

Canada Gazette, Part I, Volume 148, Number 15: Regulations Amending the Employment Insurance Regulations

April 12, 2014

Statutory authority

Employment Insurance Act

Sponsoring department

Department of Employment and Social Development and Canada Employment Insurance Commission

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Executive summary

Issues: Under the *Employment Insurance Act*, differences in labour market conditions across the country, as measured by regional unemployment rates, determine the eligibility for regular and fishing benefits, the entitlement for regular benefits, and the weekly amount of benefits for all claimants (excluding the self-employed). The regional unemployment rate used in the Yukon, the Northwest Territories and Nunavut for the purposes of employment insurance (EI) has been arbitrarily set at 25% since the 1970s (1999 in Nunavut) due to historical data limitations. Data now exist to introduce a new regional unemployment rate methodology to better reflect territorial labour market conditions.

In addition, the EI program currently divides the country into 58 EI economic regions that are designed to reflect labour markets with similar conditions across the region. A review of unemployment rates identified differences in labour market realities between capital and non-capital areas in the Yukon, the Northwest Territories, Nunavut, and Prince Edward Island, prompting a redefinition of the current EI economic regions to capture ongoing divergences related to capital and non-capital areas.

Description: The proposed amendments to the *Employment Insurance Regulations* would introduce a methodology for establishing the regional unemployment rates for EI purposes in the Yukon, the Northwest Territories and Nunavut, and create new EI economic regions in the Yukon, the Northwest Territories, Nunavut and Prince Edward Island.

Cost-benefit statement: Once the proposed amendments to the *Employment Insurance Regulations* have been in effect for a full year, the annual reduction in total EI payments to claimants in the Yukon, the Northwest Territories, Nunavut and Prince Edward Island is estimated to be approximately \$10 million on an ongoing basis. More specifically, on an annual basis, there will be approximately \$11 million in program savings for the territories and approximately \$1 million in program costs for Prince Edward Island. New administrative costs of up to \$0.6 million annually would be absorbed internally within existing funding levels.

With the assumption that there would be no change in their work patterns and economic conditions, it was estimated that 2 210 EI claimants would see a decrease in benefits in the Yukon, the Northwest Territories and Nunavut, had the proposed amendments to the *Employment Insurance Regulations* been in effect in 2014. In Prince Edward Island, considering that EI claimants may see variations in their benefits, it was estimated that an overall net number of 3 700 EI claimants would see increased benefits, assuming no change in their work patterns and economic conditions, had the proposed amendments been in effect in 2014. If claimants adjust their behaviour and work more hours in a given EI economic region, their eligibility, entitlement and benefit rate calculations would improve compared to the estimates above.

“One-for-One” Rule and small business lens: The “One-for-One” Rule and the small business lens do not apply.

Background

The *Employment Insurance Regulations* specify that the monthly regional rate of unemployment for EI purposes be established using a seasonally adjusted three-month moving average of the regional unemployment rates produced by Statistics Canada.

A policy decision was made to arbitrarily set the unemployment rate at 25% for EI purposes in the Yukon and the Northwest Territories in the late 1970s (in 1999 for Nunavut, following its creation).

Improvements in the data coverage in the Yukon, the Northwest Territories and Nunavut (the territories) now allow for the introduction of an unemployment rate methodology that is more reflective of current labour market realities in the territories and that balances responsiveness to economic change with stability against statistical volatility. Given the small and dispersed population in the territories, unemployment rates typically have higher statistical variance there than in the EI economic regions in the provinces.

The *Employment Insurance Regulations* also establish EI economic regions based on Statistics Canada geographical units. Currently, the Yukon, the Northwest Territories, and Nunavut are each an EI economic region. Differences between capital and non-capital areas in the territories, as measured by unemployment rates, indicate that labour

market realities differ within each territory. Prince Edward Island also displays consistent differences between its capital and non-capital areas. Charlottetown is not currently recognized as an EI economic region.

The Conference Board of Canada is forecasting that the economic growth in the territories over the 2014–2016 period will outpace growth in most other Canadian regions. The steady improvements in these labour markets and advances in the quality of labour market data support the implementation of an alternative to the arbitrarily set 25% unemployment rate and the establishment of new EI economic regions, both of which would better reflect labour market conditions in the territories.

Issues

The arbitrarily set 25% unemployment rate in the territories is not reflective of current labour market conditions. The unemployment rates published by Statistics Canada for the quarter ending in June 2013 were 4.9% in the Yukon, 7.2% in the Northwest Territories and 13.7% in Nunavut, in comparison to 7.1% at the national level. ([see footnote 1](#)) Data now exist to allow for the adoption of an alternative methodology to establish regional unemployment rates in the territories that better respond to local conditions but also acknowledge concerns regarding higher statistical variance in the territories.

In addition, there are differences in the unemployment rates between capital and non-capital areas in the EI economic regions in the territories and Prince Edward Island, which limits the responsiveness of current program parameters to the local labour market realities for EI claimants in these areas. For example, in June 2013, Statistics Canada estimated that the monthly unemployment rates for EI purposes would have ranged between approximately 4% and 9% in the capitals of the territories and Prince Edward Island while they would have reached between 12% and 17% in the non-capital areas ([see footnote 2](#)) Finally, recognizing capital and non-capital differences in the territories would leave Charlottetown, Prince Edward Island, as the only provincial or territorial capital without EI economic region status.

Objectives

The objective of the proposed amendments to the *Employment Insurance Regulations* is to ensure a better reflection of regional labour market conditions in the territories, while also recognizing differences in labour market realities between capital and noncapital areas in the Yukon, the Northwest Territories, Nunavut and Prince Edward Island.

Description

Proposed amendments to section 17 of the Employment Insurance Regulations

The proposed amendments to section 17 of the *Employment Insurance Regulations* would provide for the monthly application of the greater of a seasonally adjusted 12-month moving average or a seasonally adjusted 3-month moving average

unemployment rate as produced by Statistics Canada, for EI purposes, in the territories. This would ensure that the EI program is responsive to regional labour market conditions in the territories (with the 3-month moving average) while offering better protection against statistical variance (with the 12-month moving average).

Monthly regional unemployment rates may not be publicly available due to the legal obligation of Statistics Canada to maintain confidentiality. In order to address this issue, the proposed regulatory amendments would provide for a monthly regional unemployment rate substitute to be used if Statistics Canada were not able to publish a monthly unemployment rate for reasons of confidentiality. This would ensure that a regional unemployment rate is always available for EI purposes while protecting confidentiality. Given the small and dispersed population in the territories, it is expected that the regional unemployment rate substitute would most likely only apply in the territories. This substitute would err on the side of generosity to the claimant as it would deliver a result that is higher than the unpublished unemployment rate.

Proposed amendments to Schedule I of the Employment Insurance Regulations

The proposed amendments to Schedule I of the *Employment Insurance Regulations* would update definitions pertaining to Statistics Canada geographical units for the Yukon, the Northwest Territories, Nunavut and Prince Edward Island to reflect those included in the document entitled *Standard Geographical Classification (SGC) 2011*. The current definitions, based on Statistics Canada's *Standard Geographical Classification (SGC) 1996*, would continue to apply to all other EI economic regions.

The proposed amendments to Schedule I would also outline the creation of eight new EI economic regions. The current EI economic regions of the Yukon, the Northwest Territories, Nunavut and Prince Edward Island would each be divided into two EI economic regions, one consisting of a capital area and the other of the remaining non-capital area to better reflect diverging labour market realities. This would raise the total number of EI economic regions to 62.

Regulatory and non-regulatory options considered

The definitions to establish the regional unemployment rates that apply to a claimant for the purposes of EI and the EI economic regions are contained in the *Employment Insurance Regulations*. As a result, any changes to these definitions must be made through regulatory amendment.

Benefits and costs

Cost-benefit statement

	2014– 15	2015– 16	2016– 17	2017– 18	2018– 19	Total 2014– 19	Ongoing
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A. Quantified impacts								
Benefits (See note 1)								
Reduction in EI benefit payments	EI operating account	\$0.7M	\$8.6M	\$9.6M	\$9.9M	\$10.2M	\$39.0M	\$10.5M
Costs								
Administrative costs	Service Canada	\$0.6M	\$0.6M	\$0.6M	\$0.6M	\$0.6M	\$2.9M	\$0.6M
Net financial impacts		\$0.1M	\$8.0M	\$9.0M	\$9.3M	\$9.6M	\$36.1M	\$9.9M
B. Qualitative impacts								
<p>The proposed changes, if it is assumed that there is no change in work patterns and in economic conditions, would</p> <ul style="list-style-type: none"> • Better reflect labour market conditions in the territories; • Recognize differences in labour market realities between capital and non-capital areas in the territories and Prince Edward Island; • Decrease benefits for 2 210 EI claimants in the territories, had they been in effect in 2014; and • Increase benefits for 9 150 EI claimants in the non-capital area of Prince Edward Island, and decrease benefits for 5 450 EI claimants in Charlottetown, had they been in effect in 2014. 								

(Note 1)

These estimates are based on a proposed implementation date of October 12, 2014.

It is estimated that the proposed modifications in the territories and Prince Edward Island would lead to an overall reduction of about \$10 million in EI benefits paid on an annual basis, after the modifications have been in effect for one full year. More specifically, on an annual basis, there will be approximately \$11 million in program saving for the territories and approximately \$1 million in program costs for Prince Edward Island.

Replacing the arbitrarily set 25% unemployment rate in the territories in combination with differentiating between capital and non-capital labour markets in the territories and Prince Edward Island would result in the regional unemployment rates being more reflective of and responsive to local labour market realities. Assuming no change in their work patterns, this is expected to result in an overall reduction in the number of eligible EI claimants.

Impact of the proposed new methodology for regional unemployment rates and the proposed modified boundaries in the EI economic regions in the territories

It is estimated that the application of a new methodology to calculate the regional unemployment rates and the creation of new EI economic regions in the territories would reduce the benefits of 2 210 EI claimants in the territories, had the proposed changes been in effect in 2014 and assuming no change in claimant behaviour and economic conditions (Table 1). If claimants adjust their behaviour and work more hours in a given EI economic region, their eligibility, entitlement and benefit rate calculations would improve, when compared to the estimates above.

The EI program is designed to automatically respond to changes in economic conditions that affect regional labour markets by adjusting the entrance requirements for an individual based on the monthly unemployment rate in the EI economic region in which the individual lives. In the territories, as the proposed regional unemployment rates for EI purposes would be lower than the 25% rate, there may be additions to the entrance requirements.

Further, the number of weeks of EI regular benefits payable varies depending on regional unemployment rates and the number of insurable hours an individual worked. As the regional unemployment rates would decrease in the territories, the duration of benefits may decrease.

Finally, the weekly EI benefit rate of most EI claimants is calculated based on the highest weeks of insurable earnings during the qualifying period, which is generally 52 weeks. Through Variable Best Weeks, the number of weeks used for calculating the weekly benefit rate ranges from 14 to 22, depending on the monthly unemployment rate in a claimant's EI economic region. As a result of the 25% unemployment rate, territorial claimants are only required to have 14 weeks of insurable earnings, the lowest threshold, towards their EI benefit rate calculation. The proposed regional unemployment rates may result in a higher number of weeks being applied towards the EI benefit rate calculation.

Table 1: Forecasted impact on EI claimants in the territories, had the proposed changes been in effect in 2014 and assuming no change in work patterns and economic conditions ([See note 2](#))

	Yukon	Northwest Territories	Nunavut	Territories
Total projected EI claims in 2014 (See note 3)	2 600	2 600	1 600	6 800
Number of claimants with decreased benefits	910	1 180	120	2 210
Average \$ reduction per claim	\$4,565	\$4,550	\$3,565	\$4,505

[\(Note 2\)](#)

Estimates are shown at the territorial level, rather than at the EI economic region level, to maintain confidentiality, and are based on a 10% sample of EI administrative data.

[\(Note 3\)](#)

This estimate represents the projected number of claims in 2014, not taking into account the new methodology for regional unemployment rates and the proposed modified boundaries in the EI economic regions in the territories.

Impact of the proposed modified boundaries in the EI economic regions in Prince Edward Island

Following the creation of two new EI economic regions in Prince Edward Island, it is estimated that an overall net number of 3 700 EI claimants would see increased benefits, assuming no change in claimant behaviour and economic conditions, had the proposed changes been in effect in 2014 (Table 2). If claimants adjust their behaviour and work more hours in a given EI economic region, their eligibility, entitlement and benefit rate calculations would improve, when compared to the estimates above.

Similar to in the territories, the EI program is designed to respond automatically to changes in economic conditions that affect regional labour markets in Prince Edward Island. The entrance requirements for regular and fishing benefits, and the benefit rate calculation for EI benefits, with the exception of benefits for the self-employed, can vary depending on the monthly unemployment rate in the EI economic region in which individuals live. The number of weeks payable for regular benefits also varies depending on regional unemployment rates and the number of insurable hours an individual worked.

Table 2: Forecasted impact on EI claimants in Prince Edward Island, had the proposed changes been in effect in 2014 and assuming no change in work patterns and economic conditions [\(See note 4\)](#)

	Charlottetown		Prince Edward Island (excluding Charlottetown)
Total projected EI claims in 2014 (See note 5)	6 560	Total projected EI claims in 2014 (See note 5)	15 070
Number of claimants with decreased benefits	5 450	Number of claimants with increased benefits	9 150
Average \$ reduction per claim	\$2,560	Average \$ increase per claim	\$1,620

(Note 4)

Estimates are based on a 10% sample of EI administrative data.

(Note 5)

This estimate represents the projected number of claims in 2014, not taking into account the proposed modified boundaries in the EI economic regions in Prince Edward Island.

Other impacts

The regional unemployment rate calculation methodology proposed for the territories would help to ensure that persons living in areas with similar labour market conditions across the country receive similar treatment.

Furthermore, the proposed methodology for the new regional unemployment rate in the territories would also align Part I of the EI program with the allocation model used to calculate funding for the Labour Market Development Agreements (under Part II of the *Employment Insurance Act*), which already considers a variable unemployment rate. This would ensure a consistent approach within the EI program.

Impact on Government

The proposed amendments would require additional administrative efforts by Service Canada, with ongoing administrative costs of up to \$0.6 million annually. Activities pertaining to the additional monthly regional unemployment rates based on the proposed changes would be incorporated within the existing agreement between Statistics Canada and Employment and Social Development Canada for the production of the monthly unemployment rates for EI purposes. Incremental costs would be absorbed internally within existing funding levels.

“One-for-One” Rule

The “One-for-One” Rule does not apply, as these proposed amendments do not impose any incremental administrative burden on businesses.

Small business lens

The small business lens does not apply, as these proposed amendments do not impose any additional administrative or compliance costs on small businesses.

Consultation

Stakeholders have the opportunity to provide comments on the proposed regulatory amendments through this 30-day prepublication period in the *Canada Gazette*, Part I.

Rationale

The use of the arbitrarily set 25% unemployment rate in the territories and the current EI economic regions in the territories and Prince Edward Island results in the EI program not being aligned with local labour market realities. The introduction of a new

methodology to establish the unemployment rate in the territories would better reflect local labour market conditions and support economic growth. Dividing the current EI economic regions of the Yukon, the Northwest Territories, Nunavut and Prince Edward Island into two EI economic regions each would better reflect the differences between capital and non-capital area labour markets. In Prince Edward Island, in particular, it would also align Charlottetown with other provincial and territorial capitals that have EI economic region status.

Implementation, enforcement and service standards

The proposed amendments to the *Employment Insurance Regulations* would come into force on October 12, 2014.

Statistics Canada would calculate the monthly regional unemployment rate estimates following the new methodology for the territories, and would provide Employment and Social Development Canada with monthly unemployment rates for the eight new EI economic regions in the territories and Prince Edward Island. If a regional rate of unemployment could not be published to maintain confidentiality, Statistics Canada would produce an unemployment rate substitute. The design of this public figure that respects confidentiality would ensure that the unemployment rate for EI purposes would be slightly higher than the unpublished unemployment rate and would err on the side of generosity to the claimant. Due to the small and dispersed population in the territories, it is expected that the regional unemployment rate substitute would most likely only apply in the territories.

The regional unemployment rate for EI purposes in the provinces will continue to incorporate an estimate of the unemployment rate for individuals living on reserves, as the data do not cover those residing on reserves in the provinces. The regional unemployment rate for EI purposes in the territories would be representative of the entire population, as the data cover individuals living on and off reserves in the territories.

A notice period of approximately eight months (announcement of proposed changes to proposed implementation date) would provide EI claimants with time to adjust their work effort. A local outreach strategy to inform claimants of the proposed changes would also be planned by Service Canada in the territories and Prince Edward Island.

Existing implementation and enforcement mechanisms contained in Employment and Social Development Canada's adjudication and controls procedures would ensure that these regulatory amendments are implemented properly.

Performance measurement and evaluation

The ongoing impacts of these proposed changes would continue to be monitored as part of the annual *Employment Insurance Monitoring and Assessment Report*, which is tabled in Parliament on an annual basis.

Contact

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PROPOSED REGULATORY TEXT

Notice is given that the Canada Employment Insurance Commission, pursuant to section 54 ([see footnote a](#)) of the *Employment Insurance Act* ([see footnote b](#)), proposes to make the annexed *Regulations Amending the Employment Insurance Regulations*.

Interested persons may make representations concerning the proposed Regulations within 30 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be addressed to Brian Hickey, Director, Employment Insurance Policy, Employment and Social Development Canada, 140 Promenade du Portage, Phase IV, 5th Floor, Gatineau, Quebec K1A 0J9 (email: nc-consultation-regions-gd@hrsdc-rhdcc.gc.ca).

Ottawa, April 3, 2014

JURICA ČAPKUN
Assistant Clerk of the Privy Council

REGULATIONS AMENDING THE EMPLOYMENT INSURANCE REGULATIONS

AMENDMENTS

1. Subsections 17(1) to (3) of the *Employment Insurance Regulations* ([see footnote 3](#)) are replaced by the following:

17. (1) The regional rate of unemployment that applies to a claimant is

(a) in the case of regions described in sections 2 to 11 of Schedule I, the average of the seasonally adjusted monthly rates of unemployment for the last three-month period for which statistics were produced by Statistics Canada that precedes the week referred to in subsection 10(1) of the Act or, if Statistics Canada does not publish the relevant rate for a region for reasons of confidentiality, the average that Statistics Canada has determined based on the minimum number of unemployed persons required to allow it to publish the rate; and

(b) in the case of regions described in sections 12 to 14 of Schedule I, the greater of the average that would arise under subparagraph (i) and the average that would arise under subparagraph (ii):

(i) the average of the seasonally adjusted monthly rates of unemployment for the last three-month period for which statistics were produced by Statistics Canada that precedes the week referred to in subsection 10(1) of the Act or, if Statistics Canada does not publish the relevant rate for a region for reasons of confidentiality, the average that Statistics Canada has determined based on the minimum number of unemployed persons required to allow it to publish the rate, and

(ii) the average of the seasonally adjusted monthly rates of unemployment for the last 12-month period for which statistics were produced by Statistics Canada that precedes the week referred to in subsection 10(1) of the Act or, if Statistics Canada does not publish the relevant rate for a region for reasons of confidentiality, the average that Statistics Canada has determined based on the minimum number of unemployed persons required to allow it to publish the rate.

(1.1) The regional rate of unemployment referred to in subsection (1) is

(a) for the purposes of sections 7, 7.1, 12 and 14 and Part VIII of the Act, the rate produced for the region in which the claimant was, during the week referred to in subsection 10(1) of the Act, ordinarily resident; and

(b) for the purposes of sections 7, 7.1 and 14 and Part VIII of the Act, if the claimant was, during the week referred to in subsection 10(1) of the Act, ordinarily resident outside Canada, the rate produced for the region in which the claimant was last employed in insurable employment in Canada.

(2) If a claimant referred to in paragraph (1.1)(a) ordinarily resides so near to the boundaries of more than one region that it cannot be determined with certainty in which region the claimant resides, the regional rate of unemployment that applies to that claimant is the highest of the regional rates that apply in respect of each of those regions.

(3) If a claimant referred to in paragraph (1.1)(b) was last employed in insurable employment in Canada so near to the boundaries of more than one region that it cannot be determined with certainty in which region the claimant was employed, the regional rate of unemployment that applies to that claimant is the highest of the regional rates that apply in respect of each of those regions.

2. Schedule I to the Regulations is amended by replacing the references after the heading “SCHEDULE I” with the following:

(Paragraphs 17(1)(a) and (b), subsections 17.1(1) and 18(1), paragraph 77.2(2)(b), subsections 77.5(2), 77.7(2), 77.8(2) and 77.9(2), paragraph 77.92(2)(a) and subsections 77.93(2), 77.94(2) and 77.95(2))

3. Section 1 of Schedule I to the Regulations is replaced by the following:

1. The definitions in this section apply in this Schedule.

“Census Agglomeration” for the purposes of sections 2, 5, 7 and 9, means a census agglomeration within the meaning of the Statistics Canada document entitled *Standard Geographical Classification (SGC) 1996* and for the purposes of sections 8, 12 and 13, means a census agglomeration within the meaning of the Statistics Canada document entitled *Standard Geographical Classification (SGC) 2011*. (*agglomération de recensement*)

“Census Division” means a census division within the meaning of the Statistics Canada document entitled *Standard Geographical Classification (SGC) 1996*. (*division de recensement*)

“Census Metropolitan Area” means a census metropolitan area within the meaning of the Statistics Canada document entitled *Standard Geographical Classification (SGC) 1996*. (*région métropolitaine de recensement*)

“Census Subdivision” for the purposes of sections 5 and 11, means a census subdivision within the meaning of the Statistics Canada document entitled *Standard Geographical Classification (SGC) 1996* and for the purposes of sections 8 and 12 to 14, means a census subdivision within the meaning of the Statistics Canada document entitled *Standard Geographical Classification (SGC) 2011*. (*subdivision de recensement*)

4. Section 8 of Schedule I to the Regulations is replaced by the following:

8. (1) The region of Charlottetown, consisting of the Census Agglomeration of Charlottetown.

(2) The region of Prince Edward Island, consisting of all Census Subdivisions that are not part of the Census Agglomeration of Charlottetown.

5. Sections 12 to 14 of Schedule I to the Regulations are replaced by the following:

12. (1) The region of Whitehorse, consisting of the Census Agglomeration of Whitehorse.

(2) The region of Yukon, consisting of all Census Subdivisions that are not part of the Census Agglomeration of Whitehorse.

Northwest Territories

13. (1) The region of Yellowknife, consisting of the Census Agglomeration of Yellowknife.

(2) The region of the Northwest Territories, consisting of all Census Subdivisions that are not part of the Census Agglomeration of Yellowknife.

Nunavut

14. (1) The region of Iqaluit, consisting of the Census Subdivision No. 6204003.

(2) The region of Nunavut, consisting of all Census Subdivisions except for Census Subdivision No. 6204003.

COMING INTO FORCE

6. These Regulations come into force on October 12, 2014.

[15-1-o]

Footnotes

Footnote 1

The unemployment rates for the territories consist of a seasonally adjusted three-month moving average unemployment rate (except for Nunavut, where the three-month moving average is unadjusted), while the national unemployment rate is the seasonally adjusted monthly rate.

Footnote 2

The June 2013 estimates of the unemployment rates for EI purposes were established using the proposed methodology for the territories and the methodology used in the other EI economic regions in the provinces for Prince Edward Island.

Footnote a

S.C. 2012, c. 27, s. 19

Footnote b

S.C. 1996, c. 23

Footnote 3

SOR/96-332
