

Employment Insurance

Guide for the Supplemental Unemployment Benefit (SUB) Program



Service Canada

For further information on the
Supplemental Unemployment Benefit
Program, please contact:

Service Canada
Supplemental Unemployment Benefit Program
120 Harbourview Boulevard
P.O. Box 11,000
Bathurst, New Brunswick
E2A 4T5

Telephone: **1 800 561-7923**
Facsimile: (506) 548-7473

Please note: This guide provides general information only.
In controversial situations, the *Employment Insurance
Act/Regulations* must govern.

Internet access:

Supplemental Unemployment Benefits (SUB):
http://www.hrsdc.gc.ca/en/cs/sub/0200/0200_000.shtml
Service Canada: <http://www.servicecanada.gc.ca>
Employment Insurance:
<http://www.hrsdc.gc.ca/en/gateways/business/cluster/category/eiie.shtml>

Produced by Communications (Insurance)
Service Canada

Printed in Canada

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Introduction

Supplemental Unemployment Benefit (SUB) Program

This program allows employers to register Supplemental Unemployment Benefit (SUB) plans that meet the requirements of article 37 of the *Employment Insurance Regulations* and policies set by Service Canada.

The purpose of a SUB plan is to provide supplemental payments to Employment Insurance (EI) benefits during a period of unemployment due to:

- temporary stoppage of work;
- training;
- illness, injury or quarantine.

The employer chooses which of the above-mentioned types of unemployment he wishes to supplement.

Note: Employers offering supplements to maternity, parental (including adoption) and compassionate care benefits do not have to register their plans with the SUB program. Information on Supplements to EI maternity, parental and compassionate care benefits is available by contacting your local Service Canada office or by visiting: <http://www.hrsdc.gc.ca/en/ei/employers/supplements.shtml>

Advantages of a SUB plan

Employers use SUB plans to increase the employee's weekly earnings during periods of unemployment. Payments from registered plans are not deducted from the employee's EI benefits.

Payments under a registered SUB plan are not considered as insurable earnings; therefore, EI premiums are not deducted.

Plan document(s)

The SUB plan must include a complete description of the benefits and must meet the conditions listed in Part I – Plan Requirements.

One or more of the following documents may be used to describe a plan:

- a union or association agreement;
- a trust agreement;
- a private carrier's insurance policy;
- an employee handbook;
- a personnel policy bulletin;
- any signed commitment by the employer.

Definition

Advantages

Plan document(s)

Part I – Plan Requirements

Items 1 to 9 are mandatory (with the exception of item 4) and must appear in the plan description.

A sample SUB plan is found in Part II. Each item below corresponds to the same number in the sample plan.

1. Identification of employees covered

The plan must identify the group(s) of employees covered e.g. all employees, hourly paid employees, employees at a certain plant or location, union group(s), etc. It may also identify an employee position e.g. accountant, administrator, lawyer, etc. Any employee may be covered; however, **do not identify individuals by name**. When employees of affiliated companies are covered, the names of these companies must be included.

2. Types of unemployment

The plan must indicate that it covers unemployment caused by one or a combination of the following:

Temporary stoppage of work

SUB plans are intended for periods of unemployment caused by a temporary stoppage of work. Termination of employment caused by a re-organization or a shutdown of a plant or operation is not considered temporary unemployment. SUB payments may **not** form part of a separation package, be used to bridge to retirement, nor form any part of a work sharing agreement or short-week benefits.

Recall rights do not necessarily constitute a reason for determining a lay-off to be temporary. The employer should be able to estimate the date of the employee's return to work.

EI benefits paid for temporary lay-off are regular benefits and **are paid to claimants who are available for, able to and looking for work**. Claimants must continue to meet all EI requirements even though they are on **temporary** stoppage of work.

Training

Employees must be in receipt of unemployment benefits.

Illness, injury or quarantine

The employee must be in receipt of EI sickness benefits.

3. Receipt of Employment Insurance (EI) benefits

The plan must indicate that the employee must apply for and be in receipt of EI benefits.

Employees covered

Types of unemployment

Receipt of EI benefits

4. SUB payments when employee is not in receipt of EI benefits

Notwithstanding item 3, the plan may provide SUB payments up to a maximum of 95% of the normal weekly earnings when the employee is **not in receipt of EI Benefits**, and:

- is serving the two-week EI waiting period; or
- has insufficient hours of insurable employment to qualify for EI benefits; or
- has exhausted the EI benefit entitlement.

The employer decides which, if any, of the above situations are covered by the plan. If an employer introduces a SUB plan **to offset the EI two-week waiting period only**, a complete description of the plan must be submitted for approval.

5. SUB payments

The SUB plan must indicate the value of the payments, either as a **percentage** of the employee's normal weekly earnings, or a **fixed amount**.

The weekly SUB payment plus the weekly EI benefit rate applicable to this employment must not exceed 95% of your employee's normal weekly earnings. It should be noted that a lump sum payment does not meet this requirement.

There are two acceptable methods of calculating the amount of SUB payments in order to meet the 95% requirement:

- the gross weekly EI benefit (benefit rate) is deducted from the 95% calculation.
- the EI benefit (after the 25% allowable) and the amount of any other earnings are deducted from the 95% calculation. This allows the employer to take advantage of the 25% that EI allows the employee to earn before deductions are made from regular or training EI benefits.

At the present time, the basic EI benefit rate is equal to 55% of the employee's weekly insurable earnings up to a maximum payment of \$423 per week. Changes to the basic rate of EI benefits could influence the amount of the SUB payments. The plan may provide for an automatic adjustment of the SUB payments when the EI rate is increased or decreased. It should be noted that the basic benefit rate can be altered based on the following:

- a legislative change could increase or decrease the EI rate;
- a family income supplement can increase the EI rate to more than 55% because the employee is in a low-income family and in receipt of the Canada Child Tax Benefit (CCTB). If the employee is entitled to receive the family income supplement, the EI rate will be adjusted automatically.

Non-receipt of
EI benefits

SUB payments

SUB when
no other earnings

Lay-off or training
SUB with other
earnings

SUB calculation – no other earnings

The employee is receiving regular, training or sickness benefits and has no other earnings.

Example 1 : SUB payable when no other earnings

A. Employee’s normal weekly earnings	\$800
B. Employee’s other earnings	\$0
C. 95% of normal weekly earnings	\$760
D. Maximum EI payment	\$423*
E. Calculation of maximum SUB payment (C – D = E)	\$337

SUB calculation – regular or training benefits plus other earnings

In any week of unemployment caused by temporary stoppage of work or training, a claimant is allowed to earn up to 25% of the EI benefit rate if the benefit amount is \$200 or more, and \$50 if the benefit amount is less than \$200 without reducing the amount of EI benefits received. The claimant must report all earnings. The employer may wish to consider these other earnings and the EI benefit (amount after the 25% allowable) when calculating the SUB payment. Refer to the examples 2 and 3 below for the difference in the SUB payments.

The employee is receiving regular or training benefits and also has other earnings.

A. Employee’s normal weekly earnings	\$800
B. Employee’s other earnings.....	\$160
C. Maximum EI payment	\$423*
D. 25% of the benefit amount allowable (\$423x25%).....	\$106
E. EI benefit [C - (B-D) = E] [\$423 - (\$160 - 106)].....	\$369

Example 2: SUB payable without consideration of other earnings

(Sample Plan – Part II - item 5 option A or B)

A. 95% of normal weekly earnings	\$760
B. Maximum EI payment.....	\$423*
C. SUB (A - B = C).....	\$337

Example 3: SUB payable if the employer includes other earnings and EI benefit

(Sample Plan – Part II - item 5 option C)

A. 95% of normal weekly earnings	\$760
B. EI Benefit (as per E above)	\$369*
C. Other earnings	\$160
D. SUB (A - B - C = D)	\$231

SUB calculation – sickness benefits plus other earnings

If a claimant receives earnings during a period of **absence from work because of illness**, 100 % of the earnings (excluding registered SUB) are deducted from the EI benefits paid for that week. The claimant must declare all earnings. The SUB payment will be the same in both situations, as shown in examples 4 and 5 below.

The employee is receiving sickness benefits and has other earnings

A. Employee's normal weekly earnings	\$800
B. Employee's other earnings	\$160
C. Maximum EI payment	\$423*
D. EI benefit (C - B = D) (\$423 - \$160)	\$263

Example 4: SUB payable without consideration of other earnings

A. 95% of normal weekly earnings	\$760
B. Maximum EI payment	\$423*
C. SUB (A - B = C)	\$337

Example 5: SUB payable if the employer includes other earnings and EI benefit

A. 95% of normal weekly earnings	\$760
B. EI benefit (as per D above)	\$263*
C. Other earnings	\$160
D. SUB (A - B - C = D)	\$337

*Supplemental unemployment benefits may be paid to a claimant who worked for more than one employer. To calculate the payment, each employer offering a SUB must identify the portion of the weekly EI benefit rate based on his employee's insurable earnings. To obtain confirmation of this amount, please contact your local Service Canada Centre.

6. Benefit duration

The plan must indicate the maximum number of weeks for which the SUB payments will be made. Some plans pay benefits for varying periods based on years of service, salary or employee groups. The regulations do not set a minimum or maximum number of weeks for the payments.

Plan duration

7. a) Plan duration

The plan must indicate a start and end date.

Approval from Service Canada-SUB Program **must be received before the implementation date of the plan**. The plan's duration must be at least one year. However, it can be in effect for up to five years. If the plan is contained within a collective agreement, it will be valid until the expiry date of that document.

Subsequent changes

b) Subsequent changes

The plan must indicate that a written notice of any change will be given to Service Canada-SUB Program within thirty (30) days of the effective date of the change. This also includes changes to the administrators or contact persons.

If there is a major reorganization in the company, such as a merger or a take-over, the employer must send us details of the changes including the new or updated plan description.

Financing

8. a) Financing

The plan must indicate the method used to finance the SUB payments. Financing is the **sole responsibility of the employer** and must be done in one of the following three ways:

- making the payments from the general revenues of the company;
- making deposits into a trust fund established to provide SUB payments;
- paying 100% of the insurance premiums that are required to finance the SUB payments.

Separate records

b) Separate records

The plan must indicate that the employer will keep a record of all SUB payments.

Other remuneration

9. Other remuneration

Payments in respect of guaranteed annual remuneration, deferred remuneration or severance pay must not be reduced or increased by SUB received under the plan.

These amounts include any benefits to which the employee is entitled such as sick leave, vacation leave, commissions, bonus, etc.

10. Repayment of EI benefits

An employee whose net income (including EI and SUB) is above 1.25 times the maximum yearly insurable earnings may be required to repay some or all of the EI benefits received.

The employer may offset the repayment of EI benefits under the SUB plan. The amount of the offset when added to the previous payments (SUB and the gross EI benefits from that employment) must not exceed 95 percent of the employee's normal weekly earnings. Therefore, if the SUB plan has supplemented to 70%, the maximum amount of the offset cannot exceed 25% of the employee's normal weekly earnings multiplied by the number of weeks in which EI benefits were received.

The amount of repayment is calculated when completing the Income Tax return and is based on a taxation year. For more information on repayment of EI benefits contact your local Service Canada Centre.

11. Trust fund – termination clause

When the plan is administered through a trust fund, it must indicate that upon termination of the plan, all of the remaining assets will:

- revert to the employer;
- be used for ongoing payments under the plan; and/or
- be used for the administration costs of the plan.

12. Trust fund – vested right

The plan must indicate that the employee has no vested right to SUB payments except during periods of unemployment specified in the plan.

Note:

SUB plans may specify any other requirements imposed by the employer for the receipt of the SUB, e.g. the minimum period of employment required before payments are made; that the employee must return to work for a specified period after supplemental unemployment benefits are paid; conditions set by a collective agreement, etc.

The employer may provide for varying benefits (e.g. benefit duration, payments, type of coverage) for certain employee groups within the plan.

Repayment of
EI benefits

Trust fund -
termination clause

Trust fund -
vested right

Part II – Sample Plan

The following sample contains all the plan requirements. **The information in bold should be included in your plan description.** Any information following the asterisk (*) is an example, and should be replaced with information reflecting your own situation.

Details on each of the following items are found in Part I – Plan Requirements.

- 1. The following group(s) of employees is/are covered by the plan:** * All full time employees with one year of service.
- 2. The plan will supplement EI benefits for periods of unemployment caused by** * a temporary stoppage of work.
- 3. Verification that the employees have applied for and are in receipt of EI benefits will be made before SUB payments are paid.**

Item 4 is needed only when the employer will pay a SUB during periods of non-receipt of EI (see item 4 Part I).

- 4. The SUB is payable at** * 95% of the employee's normal weekly earnings while * the employee is serving the two-week EI waiting period.

- 5. Please choose one of the following options:**

Option A (percentage or fixed amount): **The benefit paid under this plan is set at** * 40% of the employees' normal weekly earnings or \$200 (fixed amount). **The weekly SUB payment plus the gross amount of EI benefit from this employment will not exceed 95% of the employee's normal weekly earnings.**

Option B (automatic adjustment): **The plan provides that the gross amount of EI benefit from this employment plus the SUB payment will equal** * 95% of the employee's normal weekly earnings.

Option C (other earnings considered): **The plan provides that the SUB payment, any other earnings plus the EI benefit (amount after the 25% allowable) from this employment will equal** * 90% of the employee's normal weekly earnings.

- 6. The SUB payment will be paid for** * 10 weeks.
- 7. a) The duration of the plan is from** * January 5, 2003 to * December 31, 2005.
b) Service Canada - SUB Program will be informed in writing of any change the plan within thirty (30) days of the effective date of the change.
- 8. a) The plan is financed** *by the employer's general revenues.
b) A separate record of all the SUB payments will be kept.

-
- 9. Payments of guaranteed annual remuneration, deferred remuneration, or severance pay will not be reduced or increased by payments received under the SUB plan.**

Item 10 is needed only when the employer wishes to offset the repayment of EI benefits paid for temporary stoppage of work or training.

- 10. This plan provides for an offset of EI benefits that may have to be repaid as part of the employee's income tax return. The weekly gross EI benefit from this employment, the SUB payments previously paid plus this offset amount will not exceed 95% of the employee's normal weekly earnings.**

Items 11 and 12 are needed only when SUB payments are financed by a trust fund.

- 11. On termination of the plan, all remaining assets will revert to the employer, be used for SUB payments and/or be used for the administrative costs of the plan.**
- 12. Employees do not have a right to SUB payments except during the period of unemployment specified in the plan.**

Signature(s) of authorized officer(s).

Date* date of signing.

Part III – Additional Information

ROE &
EI application

Record of Employment and EI application

The employer completes a Record of Employment (ROE) when the employee is separated from employment because of a temporary stoppage of work, training, illness, injury or quarantine. The employer also indicates that the employee is entitled to supplemental unemployment benefits **by writing "Registered SUB" in the "other monies" section**. The employee must submit this form to the local Service Canada Centre when applying for EI benefits. The employer's business number for payroll deductions (RP) indicated on the ROE will be used to verify whether the employer has an approved registered SUB plan.

The mention of SUB must also be indicated on the EI application and the amount of SUB must be indicated on the bi-weekly claimant's report or declared through the Telephone Reporting Service.

EI payments
verified

Verification of EI benefits paid

The employer or the administrator responsible for paying the SUB must verify that the employee is in receipt of EI benefits before the payment can be made.

There are two methods of verifying the receipt of EI benefits:

- an examination of the employee's EI benefit cheque stub; or
- the receipt of a system-generated report provided by Service Canada. This report is generated only at the employer's request and contains the same information as the EI benefit cheque stub.

Payroll deductions

Payroll deductions

Payments from a registered SUB plan are not insurable; therefore, EI premiums are not deducted. SUB payments are generally subject to Canada Pension Plan or Quebec Pension Plan deductions as well as income tax. For more information on this subject contact a Canada Revenue Agency office or the Régie des rentes du Québec.

Part IV – Plan Registration

Registration of a SUB plan

The employer must submit **a copy of the SUB plan** with the enclosed registration form and any additional documents that may be required to:

Service Canada
Supplemental Unemployment Benefit (SUB) Program
120 Harbourview Boulevard
P.O. Box 11,000
Bathurst, New Brunswick
E2A 4T5
Telephone: 1 800 561-7923
Fax: (506) 548-7473
Visit our website at:
http://www.hrsdc.gc.ca/en/cs/sub/0200/0200_000.shtml

Additional documents

The employer must submit the following documentation, **if applicable**, with the SUB plan:

- a copy of the current collective agreement(s), if the plan covers employees who are members of a certified bargaining unit, i.e. unionized employees;
- a copy of the relevant section of the insurance policy used to administer the SUB plans (if the policy does not contain a complete plan description, a document signed by the employer containing the missing information must be included);
- a copy of the Trust Agreement;
- any company policies and/or personnel guidelines containing information about the plan, as well as any declarations or documents the employees have to sign to receive the SUB payment.

Approval and renewal

The registration date of the SUB plan is the date on which it is submitted, if all the required conditions are met and all supporting documents are received. The plan will be registered under the employer's business number for payroll deductions (RP) and a notification of the approval will be sent to the employer. Also, the local Service Canada Centre will be advised of the registration of the plan. Employers who are already participating in the program will receive a request to renew from Service Canada-SUB Program.

When a plan does not qualify, the employer is advised of the change(s) that must be made. A copy of the amendments to the plan should be submitted as soon as possible. Until the plan is registered any amounts paid will be treated as earnings and may be deducted from the employee's EI benefits. Service Canada's decision on the SUB plan's approval cannot be appealed. However, a review of the decision may be requested.

Registration

Additional documents

Approval and renewal



SUB PLAN REGISTRATION

NOTE : YOU MUST ENCLOSE A COPY OF YOUR SUB PLAN

THE GUIDE CONTAINS A SAMPLE SUB PLAN AND A LIST OF ADDITIONAL DOCUMENTS WHICH MAY BE REQUIRED.

Failure to submit all supporting documents could delay the registration date.

1. Business Number (BN) for payroll deductions		R	P
2. a. Legal Name			
b. Operating Name (if applicable)			
3. Address			
City	Province	Postal Code	
4. Contact Person (please print)		Telephone No. ()	
Title		Fax No. ()	
		E-mail	
5. Number of employees under the above payroll number that are covered by your SUB plan. _____			
6. Of those in questions 5, are any employees members of a union?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, you must send a complete copy of the current collective agreement for each union group.			
7. Is your SUB plan contained in an insurance policy?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, are you paying 100% of the premiums for this coverage?		<input type="checkbox"/> Yes	<input type="checkbox"/> No
A complete copy of the insurance policy must accompany the SUB plan.			
8. How will you confirm receipt of Employment Insurance (EI) benefits?			
a. an examination of the employee's EI benefit cheque stub.		<input type="checkbox"/>	
b. a verification of the computer report issued by HRSDC indicating the amount of EI benefits paid.		<input type="checkbox"/>	

BY SUBMITTING THIS FORM, YOU ARE DECLARING THAT THE INFORMATION GIVEN HEREIN IS TRUE AND ACCURATE TO THE BEST OF YOUR KNOWLEDGE.

_____ Authorized Officer	_____ Title	_____ Date
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SUB Program
120 Harbourview Boulevard
P.O. Box 11,000
Bathurst, NB E2A 4T5
Tel.: 1-800-561-7923
Fax.: 1-506-548-7473
Internet: http://www.hrsdc.gc.ca/en/cs/sub/0200/0200_000.shtml