

**SUBMISSION TO THE PM'S
TASK FORCE ON SEASONAL WORK
SUBMITTED BY THE P.E.I. FEDERATION OF LABOUR**

Seasonal workers have been unfairly penalized in the changes made when unemployment insurance was changed to employment insurance. The recent changes in Bill C-2 did not go far enough in addressing these concerns particularly in the changes to qualifying rules that were made in 1994 and 1997. Under these new rules, the time needed to qualify for benefits doubled and tripled and for part timers, it more than quadrupled. Benefit periods were also shortened.

More unemployment insurance money now goes to government for the deficit, debt and to costs than to regular claimants who have been laid off - less than 40% of the unemployed are now eligible to receive E.I. benefits and the benefits they receive are less both per week and in the number of weeks they receive benefits.

We call upon the federal government to make the present E.I. system fairer to workers including women and workers in seasonal and cyclical industries.

One of the cruellest aspects of the E.I. legislation is the *divisor formula* used in averaging weekly earnings for benefit payment purposes. It needs to be replaced with a formula that counts only the weeks that the claimant actually worked. Workers who work in primary industries like fishing and agriculture are penalized due to things like weather interruptions or the normal cyclical demands of their industry. Recently on P.E.I., it has been indicated by the agriculture community that they sometimes have difficulties in attracting labour particularly in some areas of agriculture where the demand for workers is intermittent. Most workers in this sector do not have full-time, permanent, year-round work.

In many industries, like tourism, employers have stated they want to maintain a dynamic and skilled workforce. Many workers in this field cannot find year round work to sustain this fast growing industry, yet workers also are unable to meet the higher qualifying requirement of 910 hours needed to qualify for initial benefits.

Abolish the higher qualifying requirement of 910 hours for re-entrants. Part time workers are also penalized by this rule despite the fact that they pay into the E.I. fund.

Workers also need new skills to remain in the workforce. Bill C-2 does not treat training and job-related education as equivalent to a job search for laid off workers. Long term workers should also earn an E.I. training leave provision that would give them five (5) weeks of workplace training leave for every year in the workforce.

Less than 40% of unemployed workers have access to E.I. while more and more workers work less than full time hours when work is available.

The P.E.I. Federation of Labour recommends:

Hours Needed to Qualify:

- 360 hours throughout Canada (not tied to local unemployment rate) for all categories of benefits, i.e. regular, maternity, parental, sickness, training, etc.
- no higher qualifying time for new entrants or re-entrants.

Length of Benefits for Job Search:

- one week of benefits for every 30 hours of work;
- two weeks of extended benefits for every percentage that the unemployment rate is above 4% in the UI region;
- five additional weeks for every claimant in areas where the economy is under-performing - areas where the unemployment rate is above 10%;
- extended weeks of benefits for older workers (over age 45 and 10 years in The labour force); the maximum extension is 26 weeks;
- overall maximum of 52 weeks except for older worker extended benefit.

Benefit Rates:

- equivalent to two-thirds (66%) of a claimant's weekly pay;
- weekly earnings will be the best 12 weeks in the previous 52 weeks;
- maximum benefit based on maximum weekly earnings (\$950/week in 2000); adjusted yearly to increase in average earnings;
- repeal the divisor and benefit claw backs.

Self-Employed Contract Workers:

- contract workers in most contracts should be defined as employees; changes are required to ensure coverage for these workers.

Maternity and Parental Benefits:

- 360 hours to qualify;
- for a period of one year: 17 weeks of pregnancy benefits and 35 weeks of parental;
- eliminate the two-week waiting period;
- benefit period should not be lessened by the use of regular or sickness benefits.

Sickness Benefits:

- 360 hours to qualify;
- eliminate the waiting period;
- extend the duration of sickness up to 52 weeks;
- benefit period should not be lessened by the use of pregnancy or parental benefits.

Training:

- expand training entitlement beyond apprenticeship to all employed workers;
- training in the event of job loss is equivalent to job search;
- treat hours prior to a training leave as the qualifying time for benefit entitlement during and following leave.

Government's Financial Liability for UI:

- government liable for policy failure – pays for extended UI benefits when unemployment rises above 4%;
- repaying \$45 billion borrowed from UI account.

Claimant Services:

- independent claimants' advocates for filing claims, advising on rights, and assisting with appeals;
- one-stop, comprehensive, publicly administered employment service – including a registry of job vacancies which meets the varied needs of both unemployed and employed workers.

UI as a Trust Fund:

- arm's length UI fund;
- restricting the use of worker and employer UI premiums to earnings insurance uses;
- outlaw use for federal debt reduction, tax cuts or spending on government programs.

Premiums:

- raise the annual maximum insurable earnings from \$39,000 to \$49,400 and index maximum to rising yearly earnings;
- index maximum weekly benefits to increases in annual earnings; oppose experience-rating;
- higher premiums on overtime;
- oppose premium holidays.

Voluntary Leave and Firings:

- expand definition and categories of just cause;
- provide for more flexibility in interpreting what constitutes just cause;
- reverse the onus of proof from the claimant to the Commission.

Severance and Vacation Pay:

- severance and vacation pay should not be treated as current earnings.

Enforcement, Penalties and Fines:

- penalties and fines must not be applied to a future entitlement that is unrelated to the event that gave rise to the penalty;
- methods of enforcement must conform to protection of privacy and charter;
- disallow the surreptitious matching of a claimant’s computer files with government and private data bases unrelated to a person’s claim (i.e. matching custom declaration with a person’s UI claim).

The Federation of Labour wonders why the Liberal Government has not acted on the 2002 Common’s Human Resources Committee Report on EI Reform. The government has only acted on two recommendations while the MP’s called for lower qualifying hours, a longer benefit period and a new formula for calculating a claimant’s average weekly earnings. However, we do not want the government to keep using the EI fund for programs which should be funded from general revenues.. In 1992 - 93, the federal government spent 2.2 billion on training and by 1999 - 2000, this shrank to \$1.2 billion. Making these changes particularly reducing the qualifying hours, increasing the benefit period and eliminating the “divisor” provision would go a long way in making EI fairer to seasonal workers.

Our experience on P.E.I. has shown that the cumulative effect of changes to the legislation has been disastrous to both seasonal workers and their communities. The total loss in benefits for each riding on P.E.I. from 1993 - 1997 are as follows:

Malpeque	-	790 loss in monthly beneficiaries
	-	\$11.3 million estimated annual loss
Cardigan	-	1,500 loss in monthly beneficiaries
	-	\$21.5 million estimated annual loss
Egmont	-	1,390 loss in monthly beneficiaries
	-	\$19.9 million estimated annual loss

These changes have meant that workers have suffered due to the “gap” where benefits run out before they can re-begin work in their seasonal industry. The “divisor” rule penalizes workers whose work in these industries is interrupted due to the cyclical nature of the availability of work. The U.I. system needs to change to meet the needs of seasonal economies, industries and dedicated workers who work seasonally giving us safe roads, work in our primary or tourist sectors, and all other seasonal industries should not be penalized. The surplus in the E.I. fund has been used to pay down the deficit and finance tax breaks for rich Canadians, while poor Canadians who rely on unemployment insurance have been left out in the cold. We know that over 50% of E.I. claims on P.E.I. are seasonal in nature - 57% of all claims established here.

In the past two years, P.E.I.’s economy like many other Provinces has suffered negatively due to the downturn in the farm economy including low and non-existent financial returns for potatoes even though the harvest was successful, the negative impact of Mad Cow disease on the beef and dairy industries, the low prices in pork and looming potential problems within the poultry industry. This has taken its toll on many rural P.E.I. communities. This has been compounded on the unsettled state of the fishing industry, particularly in issues like resource allocation and in maintaining employment in the fish processing sector. Workers in all of these areas will be increasingly negatively impacted unless EI changes are made to meet their needs.

Our tourism workers have also been hurt by the decline in tourism traffic for a variety of international, national and local reasons. Like workers hurt by SARS in Toronto, this leaves them in a much more vulnerable state in being able to qualify for benefits or draw a sufficient number of weeks to survive the long off season.

It is also clear to many observers that the federal government laws have sacrificed the needs of workers for more timely, accurate and client-friendly E.I. services while they have pursued “compliance” at all costs. The recent structural changes to this program have not allowed federal workers to do their job in helping and assisting EI/UI claimants to the extent they would like to do as they have in the past. The rules have imposed harsh penalties out of scope with the types of infractions which are in question. The Commons Committee concludes that Canadians want respectful and ethical behavior while conducting their investigations. On P.E.I. we had the case of shellfishers and more recent cases where workers found themselves in a difficult situation due to conflicting federal rulings. It is unclear to the P.E.I. Federation of Labour how the use of these resources to this extent against workers who are clearly just trying to live in their communities and eke out an existence, whereas, as pointed out recently that the federal government removed resources from investigating GST fraud where hundreds of millions subsequently went missing from government revenues from fraudulent businesses.

These rules and approaches set up by the government and which civil servants are forced to follow seem to be biased against lower income workers while Paul Martin, the former Finance Minister, maintained the use of his Jamaican tax loopholes to not pay his fair share of taxes to Canada. Many profitable corporations have also paid little or no taxes - this seems to be a double standard.

Our provincial government also bases weeks of work and other programs which turn workers over to the E.I. system, but in many cases their wages and incomes are much reduced, as a result all levels of government should invest in long term, meaningful employment. P.E.I. has a larger seasonal economy than most other provinces and this is reflected in the percentage of EI claims being filed by seasonal workers - the highest percentage in the country. However, the fishing, agricultural and tourism sectors are highly regarded and need skilled workers. Resources have been allocated for training these workers and their work should be valued.

The rule change which penalizes those who leave their work “voluntarily” and who are unable to establish “just cause” and therefore receive no benefits seems unnecessarily harsh as many can prove good cause. We are even aware of a worker who left his employer citing concerns about health and safety who was denied benefits as he quit his employment. He worked at Westray where later his former fellow employees were later killed while working in unsafe conditions.

We need mobility assistance for construction workers in Canada due to the rotating patterns of regional economic development in Canada which often result in high levels of unemployment in one region of the country while another is experiencing a construction boom with skilled labour shortages. We need to find ways to encourage and assist unemployed construction workers to accept temporary work in areas of high construction activity.

More specifically, we need to develop and implement policies and programs that would provide financial assistance to unemployed members receiving EI benefits to help defray the traveling expenses to go to temporary construction jobs in another province. Such assistance could be financed through the EI program or alternatively through the taxation system. There are various ways by which such assistance could be provided such as:

1. A direct grant to cover traveling expenses financed through EI to the beneficiary that can document that he or she has a guaranteed minimum of eight (8) weeks of work in another province.
2. An employer subsidy program that would reimburse an employer of an EI beneficiary from another province for the expenses incurred in getting the worker to his worksite. A precedent exists for direct subsidies to employers who hire summer students for example (wage subsidy).
3. At a minimum, allow construction workers who accept temporary work in another region to deduct their traveling expenses from their income for tax calculations. This would be the least effective method since it requires the beneficiary to make a large initial outlay that can only be recovered partially the following year. It has the advantage that an argument can be made that such deduction would be similar to what currently exists for traveling salespersons.

Temporary foreign workers can be used to drive down wages in Canada. We know that a variety of industries will appear before you proposing loosening the regulations for using temporary foreign workers to help them deal with seasonal labour shortages. We caution the Task Force to thread very carefully in this area. The Federation of Labour feels that for the most part these shortages are being created by companies unwilling to pay Canadians the fair wages and benefits employees deserve and need to live in Canada. To allow the use of foreign workers when qualified Canadians are unemployed would be a travesty. The government should not put itself in the position of permitting and sanctioning cheap labour access into Canada. The government ought not to be cast into the role of becoming a labour broker. We have examples of this being promoted within the agricultural community on P.E.I. where cheap migrant labour is being proposed to keep wages lower. We also had a film company here last year who imported their workers from the U.S. while there were qualified Islanders ready and willing to work.

The federal government has also been reducing EI premiums relentlessly rather than increasing the benefits paid out to claimants. This seems contradictory when we know the need is there. UI is a trust fund and should operate arms length from government. Cuts to EI premiums do not benefit the growing number of workers who need improved benefits under EI.

The EI system is a valuable part of the Canadian social fabric which Canadians wish to see renewed and strengthened. The government states it has concerns regarding seasonal workers negatively impacted by recent crisis in various industries. We know that the time for studies is over, it is time to act in defence of seasonal workers and other workers negatively hurt by changes to EI legislation. We recommend the seasonal workers study which has as one of its participants, Islander John Eldon Green, which was ignored in the 1994 and 1997 changes to this legislation.

We recommend that this Committee re-look at the findings of that group. It is time to restore the balance Canadians have asked for in this legislation as well to ensure there are resources for training which Canadian workers can access. Every worker deserves access to training dollars not just those who meet certain criteria.

We wish you well in your deliberations.

Respectfully submitted,

P.E.I. FEDERATION OF LABOUR

Carl Pursey, President

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