was or was not fraudulent) has received any sum by way of benefit while the statutory conditions or any other conditions for the receipt of benefit imposed by this Part of this Act were not fulfilled in his case, or while he was disqualified for receiving benefit, he shall be liable to repay to the Unemployment Insurance Fund a sum equal to the amount so received by him.

Penalty for receipt of benefit through non-disclosure or misrepresentation of material fact.

(4) Proceedings may be taken under this section notwithstanding that proceedings have been taken under any other provision of this Part of this Act in respect of the same failure or neglect.

Alternative proceedings.

(5) Proceedings under this section may, notwithstanding any provision in any enactment, be brought at any time within one year after the date on which the employed persons, but for the failure or neglect of the employer, would have been entitled to receive benefit which he has lost.

Proceedings may be taken within one year.

(6) Proceedings for the recovery as civil debts of sums due to the Unemployment Insurance Fund established under this Act may not be brought except within three years from the time when the matter complained of arose.

Proceedings for recovery of sums due Insurance Fund may be taken within three years.

*Inspection.*Powers of
Inspectors.

34. (1) Any person authorized to act as an inspector by the Commission shall, for the purpose of the execution of this Act, have power to do all or any of the following things, namely:

To enter premises other than private dwelling.

(a) to enter at all reasonable times any premises or place, other than a private dwelling house not being a workshop, where he has reasonable grounds for supposing that any employed persons are employed;

To make examination concerning compliance with Act.

(b) to make such examination and inquiry as may be necessary for ascertaining whether the provisions of this Act are complied with in any such premises or place;

To examine persons.

(c) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Act, every person whom he finds in any such premises or place, or whom he has reasonable cause to believe to be or to have been an employed person, and to require every such person to be so examined, and to sign a declaration of the truth of the matters in respect of which he is so examined;

Other powers.

(d) to exercise such other powers as may be necessary for carrying this Act into effect.

Occupiers of premises to facilitate inspection.

(2) The occupier of any such premises or place and any other person employing any employed person, and the servants and agents of any such occupier or other person and any employed person shall furnish to any inspector all such information and shall produce for inspection all such registers, books, cards, wage sheets, records of wages and other documents as the inspector may reasonably require.

Penalty for delay or obstruction of inspection.

(3) If any person wilfully delays or obstructs an inspector in the exercise of any power under this section or fails to give such information or to produce such documents as aforesaid, or conceals or prevents or attempts to conceal or prevent any person from appearing before or being examined by an inspector, he shall be guilty of an offence against this Act and liable on summary conviction to a fine not exceeding twenty-five dollars.

Inspector to produce certificate of appointment.

(4) Every inspector shall be furnished with the prescribed certificate of his appointment, and on applying for admission to any premises or place for the purpose of this Act shall, if so required, produce the said certificate to the occupier.

Financial Provisions.

Unemployment Insurance Fund.

35. (1) The Minister of Finance shall from time to time deposit in the Bank of Canada, to the credit of the Commission, in an account to be called "The Unemployment Insurance Fund" (hereinafter referred to as "The Fund"),

all revenue received from the sale of unemployment insurance stamps and all contributions, if any, paid otherwise than by means of such stamps (including contributions recovered by process of law) under the provisions of this Part of this Act.

(2) The Minister of Finance shall also deposit in like manner from time to time out of moneys provided by Parliament an amount equal to one-fifth of the aggregate deposits from time to time made as aforesaid after deducting from the said aggregate deposits any refunds of contributions from time to time made under the provisions of this Act from the Fund.

Contributions
out of moneys
provided by
Parliament.

(3) Moneys may be withdrawn from the Fund only by means of cheque or other authorization signed by two Commissioners, and out of the Fund shall be paid all claims for unemployment benefit and refunds of contributions as provided for in this Part of this Act but no other payments.

Withdrawals.

(4) Any sums standing to the credit of the Fund, which are not required to meet current expenditure, may be invested in obligations, payable in Canadian currency, of or guaranteed by the Dominion of Canada and investments so made may be sold or exchanged for other like securities, and interest received on the investments shall be deposited as aforesaid.

Investment
of Fund.

(5) Transactions under the provisions of the last preceding subsection of this section shall be made only on the authorization of an Investment Committee of three members, consisting of one member nominated by the Commission, one member nominated by the Minister of Finance, and the Governor of the Bank of Canada, or in his absence or incapacity, the Deputy Governor or the Acting Governor for the time being.

Transactions
to be
authorized
by Invest-
ment
Committee.

(6) The Bank of Canada shall be employed to carry out transactions authorized by the said Committee under the last preceding subsection of this section.

Bank of
Canada
may be
fiscal agent.

(7) The Commission may open and maintain deposit accounts with chartered banks, including the savings banks named in chapter fourteen, Revised Statutes of Canada, 1927, and any balance maintained in any such bank shall form part of the Fund.

Deposits in
chartered
banks.

(8) No such bank, nor the Bank of Canada, shall be entitled to charge any exchange on or fee for cashing any cheque, as defined by the *Special War Revenue Act*, issued by the Commission, and the provisions of section forty-four of that Act shall not apply to such cheques.

No charge
on cheques.

(9) For the purpose of borrowing money, to pay unemployment benefits, the Commission may pledge with the Bank of Canada, any of the securities of the Fund.

Pledging of
securities to
secure loans.

(10)

Extension
of powers of
Bank of
Canada.

(10) The powers of the Bank of Canada shall be deemed to include the power to do all of the things required to be done by it under the provisions of this section.

Unemployment Insurance Advisory Committee.

Establish-
ment of Un-
employment
Insurance
Advisory
Committee
and duties of
committee as
respects Un-
employment
Insurance
Fund.

36. (1) There shall be appointed by the Governor in Council a committee to be called "The Unemployment Insurance Advisory Committee," in this Act referred to as "the Advisory Committee" or "the Committee" to give advice and assistance to the Commission in relation to the discharge of its functions under this Act, and to perform the other duties herein specified.

Annual
report.

(2) The Committee shall, not later than the end of February in each year, make a report to the Governor in Council on the financial condition of the Unemployment Insurance Fund as of the thirty-first day of December next preceding, and shall also make a report to the Governor in Council on the financial condition of that Fund whenever the Committee considers that the Fund is or is likely to become, and is likely to continue to be, insufficient to discharge its liabilities, and may make a report on the financial condition of the Fund at such other times as the Committee may think fit.

Reports on
condition of
Fund.

(3) If the Committee at any time reports that the Fund is or is likely to become, and is likely to continue to be, insufficient to discharge its liabilities, or is and is likely to continue to be more than reasonably sufficient to discharge its liabilities, the report shall contain recommendations for the amendment, of the provisions of this Act, or of any regulation made thereunder, either generally or in relation to special classes of insured contributors, concerning—

Recommend-
ations if Fund
is or is likely
to become
insufficient
to discharge
liabilities.

(i) the statutory conditions for receipt of unemployment benefit and the provisions relating to the right to benefit; or

(ii) the disqualifications for unemployment benefit; or

(iii) the meaning of "unemployment," of "unemployed," of "continuous period of employment," of "continuously unemployed," and of "benefit year"; or

(iv) the rates of unemployment benefit, the periods for which such benefit may be paid and the computation thereof; or

(v) the payment of benefit pending appeals; or

(vi) the rates of contribution; or

(vii) the rates of benefits in respect of dependants and the provisions and conditions relating to the payment thereof;

being

being, if in the opinion of the Committee the Fund is insufficient, such amendment as in the opinion of the Committee is required in order to make the Fund sufficient, or if in the opinion of the Committee the Fund is more than reasonably sufficient to discharge its liabilities, such amendments as in the opinion of the Committee may appropriately be made in the circumstances, and, in either case, the report shall contain an estimate of the effect which the amendments recommended will have on the financial condition of the Fund.

(4) The Committee shall give such public notice as it considers sufficient of its intention to make a report under this section and shall receive any representations which may be made to it with respect thereto.

Notice of intention to make report.

(5) Any report made under this section shall be laid before Parliament within four weeks after being made, or if Parliament is not then sitting within four weeks after Parliament next sits.

Report to be laid before Parliament.

37. (1) The Committee shall consist of a Chairman and not less than four nor more than six other members.

Number of members.

(2) The Chairman and other members shall hold office for a period which, in the case of each of the members first appointed, and of any member appointed to fill a casual vacancy, shall be of such duration not exceeding five years as may be determined by the Governor in Council, and in the case of all other members shall be a period of five years.

Term of office.

(3) No member of the Committee shall be eligible to be elected to, or to sit in, the Parliament of Canada.

Not eligible to sit in Parliament.

(4) Of the said members, other than the Chairman, there shall be appointed either one or two after consultation with organizations representative of workers, and an equal number after consultation with employers.

Members representative of employers and workers.

(5) If, in the opinion of the Minister, a member becomes unfit to continue in office or incapable of performing his duties, the Minister shall forthwith report the facts to the Governor in Council and the Governor in Council may declare vacant the office of such member.

Unfitness or incapacity of member.

(6) The Minister may assign to the Committee from the public service of Canada or otherwise such professional, technical, secretarial and other assistance as the Committee may require, but the provision of such assistance otherwise than from the said service shall be subject to authorization by the Governor in Council.

Assistance for Committee.

(7) The Committee may act notwithstanding any vacancy in the membership of the Committee.

Vacancy.

(8)

Rules and Quorum.

(8) The Committee may make rules for regulating the procedure of the Committee.

Information to be available to Committee.

(9) The Commission shall make available to the Committee such information as they may reasonably require for the proper discharge of their functions under this Act.

Expenses.

(10) Members of the Committee shall be entitled to indemnity for travelling and other expenses incurred in the discharge of their duties under this Act.

Regulations.

Regulations.

38. In addition to the authority otherwise conferred upon the Commission to make regulations under this Act, the Commission may also make regulations;—

Persons under same employer partly in insurable employment and partly in another occupation.

(a) for permitting persons who are engaged under the same employer, partly in insurable employment and partly in some other occupation, to be treated, with the consent of the employer, for the purposes of this Act, as if they were wholly engaged in insurable employment; and

Prescribing evidence required.

(b) for prescribing the evidence to be required as to the fulfilment of the conditions and the absence of the disqualifications for receiving or continuing to receive unemployment benefit, and for that purpose requiring the attendance of insured contributors at such offices or places and at such time as may be required, and requiring employers to answer inquiries relating to any matters on which the fulfilment of the conditions or the absence of the disqualifications depends; and

Procedure on claims for unemployment benefit.

(c) for prescribing the manner in which claims for unemployment benefit may be made and the procedure to be followed on the consideration and examination of claims and questions to be considered by the Commission, insurance officer, courts of referees, and umpire, and the mode in which any question may be raised as to the continuance, in the case of a person in receipt of unemployment benefit, of the benefit; and,

Acting umpires.

(d) for making provision for the appointment of persons to act in the place of the umpire in the case of his unavoidable absence or incapacity; and

Payment of benefits and contributions pending determination of question.

(e) with respect to the payment of contributions and benefits during any period intervening between any application for the determination of any question or any claim for benefit and the final determination of the question or claim; and

References to central or local Committees.

(f) to provide for the reference to central or to local committees representing employers and employed persons, for consideration and advice of questions bearing upon the administration of this Act; and

- (g) for prescribing, either generally or with respect to any special class of cases, that where a period of employment begun on one day extends over midnight into another day, the person employed shall be treated as having been employed on such one or other only of those two days as the regulations may direct; and Provision as to persons employed on night work.
- (h) to provide, with the concurrence of the Postmaster General, for enabling claimants of unemployment benefit in remote places to make their claims for unemployment benefit through the Post Office, and for the payment of unemployment benefit of such claimants through the Post Office; and Payment of contributions and benefits through Post Office in remote places.
- (i) for prescribing punishment for the violation of any regulation including maximum and minimum fines but not exceeding fifty dollars, and terms of imprisonment not exceeding three months; and Penalties.
- (j) generally for carrying this Act into effect. Generally.

PART IV.

NATIONAL HEALTH.

39. The duties and powers of the Commission under this Part of this Act shall be exercised, so far as may be found practicable and expedient, in co-operation with any department or departments of the Government of Canada, with the Dominion Council of Health, with any province or any number of provinces collectively, or with any municipality or any number of municipalities collectively, or with associations or corporations. Co-operation in matters of Health and Health Insurance.

40. It shall be the duty of the Commission

- (a) to assemble reports, publications, information and data concerning any scheme or plan, whether a state, community or other scheme or plan for any group or class of persons, and whether in operation or proposed, in Canada or elsewhere, of providing, on a collective or on a co-operative basis by means of insurance or otherwise, for To collect information and data.
- (i) medical, dental and surgical care, including medicines, drugs, appliances, or hospitalization, or
- (ii) compensation for loss of earnings arising out of ill-health, accident or disease;

(b)

To make information and data available.

(b) to analyze and make available to any province, municipality, corporation or group of persons desiring to use the information so assembled for the purpose of providing such benefits or any of them; and

To examine and report on proposed scheme.

(c) as far as may be found practicable so to do on request by any province, municipality, corporation or group of persons, to examine and report on any such scheme or plan proposed to be put into effect or in effect at the date of such request, and to afford technical and professional guidance in regard to the establishing, working or reorganization of the scheme or plan.

Proposals to Governor in Council: Special investigation.

41. The Commission may from time to time submit to the Governor in Council proposals for co-operation by the Dominion in providing any of the benefits enumerated in paragraph (a) of the next preceding section of this Act for such action as the Governor in Council is authorized to take, and may undertake special investigations in regard thereto, subject to approval of the Governor in Council concerning the scope and nature of each such investigation.

PART V.

GENERAL.

Governor in Council to approve regulations.

42. (1) All regulations made under this Act shall be without effect until approved by the Governor in Council and published in the *Canada Gazette*, and shall have effect as if enacted in this Act and shall be laid before Parliament within two weeks after approval, or, if Parliament is not then sitting, within two weeks after Parliament next sits; and any regulation made as aforesaid may be varied or revoked by any subsequent regulation made in like manner.

Report by Advisory Committee.

(2) All regulations made under the provisions of section twenty-five of this Act or in relation to the matters specified in subsection three of section thirty-six of this Act shall be reported on by the Unemployment Insurance Advisory Committee before being acted upon by the Governor in Council.

Annual Report by Commission.

43. Within one month after the thirty-first day of March in each year, or within such longer period as may be approved by the Governor in Council, the Commission shall submit to the Minister a report covering the business and affairs of the Commission, for the twelve months ending on the said thirty-first day of March, in such detail as the Minister may from time to time direct; and such report shall contain a statement of the costs arising out of the

administration of this Act, including the indirect costs as nearly as they may be ascertainable.

(2) The Minister shall lay before Parliament, any such report within fifteen days after it is submitted to him if Parliament is then in Session, or, if not then in session, within fifteen days after the opening of the next following session.

44. All reports, recommendations and submissions required to be made under this Act to the Governor in Council, whether by the Commission or by the Advisory Committee, shall be submitted by the Minister. Reports transmitted through the Minister to the Governor in Council.

45. Any fine imposed under this Act or regulations made hereunder shall be payable to His Majesty in the right of the Dominion of Canada and be disposed of as the Governor in Council may direct. Deposition of Fines.

46. The *Employment Offices Co-ordination Act*, chapter fifty-seven of the Revised Statutes of Canada, 1927, may be repealed by Proclamation of the Governor in Council. Repeal.

47. The Commission shall be subject to the provisions of *The Consolidated Revenue and Audit Act, 1931*. Audit.

48. This Act shall come into force when assented to: provided that no contribution shall be payable or paid under the provisions of Part III of this Act until a date to be set by the Commission of which due notice shall be published in the *Canada Gazette* and in such other manner as the Commission may deem necessary. Act to become operative.

SCHEDULES.

FIRST SCHEDULE.

EMPLOYMENT WITHIN THE MEANING OF PART III OF THIS ACT.

PART I.

- (a) Employment in Canada under any contract of service or apprenticeship, written or oral, whether expressed or implied, or whether the employed person is paid by the employer or some other person, and whether under one or more employers, and whether paid by time or by the piece, or partly by time and partly by the piece, or otherwise.
- (b) Employment under the Dominion, or under any province of Canada with the concurrence of the province, or under any municipal or other public authority, other than any such employment as may be excluded by special order of the Commission.
- (c) Employment outside of Canada, or partly outside of Canada, for the purpose of the execution of some particular work, by persons who were insured contributors immediately before leaving Canada, for an employer resident or having a place of business in Canada, being employment which if it were employment in Canada, would make the persons employed therein employed persons within the meaning of this Act; subject however, to any prescribed conditions, modifications or exceptions.

PART II.

EXCEPTED EMPLOYMENTS.

- (a) Employment in agriculture, horticulture and forestry.
- (b) Employment in fishing.
- (c) Employment in lumbering and logging, exclusive of such saw mills, planing mills and shingle mills as are reasonably continuous in their operations.
- (d) Employment in hunting and trapping.
- (e) Employment in transportation by water or by air, and stevedoring.
- (f) Employment in domestic service, except where the employed person is employed in a club or in any trade or business carried on for the purposes of gain.

- (g) Employment as a professional nurse for the sick or as a probationer undergoing training for employment as such nurse.
- (h) Employment as a teacher, including teachers of music and dancing, whether engaged in schools, colleges, universities or institutes or in a private capacity.
- (i) Employment in the Permanent Active Militia, The Royal Canadian Navy, the Royal Canadian Air Force and the Royal Canadian Mounted Police.
- (j) Employment as a member of Dominion, Provincial, or Municipal Police forces.
- (k) Employment—
- (i) in the public service of Canada pursuant to the provisions of the *Civil Service Act*; or
 - (ii) in the public service of Canada or of a province or by a municipal authority upon certification satisfactory to the Commission that the employment is, having regard to the normal practice of the employment, permanent in character.
- (l) Employment as an agent paid by commission or fees or a share in the profits, or partly in one and partly in another of such ways, where the person so employed is mainly dependent for his livelihood on his earnings from some other occupation, or where he is ordinarily employed as such agent by more than one employer, and his employment under no one of such employers is that on which he is mainly dependent for his livelihood.
- (m) Employment otherwise than by way of manual labour and at a rate of remuneration exceeding in value two thousand dollars a year or in cases where such employment involves part time service only, at a rate of remuneration which, in the opinion of the Commission, is equivalent to a rate of remuneration exceeding two thousand dollars a year for full time service.
- Provided that any person in respect of whom contributions have been paid as an insured contributor for not less than five hundred weeks may continue as an insured contributor notwithstanding anything in this paragraph contained.
- (n) Employment of a casual nature otherwise than for the purpose of the employer's trade or business.
- (o) Employment of any class which may be specified in a special order made by the Commission, and declared by the Commission to apply for the purposes of this Act, as being of such a nature that it is ordinarily adopted as subsidiary employment only and not as the principal means of livelihood.

- (p) Employment in the service of the husband or wife of the employed person.
- (q) Employment for which no wages or other money payment is made, where the person employed is the child of, or is maintained by the employer.
- (r) Employment in which persons are employed and paid for playing any game.

SECOND SCHEDULE.

PART I.

WEEKLY RATES OF CONTRIBUTION.

Class of employed person:	By the employer	By the employed person
Aged 21 years and upwards—		
Men.....	\$0 25	\$0 25
Women.....	0 21	0 21
Aged 18 years and under 21 years:		
Young men.....	0 18	0 18
Young women.....	0 15	0 15
Aged 17 years and under 18 years:		
Boys.....	0 11	0 11
Girls.....	0 09	0 09
Aged 16 years and under 17 years:		
Boys.....	0 07	0 07
Girls.....	0 06	0 06

PART II.

RULES AS TO PAYMENT AND RECOVERY OF CONTRIBUTIONS PAID BY EMPLOYERS ON BEHALF OF EMPLOYED PERSONS.

1. Subject to section twenty-five of this Act a weekly contribution shall be payable for each calendar week during the whole or any part of which an employed person has been employed by an employer:

Provided that where one weekly contribution has been paid in respect of an employed person in any week, no further contribution shall be payable in respect of him in

in the same week, and that, where no remuneration has been received, and no services rendered by an employed person during any such week, the employer shall not be liable to pay and shall not pay any contribution either on his own behalf or on behalf of the employed person for that week:

Provided further that the employed person shall be entitled to a refund of contributions paid by him for any days of any such week (exclusive of any fraction of a day) in respect of which he proves that he was unemployed within the period of five years immediately preceding the date on which he makes application for unemployment benefit, and the whole of the refund to which he may be so entitled shall be payable to him at the same time as the first payment of unemployment benefit is payable to him on that application.

2. The employer shall, except as hereinafter provided, be entitled to recover from the employed person the amount of any contributions paid by him on behalf of the employed person.

3. Where the employed person receives any wages or other pecuniary remuneration from the employer, the amount of any contribution paid by the employer on behalf of the employed person shall, notwithstanding the provisions of any Act or any contract to the contrary, be recoverable by means of deductions from the wages of that person or from any other remuneration due from the employer to that person and not otherwise: Provided that no such deduction may be made—

(a) from any wages or remuneration other than such as are paid in respect of the period or part of the period for which the contribution is payable; or

(b) in excess of the sum which represents the amount of the contributions for the period (if that period is longer than a week) in respect of which the wages or other remuneration are paid.

4. Where the employed person does not receive any wages or other pecuniary remuneration from the employer, but receives such remuneration from some other person, the amount of any contribution paid by the employer on behalf of the employed person shall (without prejudice to any other means of recovery) be recoverable summarily as a civil debt, if proceedings for the purpose are instituted within three months from the date on which the contribution was payable.

5. Where the employed person is employed by more than one person in any calendar week, the first person employing him in that week, or such other employer or employers as may be prescribed, shall be deemed to be the employer for the purposes of the provisions of this Act relating to the payment of contributions and of this Schedule.

6. Regulations made under this Act may provide that in any cases or any classes of cases where employed persons work under the general control and management of some person other than their immediate employer, such as the owner, agent or manager of a mine or quarry, or the occupier of a factory or workshop, such person shall, for the purposes of the provisions of this Act relating to the payment of contributions and of this Schedule, be treated as the employer, and may provide for allowing him to deduct the amount of any contributions (other than employer's contributions) which he may become liable to pay from any sums payable by him to the immediate employer, and for enabling the immediate employer to recover from the employed persons the like sums and in the like manner as if he were liable to pay the contributions.

7. Where the employed person is not paid wages or other money payments by his employer or any other person, the employer shall be liable to pay the contributions payable both by himself and the employed person and shall not be entitled to recover any part thereof from the employed person.

8. Notwithstanding any contract to the contrary, the employer shall not be entitled to deduct from the wages of, or otherwise to recover from the employed person, the employer's contribution.

9. Any sum deducted by an employer from wages or other remuneration under this schedule shall be deemed to have been entrusted to him for the purpose of paying the contribution for which it was deducted.

10. Subject to section twenty-five of this Act, for the purposes of this schedule, the expression "calendar week" means the period from twelve o'clock in the afternoon on one Sunday to twelve o'clock in the afternoon on the following Sunday.

THIRD SCHEDULE.

PART I.

RATES OF UNEMPLOYMENT BENEFIT.

	Daily Rate	Weekly Rate
Class of insured person—		
Aged 21 years and upwards		
Men.....	\$1 00	\$6 00
Women.....	0 85	5 10
Aged 18 years and under 21 years		
Young men.....	0 70	4 20
Young women.....	0 60	3 60

Aged 17 years and under 18		
years		
Boys.....	0 45	2 70
Girls.....	0 35	2 10
Aged 16 years and under 17		
years		
Boys.....	0 30	1 80
Girls.....	0 25	1 50
Dependents' benefit—		
Adult dependent.....	0 45	2 70
Dependent child.....	0 15	0 90

PART II.

SUPPLEMENTARY PROVISIONS GOVERNING THE PAYMENT OF
UNEMPLOYMENT BENEFIT.

1. No person shall receive benefit for any fraction of a day, nor for the first nine days of any period of continuous unemployment.

2. Subject to the provisions hereinafter in this schedule contained, where a person entitled to benefit

(a) is a married man whose wife is living with him or is being maintained wholly or mainly by him; or

(b) being either a man or a woman (but not being a person entitled to an increase under this provision otherwise than in respect of his or her dependent children), has residing with him or her, and is wholly or mainly maintaining, a female person who has the care of the dependent children of the person entitled to benefit; or

(c) is a married woman who has a husband dependent on her;

the rate of benefit of such person as shown in Part I of this Schedule shall be increased by the amount of the adult dependent's benefit there shown, and where the person so entitled to benefit has dependent children, the said rate of benefit of such person shall be increased in respect of each dependent child by the amount of the dependent child's benefit shown in Part I of this Schedule;

Provided that the additional benefit aforesaid shall not be payable in respect of a wife or female person who is in receipt of benefit, or who is in regular wage-earning employment otherwise than as having the care of the dependent children of the person entitled to benefit, or is engaged in any occupation ordinarily carried on for profit:

Provided further that benefit in respect of only one dependent adult shall be paid to any insured person entitled to benefit and the total benefit paid to any such person,

including dependents' benefits, shall not exceed eighty per centum of the wages or compensation of which he is deprived by unemployment, having regard for his average earnings during periods of employment during the six months preceding the date of claim for benefit.

3. If any question arises as to whether any addition ought to be made to the rate of benefit in respect of any wife or child or other person, that question shall be determined in the same manner as a claim for benefit.

4. No increase of benefit shall be payable to an insured contributor in respect of any person for any period before the date on which the insured contributor makes application in the prescribed manner for an increase in respect of that person, so, however, that regulations may be made under this Act authorizing some earlier date to be substituted for the date of the application in cases in which good cause is shown for the delay in making the application.

5. Where a claim for benefit is made by an insured contributor and another insured contributor receives an increase of benefit in respect of the first mentioned insured contributor for any period between the date when the claim is made and the date when it is allowed, the benefit payable to the first mentioned insured contributor for that period shall be reduced by the amount of increase of benefit so received by the second-mentioned insured contributor.

6. For the purposes of this Schedule the expression "a dependent child" means, in relation to a person entitled to benefit, any child of his who

(a) is under the age of 14 years and is maintained wholly or mainly by him; or

(b) is between the ages of 14 and 16 years and is maintained wholly or mainly by him and is either

(i) a person under full time instruction at a day school;
or

(ii) a person who is prevented from receiving such instruction by reason of illness or physical or mental infirmity;

and the expression "child" includes a stepchild, adopted child, and illegitimate child.