

# LET'S ELIMINATE DISCRIMINATION AGAINST WOMEN IN EMPLOYMENT INSURANCE

**Brief to the Standing Committee on Human Resources, Skills and Social  
Development and the Status of Persons with Disabilities (HUMA)**

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**Presented by the following women's groups**

Association féminine d'éducation et d'action sociale (AFEAS)

Centre de documentation sur l'éducation des adultes et la condition féminine (CDÉACF)

**Conseil d'intervention pour l'accès des femmes au travail (CIAFT)**

Fédération des associations de familles monoparentales et recomposées du Québec

Fédération des femmes du Québec (FFQ)

Fédération des maisons d'hébergement pour femmes

Fédération du Québec pour le planning des naissances

L'Alliance des maisons d'hébergement de 2e étape pour femmes et enfants victimes de violence conjugale

L'R des centres de femmes du Québec

Regroupement des maisons pour femmes victimes de violence conjugale

Regroupement québécois des centres d'aide et de lutte contre les agressions à caractère sexuel

Relais-femmes

DisAbled Women's Network of Canada

Réseau d'action des femmes immigrantes et racisées du Québec (AFIQ)

Réseau des Tables régionales de groupes de femmes du Québec

Réseau des lesbiennes du Québec

RLQ pour la visibilité sociale et politique des femmes de la diversité sexuelle

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## **LET'S ELIMINATE DISCRIMINATION AGAINST WOMEN IN EMPLOYMENT INSURANCE**

The Canadian Employment Insurance (EI) program contains two main measures which unfairly limit women's access to unemployment benefits. The first two sections of this brief will discuss those two measures. We hope that the Trudeau government will prioritize amendments for eliminating discrimination against women in employment insurance. In the third section, we propose other measures designed to make EI more accessible and enhance its role of ensuring income continuity for unemployed workers.

### **1) REVOKE THE LIMIT OF 50 WEEKS WHEN SPECIAL BENEFITS AND REGULAR BENEFITS ARE COMBINED.**

Subsection 12(6) of the *Employment Insurance Act* limits the number of weeks of benefits to 50 when a person receives both regular unemployment benefits and special benefits. This rule affects women almost exclusively because they receive the lion's share of special benefits, particularly maternity and parental benefits as well as benefits for caring for a family member. They also use sickness benefits somewhat more often than men.<sup>1</sup>

Even though the right to return to one's job after maternity/parental leave is partially protected under provincial and federal labour standards legislation, a significant number of women lose their job before, during or after their leave. They actively look for and are available for work. Having a new child means they have an especial need for income, since they need to pay for child care as well. We should also point out that a woman outside Quebec who has received regular benefits before giving birth will not be entitled to 50 weeks of maternity/parental benefits like other mothers.

Subsections 8(2) to 8(4) provide for extensions to the qualifying period, when a person "[is] incapable of work because of a[n] illness... or pregnancy". We see merit in adding "to care for a severely ill child or adult" to that list in subsection 8(2). On the other hand, subsection 8(5) under which an extension is not allowed for "a week during which the person was in receipt of benefits" must be repealed. Unfortunately, this limit mainly affects women who receive benefits because they are pregnant, sick, or caring for their newborn or newly adopted child. Yet the qualifying period is extended for a sick person who receives benefits from a provincial compensation program such as those for occupational accidents or disease, or from public or private insurance for injuries suffered in an automobile accident or as a result of a criminal act.

In Europe, 19 countries count a period when a person has received maternity/parental benefits, and often a period of sickness or looking after a family member, as a period worked for the purposes of eligibility for unemployment benefits (section 6). In nine other countries, the qualifying period is at least two years, which allows a woman to count the work performed before a maternity/parental leave for the purposes of qualifying for unemployment insurance should she become unemployed after her leave. Only four of the 32 European countries surveyed have no such measures.<sup>2</sup>

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<sup>1</sup> 2017/2018 *Monitoring and Assessment Report*, p. 389-412.

<sup>2</sup> International Social Security Association (ISSA), *Social Security Programs Throughout the World: Europe, 2018*. SSA Publication No. 13-11801, September 2018, available at <https://www.ssa.gov/policy>. European Commission, MISSOC (Mutual Information System on Social Protection), table on unemployment protection, current as of 1 July

It should be noted too that in Canada, parents whose source of income before becoming unemployed for reasons related to COVID-19 was maternity or parental benefits have been eligible for the Canadian Emergency Response Benefit, even if not eligible for regular EI benefits. Subsequent amendments extended EI eligibility to persons who earned at least \$5,000 in 2019, 2020, or in the 12 months before the date of application, including EI special benefits or Québec Parental Insurance Plan (QPIP) benefits.<sup>3</sup>

Under normal circumstances too there is a problem with the benefit period and the date at which it ends for women who received 50 weeks' worth of special benefits, regardless of whether those weeks are combined with regular benefits. Thus, paragraph 10(8)(a) and subsection 10(10) should be amended to allow a person to receive regular benefits for more than 50 weeks and up to at least 104 weeks after the birth of a child.

The role of employment insurance in providing family-related benefits should not be confused with its role in providing income in the event of unemployment.

**RECOMMENDATION 1: That subsection 12(6) of the *Employment Insurance Act* be revoked, abolishing the limit of 50 weeks when a person receives both regular and special benefits.**

**That subsection (8)(5) be revoked and subsection 8(2) amended to allow a person to qualify for regular benefits based on the hours or weeks worked before a special benefit period and regardless of whether the person received special benefits.**

**That paragraph 10(8)(a) and subsection 10(10) be amended to extend the benefit period and allow a person to receive all the special and regular benefits they would be entitled to under the amendments to subsections 12(6), 8(5) and 8(2) that we are calling for here.**

## **2. THE ELIGIBILITY CRITERION BASED ON HOURS OF WORK DISCRIMINATES AGAINST PART-TIMERS**

**For the same work effort, the same level of premiums and the same unemployment situation, women are eligible for benefits less often and receive lower amounts when they are.** In 2016, for every dollar contributed as regular dues, women received 71 cents in regular benefits and men, \$1.23.<sup>4</sup>

In our example of Chantal and Henry in the table below, a person working fewer hours per week must work proportionally more weeks than the person working more hours per week to meet the same eligibility threshold. Yet benefits are always based on weekly earnings. Therefore, with both earning the same hourly wage and working the same number of hours, the part-timer who worked more hours will receive lower benefits than a full-timer.

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2018, available at <https://www.missoc.org>.

<sup>3</sup> <https://www.canada.ca/en/revenue-agency/services/benefits/recovery-benefit/crb-who-apply.html>

<sup>4</sup> Canada Employment Insurance Commission, 2019, *2017/2018 Employment Insurance Monitoring and Assessment Report*, p. 45. The Commission standardized, or adjusted, the ratios so that the figure for Canada and the total population equals 1.0. The ratio for both sexes taken together is therefore 1.0.

**Discrimination against part-timers**  
**An example in a region with an unemployment rate of 5.7%**  
**Requirement to qualify for benefits: 700 hours**

<b>CHANTAL</b> , saleswoman in a small store	<b>HENRY</b> , machine operator in a textile factory
Hours worked: 5 days/week x 4 hours = 20 hours 50 weeks x 20 h. = 1,000 hours Wage: \$15/hour Average weekly earnings: \$300	Hours worked: 5 days/week x 8 hours = 40 hours 25 weeks x 40 h. = 1,000 hours Wage: \$15/hour Average weekly earnings: \$600
Amount of unemployment benefits: \$165 x 18 weeks = <b>\$2,970</b>	Amount of unemployment benefits: \$330 x 18 weeks = <b>\$5,940</b>
Benefits in 1993 (57% of AWE): \$171 x 34 weeks = <b>\$5,814</b>	Benefits in 1993 (57% of AWE): \$342 x 22 weeks = <b>\$7,524</b>

In 1993, and prior to 1990, Chantal would have received benefits for more weeks than Henry because she worked more weeks. Nevertheless, despite both earning \$15,000 in total over the previous year, Henry is entitled to more EI benefits.

**Although the 1990, 1993, 1994 and 1996 reforms dealt a blow to both Chantal and Henry, Chantal lost 63% of her benefits while Henry lost only 40% of his, which were higher than Chantal's in the first place.**

Part-timers are discriminated against regardless of the number of hours required, even when it is as low as 20 hours per week as was temporarily the case when emerging from the COVID-19 pandemic. It will therefore take Chantal 6 weeks to accumulate 120 hours, compared with 3 weeks for Henry, but Chantal's benefits will still be half as much as Henry's.

This is why we propose hybrid eligibility criteria—see the summary table in the appendix. This new rule would allow a worker to qualify either with a prescribed number of hours or a prescribed number of weeks. A week would be counted if at least 14 hours were worked or the income earned equalled 20% of the maximum insurable earnings (MIE), which for 2021 are \$217 per week. The count of hours would also be more advantageous for persons, seasonal workers in particular, working long hours for a limited number of weeks. The count of weeks would allow fairer access to part-timers or people working precarious jobs with variable hours. Because benefits would still be established as a percentage of weekly earnings, this rule would not be unduly generous.

The count of weeks was used before 1996, the difference being that one week had to have at a minimum of 15 hours; neither employers nor employees were required to pay premiums for weeks of less than 15 hours. Under the rule that we are proposing, premiums would be paid for every hour. In that way, employers could not impose very short schedules to avoid paying premiums and people working more than one job or working variable hours would have all their hours counted. As is the case now, a person earning less than \$2,000 in a year would have their

premiums refunded under our proposal.

In 2019, women made up 64% of people working part time. Among those aged 25 to 54, the core of the labour force, three-quarters of part-timers were women.<sup>5</sup>In 2017, the eligibility rate for regular employment insurance benefits was 94.5% for permanent full-time workers, 86.7% for temporary seasonal workers, 69.3% for permanent part-time workers, and 66.8% for temporary non-seasonal workers.<sup>6</sup>

**RECOMMENDATION 2: That a hybrid criterion for eligibility be created with two possibilities for qualifying: hours worked or weeks worked. That a week be counted if the person worked at least 14 hours or earned at least 20% of the maximum insurable earnings. That premiums be paid for every hour and that every hour be counted for establishing eligibility.**

### **3. ELIGIBILITY CRITERIA AND DURATION OF BENEFITS**

As things stand now, under the Variable Entrance Requirement, the number of hours of work needed to qualify for benefits decreases from 700 to 420 as the regional rate of unemployment increases. We do not question the special needs of workers in regions where unemployment is endemic. Nevertheless, even in large cities and other regions where overall unemployment is low, people working in sectors where employment is precarious and part-time work is the norm also need protection. Our recommendations for increased and fairer eligibility are summarized in the table in the appendix.

**RECOMMENDATION 3: That the minimum requirement for benefits be either 420 hours or 12 weeks of work in all regions. That every eligible person be entitled to at least 35 weeks of regular benefits. That, for each percentage point of unemployment above 6%, there be two additional weeks of benefits. That people who worked more than 1,259 hours (or 35 weeks) in the qualifying period be entitled to an additional week of benefits for each additional 70 hours or two weeks of work. That the maximum number of weeks of regular benefits be set to 51.**

That categories be abolished. That the criterion for eligibility for special benefits also be set to either 420 hours or 12 weeks.

### **4) ADDITIONAL PROPOSALS**

**RECOMMENDATION 4: That the duration of sickness benefits be increased to thirty-five weeks.**

**RECOMMENDATION 5: That total disqualification in the event of voluntary resignation or dismissal for misconduct be revoked. That the maximum penalty in those cases, as well as in the case of refusal of a job deemed to be suitable or passing over an opportunity for suitable employment, be limited to six weeks. That those penalties never be carried over to a subsequent benefit period.**

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<sup>5</sup> Statistics Canada, Table: 14-10-0327-01, Labour force characteristics by sex and detailed age group, annual.

<sup>6</sup> *2017/2018 Monitoring and Assessment Report*, p. 72. The Commission defines the rate of eligibility as the number of people who had accumulated a sufficient number of hours to qualify for employment insurance benefits as a percentage of those who had contributed to EI and who had a valid reason for leaving employment. It is therefore an insufficient number of hours that makes a claimant ineligible.

**RECOMMENDATION 6:** That average weekly earnings used to set special or regular benefits be calculated on the worker's best twelve weeks of earnings, independently of the regional unemployment rate.

**RECOMMENDATION 7:** That the weekly insurable earnings replacement rate be restored to at least 60%, the rate used before 1990.

**RECOMMENDATION 8:** In the case of a labour dispute, that the work stoppage be considered to have ended when the collective agreement is signed rather than, as currently required, when 85% of workers normally employed have been recalled.

That eligibility for special benefits be maintained during a labour dispute.

That the qualifying and benefit periods of workers who are not recalled be extended for a period equal to the duration of the dispute, so that they become eligible for employment insurance benefits once the strike or lockout ends.



## **Conseil d'intervention pour l'accès des femmes au travail (CIAFT)**

Founded in 1982, the CIAFT is an advocacy group that is active throughout Quebec. It is made up of groups and individuals who work to ensure women's access to, and continuing employment in, the labour market. Its membership is drawn mainly from community groups helping women enter the labour market, status of women committees, and regional and national feminist and union organizations. Its membership also includes representatives from the institutional, economic development and human rights sectors.

The CIAFT's work centres around the principle that women's financial independence is largely dictated by their access to employment, provided that the pay for the work reflects its true value and their rights are fully respected. In this spirit, the CIAFT's mission is to advocate for, promote and develop services, policies and measures that will meet the specific needs of women in the area of employment. To this end, CIAFT critically analyzes social and economic policies and proposes alternative ones.

## **Other women's groups in Quebec who endorse this brief**

Association féminine d'éducation et d'action sociale (AFEAS)

Centre de documentation sur l'éducation des adultes et la condition féminine (CDÉACF)

Fédération des associations de familles monoparentales et recomposées du Québec

Fédération des femmes du Québec (FFQ)

Fédération des maisons d'hébergement pour femmes

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