This Chapter contains rule Sections that were filed to be codified in the Arizona Administrative Code between the dates of April 1, through June 30, 2018.

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the Arizona Administrative Register.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

<table>
<thead>
<tr>
<th>Rule Number</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>R6-3-51140</td>
<td>Misappropriation of Funds or Property;</td>
<td>69</td>
</tr>
<tr>
<td></td>
<td>Falsification of Employment Records</td>
<td></td>
</tr>
<tr>
<td>R6-3-5205</td>
<td>General</td>
<td>73</td>
</tr>
<tr>
<td>R6-3-5240</td>
<td>Attendance at School or Training Course</td>
<td>74</td>
</tr>
<tr>
<td>R6-3-52235</td>
<td>Health or Physical Condition</td>
<td>79</td>
</tr>
<tr>
<td>R6-3-55460</td>
<td>Type of Compensation</td>
<td>94</td>
</tr>
</tbody>
</table>

The release of this Chapter in supplement 18-2 replaces supplement 13-3, 98 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.
PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the Administrative Code. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001.

"Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency."

THE ADMINISTRATIVE CODE

The Arizona Administrative Code is where the official rules of the state of Arizona are published. The Code is the official codification of rules that govern state agencies, boards, and commissions.

The Code is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the Code. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2018 is cited as Supp. 18-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the Administrative Code in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each Code chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the Code includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the Arizona Administrative Register for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, www.azleg.gov. An agency’s authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the Register online at www.azsos.gov/rules, click on the Administrative Register link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

PERSONAL USE/COMMERCIAL USE

This chapter is posted as a public courtesy online, and is for private use only. Those who wish to use the contents for resale or profit should contact the Office about Commercial Use fees. For information on commercial use fees review A.R.S. § 39-121.03 and 1 A.A.C. 1, R1-1-113.

Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.
CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY - UNEMPLOYMENT INSURANCE

ARTICLE 1. RECODIFIED

Article 1, consisting of Section R6-3-103, recodified to R6-1-501, effective February 13, 1996 (Supp. 96-1). [R6-3-101, R6-3-102, and R6-3-104 previously repealed.]

ARTICLE 2. RECODIFIED

Article 2, consisting of Sections R6-3-201 through R6-3-207, R6-3-209, R6-3-211, R6-3-212, and R6-3-214 through R6-3-216, recodified to A.A.C. R6-13-201 through R6-13-207, R6-13-209, R6-13-211, R6-13-212, and R6-13-214 through R6-13-614, effective February 13, 1996 (Supp. 96-1). [Sections R6-3-208, R6-3-210, and R6-3-213 previously repealed.]

ARTICLE 3. RECODIFIED

Article 3, consisting of Sections R6-3-301 through R6-3-307, R6-3-309 through R6-3-311, R6-3-313, R6-3-314, R6-3-314.01, R6-3-315, R6-3-316, and R6-3-318 through R6-3-322, recodified to A.A.C. R6-13-301 through R6-13-307, R6-13-609 through R6-13-611, R6-13-313, R6-13-314, R6-13-314.01, R6-13-315, R6-13-316, and R6-13-318 through R6-13-322 effective February 13, 1996 (Supp. 96-1). [Sections R6-3-308, R6-3-312, R6-3-317, R6-3-324, and R6-3-325 previously repealed.]

ARTICLE 4. REPEALED

Article 4 repealed as follows: R6-3-416, R6-3-417, and R6-3-419 repealed effective March 26, 1976; R6-3-434 and R6-3-435 repealed effective October 13, 1977; R6-3-410 repealed effective June 15, 1978; and R6-3-401 through R6-3-409, R6-3-411 through R6-3-415, R6-3-418, and R6-3-420 through R6-3-433 repealed effective November 9, 1995.

ARTICLE 5. REPEALED

Article 5, consisting of Sections R6-3-501 through R6-3-510 and R6-3-512 through R6-3-517, repealed effective November 9, 1995 (Supp. 96-1).

ARTICLE 6. RECODIFIED

Article 6, consisting of Sections R6-3-601 through R6-3-604, recodified to R6-13-601 through R6-13-604 effective February 13, 1996 (Supp. 96-1). [Sections R6-3-605 through R6-3-615 previously repealed.]

ARTICLE 7. RECODIFIED

Article 7, consisting of Section R6-3-701, recodified effective February 13, 1996 (Supp. 96-1).

Article 7 consisting of Section R6-3-701 adopted effective January 10, 1985.

Former Article 7 consisting of Sections R6-3-701 through R6-3-705, R6-3-707 through R6-3-716 and R6-3-720 repealed effective January 10, 1985.
ARTICLE 16. FUNDS

Section
R6-3-1601. Transfers and warrants .................................. 27

ARTICLE 17. CONTRIBUTIONS

Section
R6-3-1701. Identification of Workers Covered by Employment Security Law of Arizona .................... 27
R6-3-1702. Maintenance and inspection of records .......... 27
R6-3-1703. Employer reports ........................................ 28
R6-3-1704. Due date of quarterly reports, contributions, and payments in lieu of contributions .......... 28
R6-3-1705. Wages ..................................................... 29
R6-3-1706. Combining included and excluded services .... 30
R6-3-1707. Repealed .................................................. 30
R6-3-1708. Employer Charges ...................................... 30
R6-3-1709. Part-time Employment -- Employer Responsibilities .................................................. 30
R6-3-1710. Notification and review of charges to experience rating accounts ...................................... 31
R6-3-1711. Computation of experience rates .................... 31
R6-3-1712. Joint, Multiple, and Combined Employer Experience Rating Accounts .................... 31
R6-3-1713. Business transfers ........................................ 32
R6-3-1714. Repealed .................................................. 34
R6-3-1715. Computation of adjusted contribution rates ...... 34
R6-3-1716. Voluntary contributions ................................ 35
R6-3-1717. Special Provisions for Reimbursement Employers .................................................. 35
R6-3-1718. Employer Refunds ........................................ 36
R6-3-1719. Repealed .................................................. 36
R6-3-1720. Exempting Certain Direct Sellers and Income Tax Preparers ............................................ 36
R6-3-1721. Liability determinations; review; finality ...... 37
R6-3-1722. Casual labor .............................................. 37
R6-3-1723. Employee defined ....................................... 37
R6-3-1724. Repealed .................................................. 40
R6-3-1725. Licensed real estate, insurance, security and cemetery salesmen ....................................... 40
R6-3-1726. Tips as wages ............................................. 41
R6-3-1727. Meals or lodging as wages ......................... 41

ARTICLE 18. BENEFITS

Section
R6-3-1801. Repealed .................................................. 41
R6-3-1802. Repealed .................................................. 41
R6-3-1803. Benefit Notice and Determination ............... 41
R6-3-1804. Repealed .................................................. 42
R6-3-1805. Repealed .................................................. 42
R6-3-1806. Interstate Claimants .................................... 42
R6-3-1807. Repealed .................................................. 42
R6-3-1808. Payment on Account of Retirement .......... 42
R6-3-1809. Eligibility for Approved Training ............... 42
R6-3-1810. Requalifications ........................................ 43
R6-3-1811. Redetermination of benefits ...................... 44
R6-3-1812. Interest on benefit overpayments ............... 45
R6-3-1813. Overpayment Deduction Percentage ............. 45

ARTICLE 19. RECODIFIED

Article 19, consisting of Sections R6-3-1901 through R6-3-1911, recodified to A.A.C. R6-14-101 through R6-14-111 effective February 13, 1996 (Supp. 96-1). [Sections R6-3-1912 through R6-3-1916 previously repealed.]

Former Article 19, consisting of Sections R6-3-1901 through R6-3-1916, repealed effective May 24, 1979.

ARTICLE 20. RECODIFIED

Article 20, consisting of Sections R6-3-2001 through R6-3-2005 and R6-14-212 through R6-14-214 adopted effective February 13, 1996 (Supp. 96-1). [R6-3-2006 through R6-3-2010, effective February 13, 1996 (Supp. 96-1).]

Former Article 20, consisting of Sections R6-3-2001 through R6-3-2010, adopted effective May 24, 1979.

ARTICLE 21. RECODIFIED

Article 21, consisting of Sections R6-3-2101 through R6-3-2105 and R6-14-212 through R6-14-217 adopted effective February 13, 1996 (Supp. 96-1). [R6-3-2106 through R6-3-2111, effective February 13, 1996 (Supp. 96-1).]

Former Article 21, consisting of Sections R6-3-2101 through R6-3-2111 adopted effective May 24, 1979.

ARTICLE 22. RECODIFIED

Article 22, consisting of Sections R6-3-2201 and R6-3-2204, adopted effective February 13, 1996 (Supp. 96-1). [R6-3-2205 through R6-3-2209 previously repealed.]

Article 22, consisting of Sections R6-3-2201 through R6-3-2209 adopted effective May 24, 1979.

Former Article 22, consisting of Sections R6-3-2201 through R6-3-2209 adopted effective May 24, 1979.

ARTICLE 23. RECODIFIED

Article 23, consisting of Sections R6-3-2301 through R6-3-2307, adopted effective February 13, 1996 (Supp. 96-1). [R6-3-2308 through R6-3-2312 previously repealed.]

ARTICLE 24. RECODIFIED

Article 24, consisting of Sections R6-3-2401 through R6-3-2409 and R6-3-2410 adopted effective February 13, 1996 (Supp. 96-1). [R6-3-2401 through R6-3-2410 previously repealed.]

Article 24, consisting of Sections R6-3-2401 through R6-3-2410 adopted effective May 24, 1979.

Former Article 24, consisting of Sections R6-3-2401 through R6-3-2410 adopted effective May 24, 1979.

ARTICLE 25. REPEALED

Article 25, consisting of Sections R6-3-2501 through R6-3-2505, adopted as an emergency effective March 5, 1984, expired. New Article 25 consisting of Sections R6-3-2501 through R6-3-2505 adopted as a permanent Article effective June 29, 1984 (Supp. 84-3).
ARTICLE 26. REPEALED
Former Article 26 consisting of Sections R6-3-2601 through R6-3-2623 repealed effective May 24, 1979.

ARTICLE 27. REPEALED
Former Article 27 consisting of Section R6-3-2701 repealed effective May 24, 1979.

ARTICLE 28. RESERVED

ARTICLE 29. RESERVED

ARTICLE 30. RESERVED

ARTICLE 31. RESERVED

ARTICLE 32. RESERVED

ARTICLE 33. RESERVED

ARTICLE 34. RESERVED

ARTICLE 35. REPEALED
Former Article 35 consisting of Sections R6-3-3501 through R6-3-3503 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 36. REPEALED
Former Article 36 consisting of Sections R6-3-3501 through R6-3-34003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 37. REPEALED
Former Article 37 consisting of Sections R6-3-3501 through R6-3-34003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 38. REPEALED
Former Article 38 consisting of Sections R6-3-3501 through R6-3-34003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 39. REPEALED
Former Article 39 consisting of Sections R6-3-3501 through R6-3-34003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 40. REPEALED
Former Article 40 consisting of Sections R6-3-3501 through R6-3-34003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 41. REPEALED
Former Article 41 consisting of Sections R6-3-4101 through R6-3-4106 repealed effective July 9, 1980 (Supp. 80-4).

ARTICLE 42. RESERVED

ARTICLE 43. RESERVED

ARTICLE 44. RESERVED

ARTICLE 45. RESERVED

ARTICLE 46. RESERVED

ARTICLE 47. RESERVED

ARTICLE 48. RESERVED

ARTICLE 49. RESERVED

ARTICLE 50. VOLUNTARY LEAVING BENEFIT POLICY
ARTICLE 51. DISCHARGE BENEFIT POLICY

Section

R6-3-5101. Reserved .......................................................... 65
R6-3-5102. Reserved .......................................................... 65
R6-3-5103. Reserved .......................................................... 65
R6-3-5104. Reserved .......................................................... 65
R6-3-5105. General (Misconduct) ........................................... 65
R6-3-5106. Reserved .......................................................... 66
R6-3-5110. Evidence (Misconduct 10) ..................................... 66
R6-3-5111. Evidence (Misconduct 10) ..................................... 66
R6-3-5112. Evidence (Misconduct 10) ..................................... 66
R6-3-5113. Evidence (Misconduct 10) ..................................... 66
R6-3-5114. Evidence (Misconduct 10) ..................................... 66
R6-3-5115. Absence (Misconduct 15) ..................................... 66
R6-3-5116. Reserved .......................................................... 67
R6-3-5117. Evidence (Misconduct 17) ..................................... 67
R6-3-5118. Evidence (Misconduct 18) ..................................... 67
R6-3-5119. Evidence (Misconduct 19) ..................................... 67
R6-3-5120. Evidence (Misconduct 20) ..................................... 67
R6-3-5121. Evidence (Misconduct 21) ..................................... 67
R6-3-5122. Evidence (Misconduct 22) ..................................... 67
R6-3-5123. Evidence (Misconduct 23) ..................................... 67
R6-3-5124. Evidence (Misconduct 24) ..................................... 67
R6-3-5125. Evidence (Misconduct 25) ..................................... 67
R6-3-5126. Evidence (Misconduct 26) ..................................... 67
R6-3-5127. Evidence (Misconduct 27) ..................................... 67
R6-3-5128. Evidence (Misconduct 28) ..................................... 67
R6-3-5129. Evidence (Misconduct 29) ..................................... 67
R6-3-5130. Evidence (Misconduct 30) ..................................... 67
R6-3-5131. Evidence (Misconduct 31) ..................................... 67
R6-3-5132. Evidence (Misconduct 32) ..................................... 67
R6-3-5133. Evidence (Misconduct 33) ..................................... 67
R6-3-5134. Evidence (Misconduct 34) ..................................... 67
R6-3-5135. Evidence (Misconduct 35) ..................................... 67
R6-3-5136. Evidence (Misconduct 36) ..................................... 67
R6-3-5137. Evidence (Misconduct 37) ..................................... 67
R6-3-5138. Evidence (Misconduct 38) ..................................... 67
R6-3-5139. Evidence (Misconduct 39) ..................................... 67
R6-3-5140. Evidence (Misconduct 40) ..................................... 67
R6-3-5141. Evidence (Misconduct 41) ..................................... 67
R6-3-5142. Evidence (Misconduct 42) ..................................... 67
R6-3-5143. Evidence (Misconduct 43) ..................................... 67
R6-3-5144. Evidence (Misconduct 44) ..................................... 67
R6-3-5145. Evidence (Misconduct 45) ..................................... 67
R6-3-5146. Evidence (Misconduct 46) ..................................... 67
R6-3-5147. Evidence (Misconduct 47) ..................................... 67
R6-3-5148. Evidence (Misconduct 48) ..................................... 67
R6-3-5149. Evidence (Misconduct 49) ..................................... 67
R6-3-5150. Evidence (Misconduct 50) ..................................... 67
R6-3-5151. Evidence (Misconduct 51) ..................................... 67
R6-3-5152. Evidence (Misconduct 52) ..................................... 67
R6-3-5153. Evidence (Misconduct 53) ..................................... 67
R6-3-5154. Evidence (Misconduct 54) ..................................... 67
R6-3-5155. Evidence (Misconduct 55) ..................................... 67
R6-3-5156. Evidence (Misconduct 56) ..................................... 67
R6-3-5157. Evidence (Misconduct 57) ..................................... 67
R6-3-5158. Evidence (Misconduct 58) ..................................... 67
R6-3-5159. Evidence (Misconduct 59) ..................................... 67
R6-3-5160. Evidence (Misconduct 60) ..................................... 67
R6-3-5161. Evidence (Misconduct 61) ..................................... 67
R6-3-5162. Evidence (Misconduct 62) ..................................... 67
R6-3-5163. Evidence (Misconduct 63) ..................................... 67
R6-3-5164. Evidence (Misconduct 64) ..................................... 67
R6-3-5165. Evidence (Misconduct 65) ..................................... 67
R6-3-5166. Evidence (Misconduct 66) ..................................... 67
R6-3-5167. Evidence (Misconduct 67) ..................................... 67
R6-3-5168. Evidence (Misconduct 68) ..................................... 67
R6-3-5169. Evidence (Misconduct 69) ..................................... 67
R6-3-5170. Evidence (Misconduct 70) ..................................... 67
R6-3-5171. Evidence (Misconduct 71) ..................................... 67
R6-3-5172. Evidence (Misconduct 72) ..................................... 67
R6-3-5173. Evidence (Misconduct 73) ..................................... 67
R6-3-5174. Evidence (Misconduct 74) ..................................... 67
R6-3-5175. Evidence (Misconduct 75) ..................................... 67
R6-3-5176. Evidence (Misconduct 76) ..................................... 67
R6-3-5177. Evidence (Misconduct 77) ..................................... 67
R6-3-5178. Evidence (Misconduct 78) ..................................... 67
R6-3-5179. Evidence (Misconduct 79) ..................................... 67
R6-3-5180. Evidence (Misconduct 80) ..................................... 67
R6-3-5181. Evidence (Misconduct 81) ..................................... 67
R6-3-5182. Evidence (Misconduct 82) ..................................... 67
R6-3-5183. Evidence (Misconduct 83) ..................................... 67
R6-3-5184. Evidence (Misconduct 84) ..................................... 67
R6-3-5185. Evidence (Misconduct 85) ..................................... 67
R6-3-5186. Evidence (Misconduct 86) ..................................... 67
R6-3-5187. Evidence (Misconduct 87) ..................................... 67
R6-3-5188. Evidence (Misconduct 88) ..................................... 67
R6-3-5189. Evidence (Misconduct 89) ..................................... 67
R6-3-5190. Evidence (Misconduct 90) ..................................... 67
R6-3-5191. Evidence (Misconduct 91) ..................................... 67
R6-3-5192. Evidence (Misconduct 92) ..................................... 67
R6-3-5193. Evidence (Misconduct 93) ..................................... 67
R6-3-5194. Evidence (Misconduct 94) ..................................... 67
R6-3-5195. Evidence (Misconduct 95) ..................................... 67
R6-3-5196. Evidence (Misconduct 96) ..................................... 67
R6-3-5197. Evidence (Misconduct 97) ..................................... 67
R6-3-5198. Evidence (Misconduct 98) ..................................... 67
R6-3-5199. Evidence (Misconduct 99) ..................................... 67
R6-3-5200. Evidence (Misconduct 100) ................................... 67
R6-3-5201. Evidence (Misconduct 101) ................................... 67
R6-3-5202. Evidence (Misconduct 102) ................................... 67
R6-3-5203. Evidence (Misconduct 103) ................................... 67
R6-3-5204. Evidence (Misconduct 104) ................................... 67
R6-3-5205. Evidence (Misconduct 105) ................................... 67
R6-3-5206. Evidence (Misconduct 106) ................................... 67
R6-3-5207. Evidence (Misconduct 107) ................................... 67
R6-3-5208. Evidence (Misconduct 108) ................................... 67
R6-3-5209. Evidence (Misconduct 109) ................................... 67
R6-3-5210. Evidence (Misconduct 110) ................................... 67
R6-3-5211. Evidence (Misconduct 111) ................................... 67
R6-3-5212. Evidence (Misconduct 112) ................................... 67
R6-3-5213. Evidence (Misconduct 113) ................................... 67
R6-3-5214. Evidence (Misconduct 114) ................................... 67
R6-3-5215. Evidence (Misconduct 115) ................................... 67
R6-3-5216. Evidence (Misconduct 116) ................................... 67
R6-3-5217. Evidence (Misconduct 117) ................................... 67
R6-3-5218. Evidence (Misconduct 118) ................................... 67
R6-3-5219. Evidence (Misconduct 119) ................................... 67
R6-3-5220. Evidence (Misconduct 120) ................................... 67
ARTICLE 53. REFUSAL OF WORK BENEFIT POLICY

Section
R6-3-52161. Reserved through 78
R6-3-52162. Reserved through 78
R6-3-52163. Reserved through 78
R6-3-52164. Reserved through 78
R6-3-52165. Employer requirements (Able and Available 165) through 78
R6-3-52166. Reserved through 78
R6-3-52179. Reserved through 78
R6-3-52180. Equipment (Able and Available 180) through 78
R6-3-52181. Reserved through 78
R6-3-52189. Reserved through 78
R6-3-52190. Evidence (Able and Available 190) through 78
R6-3-52191. Reserved through 79
R6-3-52234. Reserved through 79
R6-3-52235. Health or Physical Condition through 79
R6-3-52236. Reserved through 80
R6-3-52249. Reserved through 80
R6-3-52250. Incarceration or other legal detention (Able and Available 250) through 80
R6-3-52251. Reserved through 80
R6-3-52284. Reserved through 80
R6-3-52285. Leave or absence or vacation (Able and Available 285) through 80
R6-3-52286. Reserved through 81
R6-3-52294. Reserved through 81
ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY

Section 6-3-5494. Reserved through 89

Section 6-3-5495. Disqualification; Definition of Last Employment through 89

Section 6-3-5496. Reserved through 89

Section 6-3-5497. Reserved through 89

Section 6-3-5498. Reserved through 89

Section 6-3-5499. Reserved through 89

Section 6-3-54100. Extended benefits through 89

Section 6-3-54101. Reserved through 89

ARTICLE 56. LABOR DISPUTE BENEFIT POLICY

Section 6-3-5601. Definitions and Explanation of Terms through 94

Section 6-3-5602. Labor Dispute Notice through 94

Section 6-3-5603. Eligibility During a Labor Dispute through 94

Section 6-3-5604. Termination of the Labor Dispute Disqualification through 94

Section 6-3-5605. Repealed through 94

Section 6-3-5606. Repealed through 94

Section 6-3-5634. Reserved through 94

Section 6-3-5635. Repealed through 94

Section 6-3-5636. Reserved through 94

ARTICLE 54. BENEFIT CLAIMS, COMPUTATION, EXTENSION, AND OVERPAYMENT

Section 6-3-5401. Reserved through 89
ARTICLE 57. RESERVED

ARTICLE 58. RESERVED

ARTICLE 59. RESERVED

ARTICLE 60. REPEALED

Former Article 60, consisting of Sections 6-3-6001 through R6-3-6006, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 61. REPEALED

Former Article 61, consisting of Sections R6-3-6101 through R6-3-6107, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 62. REPEALED

Former Article 62, consisting of Sections R6-3-6201 through R6-3-6205, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 63. REPEALED

Former Article 63, consisting of Sections R6-3-6301 through R6-3-6304, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 64. REPEALED

Former Article 64, consisting of Section R6-3-6401, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 65. REPEALED

Former Article 65, consisting of Section R6-3-6501, repealed effective February 1, 1995 (Supp. 95-1).

ARTICLE 66. REPEALED

Former Article 66, consisting of Sections R6-3-6601 through R6-3-6606, repealed effective February 1, 1995 (Supp. 95-1).
ARTICLE 1. RECODIFIED

R6-3-101. Repealed

Historical Note

R6-3-102. Repealed

Historical Note

R6-3-103. Recodified

Historical Note
Former Section R6-3-103 repealed, new Section R6-3-103 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-103 recodified to A.A.C. R6-1-501 effective February 13, 1996 (Supp. 96-1).

ARTICLE 2. RECODIFIED

R6-3-201. Recodified

Historical Note
Former Rule 3-200; Former Section R6-3-201 repealed, new Section R6-3-201 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-201 recodified to A.A.C. R6-13-201 effective February 13, 1996 (Supp. 96-1).

R6-3-202. Recodified

Historical Note
Former Rule 3-201; Former Section R6-3-202 repealed, new Section R6-3-202 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-202 recodified to A.A.C. R6-13-202 effective February 13, 1996 (Supp. 96-1).

R6-3-203. Recodified

Historical Note
Former Rule 3-202; Former Section R6-3-203 repealed, new Section R6-3-203 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-203 recodified to A.A.C. R6-13-203 effective February 13, 1996 (Supp. 96-1).

R6-3-204. Recodified

Historical Note
Former Rule 3-203; Former Section R6-3-204 repealed, new Section R6-3-204 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Section repealed, new Section adopted effective November 17, 1993 (Supp. 93-4). R6-3-204 recodified to A.A.C. R6-13-204 effective February 13, 1996 (Supp. 96-1).
R6-3-213. Repealed

Historical Note
Former Rule 3-212; Repealed effective March 26, 1976 (Supp. 76-2).

R6-3-214. Recodified

Historical Note
Former Rule 3-213; Former Section R6-3-214 repealed, new Section R6-3-214 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-214 recodified to A.A.C. R6-13-214 effective February 13, 1996 (Supp. 96-1).

R6-3-215. Recodified

Historical Note
Former Rule 3-214; Former Section R6-3-215 repealed, new Section R6-3-216 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-215 recodified to A.A.C. R6-13-215 effective February 13, 1996 (Supp. 96-1).

R6-3-216. Recodified

Historical Note
Former Rule 3-215; Former Section R6-3-216 repealed, new Section R6-3-216 adopted effective March 26, 1976 (Supp. 76-2). R6-3-216 recodified to A.A.C. R6-13-216 effective February 13, 1996 (Supp. 96-1).

ARTICLE 3. RECODIFIED

R6-3-301. Recodified

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-301 recodified to A.A.C. R6-13-301 effective February 13, 1996 (Supp. 96-1).

R6-3-302. Recodified

Historical Note

R6-3-303. Recodified

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-304 renumbered and amended as Section R6-3-303 effective October 13, 1977 (Supp. 77-5). R6-3-303 recodified to A.A.C. R6-13-303 effective February 13, 1996 (Supp. 96-1).

R6-3-304. Recodified

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-303 renumbered and amended as Section R6-3-304 effective October 13, 1977 (Supp. 77-5). R6-3-304 recodified to A.A.C. R6-13-304 effective February 13, 1996 (Supp. 96-1).

R6-3-305. Recodified

Historical Note

R6-3-306. Recodified

Historical Note

R6-3-307. Recodified

Historical Note

R6-3-308. Repealed

Historical Note

R6-3-309. Recodified

Historical Note

R6-3-310. Recodified

Historical Note

R6-3-311. Recodified

Historical Note

R6-3-312. Repealed

Historical Note

R6-3-313. Recodified

Historical Note

R6-3-314. Recodified

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-314 repealed, new Section R6-3-314

R6-3-314.01. Recodified

**Historical Note**
Adopted effective November 17, 1993 (Supp. 93-4). R6-3-314.01 recodified to A.A.C. R6-13-314 effective February 13, 1996 (Supp. 96-1).

R6-3-315. Recodified

**Historical Note**

R6-3-316. Recodified

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-316 repealed, new Section R6-3-316 adopted effective October 13, 1977 (Supp. 77-5). R6-3-316 recodified to A.A.C. R6-13-316 effective February 13, 1996 (Supp. 96-1).

R6-3-317. Repealed

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-317 repealed effective October 13, 1977 (Supp. 77-5).

R6-3-318. Recodified

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-318 repealed, new Section R6-3-318 adopted effective October 13, 1977 (Supp. 77-5). Former Section R6-3-318 adopted as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Emergency expired, Section R6-3-318 in effect prior to emergency repeal placed back into effect January 2, 1980. Section repealed, new Section adopted effective November 17, 1993 (Supp. 93-4). R6-3-318 recodified to A.A.C. R6-13-318 effective February 13, 1996 (Supp. 96-1).

R6-3-319. Recodified

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-319 repealed, new Section R6-3-319 adopted effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Former Section R6-3-319 repealed, new Section R6-3-319 adopted as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former emergency adoption now adopted and amended effective April 9, 1980 (Supp. 80-2). R6-3-319 recodified to A.A.C. R6-13-319 effective February 13, 1996 (Supp. 96-1).

R6-3-320. Recodified

**Historical Note**
Former Section R6-3-324 renumbered and amended as Section R6-3-320 effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-320 recodified to A.A.C. R6-13-320 effective February 13, 1996 (Supp. 96-1).

R6-3-321. Recodified

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-325 repealed and amended as Section R6-3-321 effective October 13, 1977 (Supp. 77-5). R6-3-321 recodified to A.A.C. R6-13-321 effective February 13, 1996 (Supp. 96-1).

R6-3-322. Recodified

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-322 repealed and amended as Section R6-3-322 effective October 14, 1977 (Supp. 77-5). Former Section R6-3-322 repealed effective November 9, 1995 (Supp. 95-5). R6-3-322 recodified to A.A.C. R6-13-322 effective February 13, 1996 (Supp. 96-1).

R6-3-323. Reserved

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-323 repealed effective October 13, 1977 (Supp. 77-5).

R6-3-324. Repealed

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-324 repealed effective October 13, 1977 (Supp. 77-5).

R6-3-325. Repealed

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-325 repealed effective October 13, 1977 (Supp. 77-5).

**ARTICLE 4. REPEALED**

R6-3-401. Repealed

**Historical Note**
Former Rule 3-400; Former Section R6-3-401 repealed, new Section R6-3-401 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-402. Repealed

**Historical Note**
Former Rule 3-401; Former Section R6-3-402 repealed, new Section R6-3-402 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-402 repealed, new Section R6-3-402 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-403. Repealed

**Historical Note**
Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).
R6-3-419. Repealed

Historical Note
Former Rule 3-424; Former Section R6-3-419 repealed effective March 26, 1976 (Supp. 76-2).

R6-3-420. Repealed

Historical Note
Former Rule 3-425; Former Section R6-3-420 repealed, new Section R6-3-420 adopted effective March 26, 1976 (Supp. 76-2), Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-421. Repealed

Historical Note
Former Rule 3-426; Former Section R6-3-421 repealed, new Section R6-3-421 adopted effective March 26, 1976 (Supp. 76-2), Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-422. Repealed

Historical Note
Former Rule 3-427; Former Section R6-3-422 repealed, new Section R6-3-422 adopted effective March 26, 1976 (Supp. 76-2), Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-423. Repealed

Historical Note

R6-3-424. Repealed

Historical Note

R6-3-425. Repealed

Historical Note

R6-3-426. Repealed

Historical Note

R6-3-427. Repealed

Historical Note

R6-3-428. Repealed

Historical Note

R6-3-429. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-430. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2), Former Section R6-3-430 repealed, new Section R6-3-430 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-431. Repealed

Historical Note

R6-3-432. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-433. Repealed

Historical Note

R6-3-434. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2), Former Section R6-3-434 repealed effective October 13, 1977 (Supp. 77-5).

R6-3-435. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2), Former Section R6-3-435 repealed effective October 13, 1977 (Supp. 77-5).

ARTICLE 5. REPEALED

R6-3-501. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-502. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-503. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended as an emergency effective September 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days.
R6-3-504. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-505. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-506. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-507. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-508. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-509. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-510. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-511. Reserved

R6-3-512. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-513. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-514. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2).
Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-515. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-515 repealed, new Section R6-3-515 adopted as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former Emergency Adoption now adopted and amended effective April 17, 1980 (Supp. 80-2). Repealed effective November 9, 1995 (Supp. 95-4).
R6-3-608. Repealed

Historical Note
Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 2, 1986 (Supp. 86-5).

R6-3-609. Repealed

Historical Note

R6-3-610. Repealed

Historical Note

R6-3-611. Repealed

Historical Note

R6-3-612. Repealed

Historical Note

R6-3-613. Repealed

Historical Note

R6-3-614. Repealed

Historical Note

R6-3-615. Repealed

Historical Note

ARTICLE 7. RECODIFIED

R6-3-701. Recodified

Historical Note
Former Rule 3-700; Former Section R6-3-701 repealed, new Section R6-3-701 adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 14, 1977 (Supp. 77-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-701 repealed, new Section R6-3-701 adopted effective January 10, 1985 (Supp. 85-1). Amended effective July 30, 1992 (Supp. 92-3). R6-3-701 recodified to A.A.C. R6-13-701 effective February 13, 1996 (Supp. 96-1).

ARTICLE 8. RECODIFIED

R6-3-801. Recodified

Historical Note
Former Rule 3-800; Former Section R6-3-801 repealed, new Section R6-3-801 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-801 repealed, new Section R6-3-801 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-801 recodified to A.A.C. R6-13-801 effective February 13, 1996 (Supp. 96-1).
R6-3-808. **Recodified**

**Historical Note**

R6-3-809. **Recodified**

**Historical Note**
Adopted effective October 27, 1993 (Supp. 93-4). R6-3-809 recodified to A.A.C. R6-13-809 effective February 13, 1996 (Supp. 96-1).

**ARTICLE 9. RECODIFIED**

R6-3-901. **Recodified**

**Historical Note**
Former Rule 3-900; Former Section R6-3-901 repealed, new Section R6-3-901 adopted effective March 26, 1976 (Supp. 76-2). R6-3-901 recodified to A.A.C. R6-13-901 effective February 13, 1996 (Supp. 96-1).

R6-3-902. **Recodified**

**Historical Note**
Former Rule 3-901; Former Section R6-3-902 repealed, new Section R6-3-902 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-902 recodified to A.A.C. R6-13-902 effective February 13, 1996 (Supp. 96-1).

R6-3-903. **Recodified**

**Historical Note**
Former Rule 3-902; Former Section R6-3-903 repealed, new Section R6-3-903 adopted effective March 26, 1976 (Supp. 76-2). R6-3-903 recodified to A.A.C. R6-13-903 effective February 13, 1996 (Supp. 96-1).

R6-3-904. **Recodified**

**Historical Note**
Former Rule 3-903; Former Section R6-3-904 repealed, new Section R6-3-904 adopted effective March 26, 1976 (Supp. 76-2). R6-3-904 recodified to A.A.C. R6-13-904 effective February 13, 1996 (Supp. 96-1).

R6-3-905. **Recodified**

**Historical Note**
Former Rule 3-904; Former Section R6-3-905 repealed, new Section R6-3-905 adopted effective March 26, 1976 (Supp. 76-2). R6-3-905 recodified to A.A.C. R6-13-905 effective February 13, 1996 (Supp. 96-1).

R6-3-906. **Recodified**

**Historical Note**
Former Rule 3-905; Amended effective September 24, 1975 (Supp. 76-1). Former Section R6-3-906 repealed, new Section R6-3-906 adopted effective March 26, 1976 (Supp. 76-2). R6-3-906 recodified to A.A.C. R6-13-906 effective February 13, 1996 (Supp. 96-1).

R6-3-907. **Recodified**

**Historical Note**
Former Rule 3-906; Former Section R6-3-907 repealed, new Section R6-3-907 adopted effective March 26, 1976 (Supp. 76-2). R6-3-907 recodified to A.A.C. R6-13-907 effective February 13, 1996 (Supp. 96-1).

R6-3-908. **Recodified**

**Historical Note**
Former Rule 3-907; Former Section R6-3-908 repealed, new Section R6-3-908 adopted effective March 26, 1976 (Supp. 76-2). R6-3-908 recodified to A.A.C. R6-13-908 effective February 13, 1996 (Supp. 96-1).

R6-3-909. **Recodified**

**Historical Note**
Former Rule 3-908; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-909 repealed, new Section R6-3-909 adopted effective March 26, 1976 (Supp. 76-2). R6-3-909 recodified to A.A.C. R6-13-909 effective February 13, 1996 (Supp. 96-1).

R6-3-910. **Recodified**

**Historical Note**
Former Rule 3-909; Former Section R6-3-910 repealed, new Section R6-3-910 adopted effective March 26, 1976 (Supp. 76-2). R6-3-910 recodified to A.A.C. R6-13-910 effective February 13, 1996 (Supp. 96-1).

R6-3-911. **Recodified**

**Historical Note**
Former Rule 3-910; Former Section R6-3-911 repealed, new Section R6-3-911 adopted effective March 26, 1976 (Supp. 76-2). R6-3-911 recodified to A.A.C. R6-13-911 effective February 13, 1996 (Supp. 96-1).

R6-3-912. **Recodified**

**Historical Note**
Former Rule 3-911; Former Section R6-3-912 repealed, new Section R6-3-912 adopted effective March 26, 1976 (Supp. 76-2). R6-3-912 recodified to A.A.C. R6-13-912 effective February 13, 1996 (Supp. 96-1).

R6-3-913. **Recodified**

**Historical Note**
Former Rule 3-912; Former Section R6-3-913 repealed, new Section R6-3-913 adopted effective March 26, 1976 (Supp. 76-2). R6-3-913 recodified to A.A.C. R6-13-913 effective February 13, 1996 (Supp. 96-1).

R6-3-914. **Recodified**

**Historical Note**
Former Rule 3-913; Former Section R6-3-914 repealed, new Section R6-3-914 adopted effective March 26, 1976 (Supp. 76-2). R6-3-914 recodified to A.A.C. R6-13-914 effective February 13, 1996 (Supp. 96-1).

R6-3-915. **Recodified**

**Historical Note**
Former Rule 3-914; Former Section R6-3-915 repealed, new Section R6-3-915 adopted effective March 26, 1976 (Supp. 76-2). R6-3-915 recodified to A.A.C. R6-13-915 effective February 13, 1996 (Supp. 96-1).

R6-3-916. **Recodified**

**Historical Note**
Former Rule 3-920; Former Section R6-3-916 repealed, new Section R6-3-916 adopted effective March 26, 1976 (Supp. 76-2). R6-3-916 recodified to A.A.C. R6-13-916 effective February 13, 1996 (Supp. 96-1).
R6-3-917. Recodified

Historical Note
Former Rule 3-921; Former Section R6-3-917 repealed, new Section R6-3-917 adopted effective March 26, 1976 (Supp. 76-2). R6-3-917 recodified to A.A.C. R6-13-917 effective February 13, 1996 (Supp. 96-1).

R6-3-918. Recodified

Historical Note
Former Rule 3-922; Former Section R6-3-918 repealed, new Section R6-3-918 adopted effective March 26, 1976 (Supp. 76-2). R6-3-918 recodified to A.A.C. R6-13-918 effective February 13, 1996 (Supp. 96-1).

R6-3-919. Recodified

Historical Note
Former Rule 3-923; Former Section R6-3-919 repealed, new Section R6-3-919 adopted effective March 26, 1976 (Supp. 76-2). R6-3-919 recodified to A.A.C. R6-13-919 effective February 13, 1996 (Supp. 96-1).

R6-3-920. Recodified

Historical Note
Former Rule 3-924; Former Section R6-3-920 repealed, new Section R6-3-920 adopted effective March 26, 1976 (Supp. 76-2). R6-3-920 recodified to A.A.C. R6-13-920 effective February 13, 1996 (Supp. 96-1).

R6-3-921. Recodified

Historical Note
An applicant or recipient who is dissatisfied with a decision on his case has the right to appeal.

R6-3-922. Recodified

Historical Note
Former Rule 3-926; Former Section R6-3-922 repealed, new Section R6-3-922 adopted effective March 26, 1976 (Supp. 76-2). Section repealed, new Section adopted effective November 17, 1993 (Supp. 93-4). R6-3-922 recodified to A.A.C. R6-13-922 effective February 13, 1996 (Supp. 96-1).

ARTICLE 10. REPEALED

R6-3-1001. Repealed

Historical Note
Former Rule 3-1100; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1001 repealed, new Section R6-3-1001 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1002. Repealed

Historical Note
Former Rule 3-1101; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1002 repealed, new Section R6-3-1002 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).
Department of Economic Security - Unemployment Insurance

R6-3-1011. Repealed

Historical Note
Former Rules 3-1110 through 3-1119; Former Section R6-3-1011 repealed effective March 26, 1976 (Supp. 76-2).

R6-3-1012. Repealed

Historical Note
Former Rule 3-1120; Former Section R6-3-1012 repealed, new Section R6-3-1012 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1013. Repealed

Historical Note
Former Rule 3-1121; Not in original publication, correction, R6-3-1013(A)(4), R6-3-1013(B)(1) through (6), R6-3-1013(C), other revisions amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1013 repealed, new Section R6-3-1013 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1014. Repealed

Historical Note
Former Rule 3-1122; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1014 repealed, new Section R6-3-1014 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

R6-3-1015. Repealed

Historical Note
Former Rule 3-1123; Former Section R6-3-1015 repealed, new Section R6-3-1015 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

ARTICLE 11. REPEALED
Former Article 11 consisting of Sections R6-3-1101 through R6-3-1111 repealed effective March 26, 1976.

ARTICLE 12. RECODIFIED

R6-3-1201. Recodified

Historical Note
Former Rule 3-1300; Former Section R6-3-1201 repealed, new Section R6-3-1201 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-1201 repealed, new Section R6-3-1201 adopted effective October 13, 1977 (Supp. 77-5). R6-3-1201 recodified to A.A.C. R6-13-1201 effective February 13, 1996 (Supp. 96-1).

R6-3-1202. Recodified

Historical Note
Former Rule 3-1301; Former Section R6-3-1202 repealed, new Section R6-3-1202 adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 14, 1977 (Supp. 77-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-1202 recodified to A.A.C. R6-13-1202 effective February 13, 1996 (Supp. 96-1).

R6-3-1203. Recodified

Historical Note
Former Rule 3-1302; Former Section R6-3-1203 repealed, new Section R6-3-1203 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-1203 recodified to A.A.C. R6-13-1203 effective February 13, 1996 (Supp. 96-1).

R6-3-1204. Recodified

Historical Note
Former Rule 3-1303; Former Section R6-3-1204 repealed, new Section R6-3-1204 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-1204 recodified to A.A.C. R6-13-1204 effective February 13, 1996 (Supp. 96-1).

R6-3-1205. Repealed

Historical Note
Former Rule 3-1304; Former Section R6-3-1204 repealed effective March 26, 1976 (Supp. 76-2).

R6-3-1206. Recodified

Historical Note
Former Rule 3-1305; Former Section R6-3-1206 repealed, new Section R6-3-1206 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-1206 repealed, new Section R6-3-1206 adopted effective June 15, 1978 (Supp. 78-3). Former Section R6-3-1206 repealed, new Section R6-3-1206 adopted effective January 2, 1985 (Supp. 85-1). R6-3-1206 recodified to A.A.C. R6-13-1206 effective February 13, 1996 (Supp. 96-1).

R6-3-1207. Recodified

Historical Note
Former Rule 3-1306; Former Section R6-3-1207 repealed, new Section R6-3-1207 adopted effective March 26, 1976 (Supp. 76-2). R6-3-1207 recodified to A.A.C. R6-13-1207 effective February 13, 1996 (Supp. 96-1).

R6-3-1208. Recodified

Historical Note
Former Rule 3-1307; Former Section R6-3-1208 repealed, new Section R6-3-1208 adopted effective March 26, 1976 (Supp. 76-2). Amended effective June 9, 1978 (Supp. 78-3). Former Section R6-3-1208 repealed, new Section R6-3-1208 adopted as an emergency effective October 3, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former Emergency Adoption now adopted and amended effective April 23, 1980 (Supp. 80-2). Amended effective September 6, 1985 (Supp. 85-5). R6-3-1208 recodified to A.A.C. R6-13-1208 effective February 13, 1996 (Supp. 96-1).

R6-3-1209. Recodified

Historical Note
Former Rule 3-1308; Former Section R6-3-1209 repealed, new Section R6-3-1209 adopted effective March 26, 1, 1976 (Supp. 76-2). R6-3-1209 recodified to A.A.C. R6-13-1209 effective February 13, 1996 (Supp. 96-1).

R6-3-1210. Recodified

Historical Note
Former Rule 3-1309; Former Section R6-3-1210 repealed, new Section R6-3-1210 adopted effective March 26, 1976 (Supp. 76-2). R6-3-1210 recodified to
R6-3-1211. Recodified

**Historical Note**
Former Rule 3-1310; Former Section R6-3-1211 repealed effective March 26, 1976 (Supp. 76-2). New Section R6-3-1211 adopted effective October 13, 1977 (Supp. 77-5). R6-3-1211 recodified to A.A.C. R6-13-1211 effective February 13, 1996 (Supp. 96-1).

R6-3-1212. Recodified

**Historical Note**
Former Rule 3-1311; Former Section R6-3-1212 repealed, new Section R6-3-1212 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-1212 recodified to A.A.C. R6-13-1212 effective February 13, 1996 (Supp. 96-1).

R6-3-1213. Recodified

**Historical Note**
Former Rule 3-1312; Former Section R6-3-1213 repealed, new Section R6-3-1213 adopted effective March 26, 1976 (Supp. 76-2). R6-3-1213 recodified to A.A.C. R6-13-1213 effective February 13, 1996 (Supp. 96-1).

**ARTICLE 13. DEFINITIONS**

R6-3-1301. Definitions
The following definitions apply in A.R.S. Title 23, Chapter 4 (A.R.S. § 23-601 et seq.) and in Articles 13 through 18 and 50 through 56 of this Chapter unless the context otherwise requires:

1. “Agent State” means a state in which an individual files a claim for benefits against another state.
4. “Benefit overpayment” means a payment of unemployment insurance benefits in an amount exceeding the amount of benefits to which a person was lawfully entitled.
5. “Benefit overpayment caused by Department error” means an overpayment which resulted from an error committed by Department personnel.
6. “Benefit overpayment classified administrative” means an overpayment which occurred without fault on the part of the claimant.
7. “Benefit overpayment classified fraud” means an overpayment occurred because a claimant knowingly misrepresented or concealed material facts in order to obtain benefits to which the claimant was not lawfully entitled.
8. “Benefit overpayment classified non-fraud” means an overpayment created because the claimant unintentionally gave incorrect or incomplete information.
9. “Board” means the Department’s Appeals Board described in A.R.S. § 23-672.
10. “Claimant” means a person who has filed a claim for unemployment insurance benefits.
11. “Combined wage claim” or “a claim filed under the Interstate Arrangement for Combining Wages and Employment” means an unemployment insurance claim based on wages earned in more than 1 state.
13. “Deputy” means a Department employee who performs claims-taking or adjudication duties in the unemployment insurance program.
16. “Domestic service” means service of a household nature performed by an employee for a person or for a local college club or local chapter of a college sorority or fraternity in or about the private home of the employer or in or about a college club or sorority or fraternity house in connection with the maintenance of the home or premises, or for the comfort and care of the person, family, or members, as distinguished from service which is directly related to the business or career of the employer.

a. Domestic service includes:
   i. “Family”, for purposes of this Section, includes foster relationships and relationships by blood, marriage, and adoption.
   ii. “Private home” means the social unit formed by a person or family residing in a private household. Private home includes the fixed place of abode of a person or family in a private house, or in a separate and distinct dwelling unit in an apartment house, hotel, or other similar establishment. Private home also includes a summer or winter home of a person or family. Private home does not include any dwelling house or premises used primarily as a boarding or lodging house for the purpose of supplying board or lodging to the public as a business enterprise, or used primarily for the purpose of furnishing accommodations or entertainment to clients, customers, or patrons.
   iii. “Service of a household nature” means service customarily rendered by cooks, waiters, butlers, housekeepers, nannies, companions, valets, janitors, laundry workers, caretakers, handypersons, gardeners, and by chauffeurs of automobiles. Service of a household nature does not include service performed by private secretaries, tutors, librarians, or musicians, or by carpenters, plumbers, electricians, painters, or other skilled craft persons, or by professional or highly trained persons such as registered nurses, licensed practical nurses, and airplane pilots.

b. Domestic service does not include:
   i. Service of a household nature performed in or about a private home in the employ of any employing unit engaged in a business the purpose of which is to furnish services of a household nature to the public.
   ii. Service of a household nature performed in connection with the operation of rooming, lodging, or boarding houses, hotels, hospitals, eleemosynary institutions, or commercial offices or establishments.
18. “Experience rating account” means a separate account the Department maintains for each employer in accordance with A.R.S. § 23-727.
19. “Father” means a birth, foster, step, or legally adoptive male parent.
21. “Interstate benefit payment plan” means the plan approved by the Interstate Conference of Employment Security Agencies for payment of benefits to a person who is absent from the state in which the person accumulated benefit credits.
22. “Interstate claimant” means an individual who claims benefits under the unemployment insurance law of a liable state through the facilities of an agent state.
23. “Liable state” means any state against which an individual files a claim for benefits through another state.
24. “Mass separation” means a situation where more than 50 employees of an employing unit have separated from employment for the same reason, for a separation period of at least 1 week.
25. “Mother” means a birth, foster, step, or legally adoptive female parent.
26. “Partially unemployed individual” means a person who is regularly employed full time by an employer but who, during a particular week:
   a. Worked less than the customary full-time hours for such employer because of lack of full-time work,
   b. Earned less than the person’s weekly benefit amount.
27. “Part-time employment” means employment of a person who, during a particular week, earned less than the person’s weekly benefit amount and worked less than full time.
28. “Pay period” means that period of time during which the wages due on any pay day were earned.
29. “Paying state” means the state against which a combined wage claim is filed.
30. “Payments in lieu of contributions” means monetary payments which an employing unit makes to the state unemployment compensation fund, pursuant to an election the employing unit has made.
31. “Regular employer”, as used in Articles 13 and 17, means an employer who is liable for contributions and subject to the experience rating provisions of the Employment Security Law of Arizona.
32. “Reimburse”, as used in A.R.S. § 23-706, means that the employer because of lack of full-time work,
33. “Reimbursement employer” means an employer who makes payments in lieu of contributions.
34. “Son” means a birth, foster, step, or legally adopted male child.
35. “Spouse” means the lawful husband of a woman or the lawful wife of a man.
36. “Taxable year” means a calendar year.
37. “Transferring state” means a state that transfers wages to a paying state for purposes of establishing a combined wage claim.
38. “Week”, except as otherwise defined for a specific rule or in A.R.S. Title 23, Chapter 4, means a calendar week. The term “calendar week” means 7 consecutive days ending at midnight Saturday. For the purposes of A.R.S. §§ 23-613, 23-615(6), and 23-725(B) and (F), if any calendar week includes both December 31 and January 1, the days up to January 1 shall be deemed 1 calendar week and the days beginning January 1 another calendar week.
39. “Week of unemployment”, as used in R6-3-1806, is the week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.

Historical Note
Amended effective August 3, 1978 (Supp. 78-4).
Amended as an emergency effective August 1, 1979, pursuant to A.R.S. §41-1003, valid for only 90 days (Supp. 79-4). Amended effective February 7, 1980 (Supp. 80-1).
Amended subsection (B) effective July 9, 1980.
Amended subsection (O) effective July 24, 1980 (Supp. 80-4). Section repealed, new Section adopted effective December 20, 1995 (Supp. 95-4).

ARTICLE 14. ADMINISTRATION AND ENFORCEMENT
R6-3-1401. Policy of Nondiscrimination
A. In the administration of the unemployment insurance program, the Department shall not discriminate against any claimant or employer because of age, race, sex, color, religious creed, national origin, handicap, disability, or political affiliation or belief.
B. The Department shall determine initial and continuing eligibility for benefits and liability for employer taxes and administer program services without discrimination, as prescribed by 29 U.S.C. 794 and 42 U.S.C. 1201 et seq.

Historical Note
Former Regulation 40-14. Section R6-3-1401 renumbered to R6-3-1406, new Section R6-3-1401 adopted effective December 20, 1995 (Supp. 95-4).

R6-3-1402. Repealed

Historical Note
Former Regulation 30-6. Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-1403. Disclosure of Information and Confidentiality
A. Information obtained from employer reports and investigations of claims for unemployment insurance benefits is strictly confidential and shall not be published or disclosed to others except as permitted by authorized personnel within the strict limitations hereinafter stated:
1. To individual employers or their authorized agents if the information directly concerns their liability as an employer or the employer’s predecessor;
2. To individual claimants or their authorized representatives if the information directly concerns their status as a claimant;
3. To public employees in the performance of their official duties, provided the information so disclosed and the source of such information is kept confidential and used only for authorized governmental purposes;
4. To an agent of the Department designated as such in writing for the purposes of accomplishing certain of the Department’s functions, with the proviso the information so obtained or the source of such information is kept confidential and used only for the purpose for which the entity was designated as an agent of the Department;
5. To the general public when such information does not include information identifiable either directly or indirectly to individual claimants or employing units;
6. To an outside party after the party has obtained written authorization which has been provided directly to the
Department of Economic Security - Unemployment Insurance

Department from the employer or claimant permitting the Department to release certain specified information;

7. To authorized personnel of a requesting entity authorized to receive the information under a data-share agreement established with the Department in accord with the terms of such an agreement.

B. No employee or agent of the Department shall testify or give evidence before any court or in any quasi-judicial proceeding concerning unemployment insurance records or information except as herein provided, or as instructed by legal counsel to the Department.

C. Employees of the Department of Economic Security shall not disclose any information obtained in the course of their duties, whether the information is within their personal knowledge or from files, records, reports, or other documents of the Department, unless they are the individual authorized to disclose such information within the strict limitations imposed above.

**Historical Note**


### R6-3-1404. Date of Submission and Extension of Time for Payments, Appeals, Notices, Etc.

**A.** Except as otherwise provided by statute or by Department regulation, any payment, appeal, application, request, notice, objection, petition, report, or other information or document submitted to the Department shall be considered received by and filed with the Department:

1. If transmitted via the United States Postal Service or its successor, on the date it is mailed as shown by the postmark or, in the absence of a postmark the postage meter mark, of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

2. If transmitted by any means other than the United States Postal Service or its successor, on the date it is received and limited to subdivision (a) of Rule 6 of the Rules of Civil Procedure.

**B.** The submission of any payment, appeal, application, request, notice, objection, petition, report, or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the Department that the delay in submission was due to:

1. Department error or misinformation, delay or other action of the United States Postal Service or its successor, or when the delay in submission was because the individual changed his mailing address at a time when there would have been no reason for him to notify the Department of the address change.

2. The Director shall designate personnel who are to decide whether an extension of time shall be granted.

3. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the Department after considering the circumstances in the case.

4. If submission is not considered timely, and the subject matter is one for which A.R.S. Chapter 4, Title 23 provides administrative appeal rights, the Department shall issue an appealable decision to the interested party. The decision shall contain the reasons therefor, a statement that the party has the right to appeal the decision, and the period and manner in which such appeal must be filed under the provisions of the Arizona Employment Security Law.

C. Any notice, report form, determination, decision, assessment, or other document mailed by the Department shall be considered as having been served on the addressee on the date it is mailed to the addressee’s last known address if not served in person. However, when it is established the interested party changed his mailing address at a time when there would have been no reason to notify the Department, it shall be considered as having been served on the addressee on the date it is personally delivered or remailed to his current mailing address. The date mailed shall be presumed to be the date of the document, unless otherwise indicated by the facts.

**Historical Note**


**R6-3-1405. Shared Work**

**A.** Shared Work Plans

1. Participation. The Department shall not permit an employee to participate concurrently in more than 1 shared work plan.

2. Amendment. Upon written request by the shared work employer, the Department shall:

   a. Approve the transfer of an eligible employee from 1 approved plan to another approved plan; or

   b. Amend the plan to include an eligible employee who was omitted from the approved plan.

**B.** Shared Work Employer’s Contribution Rate. When any of the members of a Joint Experience Rating Account established under the provisions of R6-3-1712(A) have an approved shared work plan, the Department shall assign the members a contribution rate as prescribed in A.R.S. § 23-765.

**C.** Shared Work Benefits

1. Normal Weekly Hours. In A.R.S. § 23-764, the phrase “normal weekly hours of work for which the employer would not compensate the employee” means the number of hours, as defined in A.R.S. § 23-761(3), less the weekly hours of work for which the employer would compensate the employee, or for which the employer would compensate the employee had the employee worked.

   a. Normal weekly hours of work include the hours calculated by a shared work employer converting the amount of an employee’s average weekly earnings to an hourly equivalent.

   b. Weekly hours of work for which the employer would compensate the employee include, to the nearest 10th of an hour, actual hours of work and other hours for which the employee has been or will be compensated, such as holiday pay, sick leave pay, and vacation or annual leave pay.

2. Weekly Certification. For each week of shared work benefits claimed by an employee in an affected group, the employer shall, in a format prescribed by the Department, provide and certify the following information:

   a. The hours of work for which the employer compensated the employee, and

   b. Whether the employee refused to accept any work offered by the employer.

3. Refusal of work. The statutory disqualification prescribed in A.R.S. § 23-776 applies when the Department determines that a shared work claimant failed to accept suitable full-time work offered by the shared work employer.
D. Scope and definitions.

1. This rule governs the Department in its administrative cooperation with other states participating in the Interstate Reciprocal Coverage Arrangement ("the Arrangement").

2. In this rule:
   a. “Agency” means a person or entity lawfully authorized to administer the unemployment compensation law of a state participating in the Arrangement.
   b. “Services customarily performed” means services performed by an individual in more than 1 state, if the nature of the services gives reasonable assurance that they will continue to be performed in more than 1 state or if such services are required or expected to be performed in more than 1 state under the election.

B. Submission and approval of coverage elections under the Interstate Reciprocal Coverage Arrangement.

1. Any employing unit may file an election to cover under the law of a single participating state all of the services performed for the employing unit by any individual who customarily works for the employing unit in more than 1 participating state. Such an election may be filed, with respect to an individual, with any participating state in which:
   a. Any part of the individual’s services are performed,
   b. The individual has residence, or
   c. The employing unit maintains a place of business to which the individual’s services bear a reasonable relation.

2. The agency of the elected state (thus selected and determined) shall initially approve or disapprove the election. If such agency approves the election, the agency shall forward a copy thereof to the agency of each other participating state specified thereon, under whose unemployment compensation law the individual or individuals in question, in the absence of such election, might be covered. Each such interested agency shall approve or disapprove the election as promptly as practicable and shall notify the agency of the elected state accordingly. If its law so requires, any such interested agency, before taking such action, may require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in, the election.

3. If the agency of the elected state, or the agency of any interested state, disapproves the election, the disapproving agency shall notify the elected state, and the electing employing unit of its action and of its reasons therefor.

4. Such an election shall take effect as to the elected state only if approved by its agency and by 1 or more interested agencies. An election thus approved shall take effect, as to any interested agency, only if it is approved by such agency.

5. If an election is approved only in part, or is disapproved by some of such agencies, the electing employing unit may withdraw its election within 10 days after being notified of such action.

C. Effective period of elections

1. Commencement
   a. An election duly approved under this rule shall become effective at the beginning of the calendar quarter in which the election was submitted, unless the election, as approved, specifies the beginning of a different calendar quarter.
   b. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested states in which the employer had no liability to pay contributions for the earlier period in question.

2. Termination
   a. The application to any individual under this rule shall terminate, if the agency of the elected state finds that the nature of the services customarily performed by the individual for the electing unit has changed so that they are no longer customarily performed in more than 1 participating state. Such termination shall be effective as of the close of the calendar quarter in which notice of such finding is mailed to all parties affected.
b. Except as provided in subsection (C)(2)(a), each election approved hereunder shall remain in effect through the close of the calendar year in which it is submitted, and thereafter until the close of the calendar quarter in which the electing unit gives written notice of the termination to all affected agencies.

c. Whenever an election under this rule ceases to apply to any individual, under subsections (C)(2)(a) or (b), the electing unit shall notify the affected individual accordingly.

D. Reports and notices by the electing unit

1. The electing unit shall promptly notify each individual affected by its approved election, on the form supplied by the elected state, and shall furnish the elected agency a copy of such notice.

2. Whenever an individual covered by election under this rule is separated from employment, the electing unit shall notify the individual, forthwith, as to the state under whose unemployment compensation law the individual’s services for the employer cease to be customarily performed in more than one participating state.

3. The electing unit shall immediately report to the elected state any change which occurs in the conditions of employment pertinent to its election, such as cases when an individual’s services for the employer cease to be customarily performed in more than one participating state or when a change in the work assigned to an individual requires the individual to perform services in a new participating state.

E. Approval of reciprocal coverage elections. The Department shall approve or disapprove reciprocal coverage elections in accordance with this rule.

Historical Note
Renumbered from R6-3-1401 and amended effective December 20, 1995 (Supp. 95-4).

R6-3-1407. Interested Party

A. An interested party to a benefit or chargeability determination is:

1. A claimant whose right to benefits is affected;

2. A claimant’s most recent employing unit or employer, or any base-period employer, if the employer:

a. Returns the Department’s Notice to Employer, with a signed statement of facts providing information that may affect the claimant’s eligibility for benefits, or information on the issue of separation from employment, within 10 business days of the date on the Notice to Employer the Department mails to the employer’s address of record; or

b. Responds electronically to the Department’s Notice to Employer within 10 business days of the date the Department transmits the Notice to the employer’s electronic address on file, provided the response contains:

i. A statement of facts providing information that may affect the claimant’s eligibility for benefits or information on the issue of separation from employment with the employer,

ii. The last date worked for this employer, and

iii. The name of the individual responsible for providing this information; or

3. The claimant’s most recent employing unit or employer, when the claimant is disqualified on the basis of the claimant’s separation from employment with the employing unit or employer.

B. The Department shall make a previously excluded party an interested party to a decision involving whether wages are usable for a claim when the Department determines that the decision could adversely affect the excluded party.

Historical Note
New Section R6-3-1407 renumbered from R6-3-1501 and amended effective July 22, 1997 (Supp. 97-3). Amended by final rulemaking at 17 A.A.R. 1088, effective May 3, 2011 (Supp. 11-2).

R6-3-1408. Seasonal Employment Status; Qualified Transient Lodging Employment

A. As used in A.R.S. § 23-793:

1. A “full-time equivalent” means the number of hours in the employing unit’s normal work week the employing unit considers a full-time work week, or 40 hours, whichever is less.

2. “1-year period prior to such slowdown” means the 52 completed calendar weeks immediately preceding the start date of the anticipated slowdown period.

3. “Previous year” means the same as “1-year period prior to such slowdown.”

B. For the purpose of A.R.S. § 23-793(B), an application is the form provided by the Department and available to the employer at any unemployment insurance office of the Department or from any unemployment insurance tax representative. The employer shall provide the following information:

1. Identifying information, including the federal employer identification number and transient lodging privilege license number;

2. The anticipated period of the substantial slowdown of operations, the reason for the anticipated slowdown, and the expected number of full-time equivalents in the workforce during the slowdown;

3. The previous year’s slowdown period, the reason for the slowdown, and the number of full-time equivalents in the employer’s workforce in the 12 highest weeks of unemployment during the previous year; and

4. A copy of the employer’s written notice to employees that the employment is seasonal.

C. Notwithstanding the Department’s approval of the employer’s application, the Department shall not deny a worker, who has filed a claim for benefits during a substantial slowdown period, the use of wages earned from the employer if the employer, in response to the Department’s notice that the worker has filed a claim for benefits, does not provide written information that the worker is unemployed due solely to the substantial slowdown in operations within 10 days of the notice date.

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

ARTICLE 15. DECISIONS, HEARINGS, AND ORDERS

R6-3-1501. Renumbered

Historical Note
Former Regulation 20-5; Amended effective February 15, 1978 (Supp. 78-1). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former Section R6-3-1501
amended effective February 7, 1980 (Supp. 80-1).
Amended by adding subsection (B) effective July 9, 1980
(Supp. 80-4). Correction, paragraph (2), subparagraph (b)
as certified effective February 7, 1980 (Supp. 81-2).
Additional correction to subsection (A), paragraph (2),
subparagraph (b), “simultaneous” deleted as certified
February 7, 1980 (Supp. 81-5). R6-3-1501 renumbered to
R6-3-1407 and amended effective July 22, 1997 (Supp.
97-4).

R6-3-1502. Appeals Process, General
A. The Board or a hearing officer in the Department’s Office of
Appeals may informally dispose of an appeal or petition with¬
out further appellate review on the merits:
1. By withdrawal, if the appellant withdraws the appeal in
writing or on the record at any time before the decision is
issued; or
2. By dismissal, if the appellant fails to file the appeal
within the time permitted by the Employment Security
Law or Department rules; or
3. By stipulation, if the parties agree on the record or in
writing at any time before the decision is issued, subject
to approval by the Appeals Tribunal; or
4. By default, if the appellant fails to appear or waives
appearance at the scheduled hearing.

B. Notice of hearing
1. Place of hearing. Hearings shall be held at those regularly
established hearing locations most convenient to the
interested parties, or, at the discretion of the presiding
officer, by telephone. Written notice will advise any inter¬
ested party that the party has a right to be present in
person or through counsel, or both, or to send written
questions to the hearing officer, who will ensure that the
questions are asked of the other party or appropriate wit¬
nesses, provided the questions are received prior to the
designated hearing date and are germane to the issues to
be decided.
2. Time and contents of notice. All interested parties to a
hearing shall be given at least 10 business days’ notice of
hearing, except that any interested party may waive,
either in writing or on the record, the right to notice. The
notice shall contain the time and place of hearing, the
issues involved, and the name of the hearing officer who
will hold the hearing, but if, by reason of the nature of the
proceedings, the issues cannot be fully stated in advance
of the hearing, or if subsequent amendment of the issues is
necessary, the issues shall be fully stated as soon as
practicable. In any event, reasonable opportunity shall be
afforded all parties to become aware of the issues and to
present evidence and argument with respect thereto.
3. Continued, reopened, or rescheduled hearings. Notice of
time, place and purpose of any continued, reopened, or
rescheduled hearing shall be given to all interested par¬
ties.
4. Mailing of notices. Notices of hearings shall be mailed to
the interested parties by regular mail, 1st class, postage
prepaid.

C. Consolidation of cases. When the same or substantially similar
evidence is relevant and material to the issues in more than one
case, proceedings thereon may be conducted jointly, a single
record of the proceedings made and evidence introduced with
respect to one case considered as introduced in the others,
unless the hearing officer determines that such consolidation
would be prejudicial to the interests or rights of any interested
party.

D. Witnesses and subpoenas
1. An interested party shall arrange for the presence of that
party’s witnesses at a hearing.
2. A notice to attend a hearing, or a subpoena, may be issued
by the hearing officer on the hearing officer’s own
motion.
3. Subpoenas requiring the attendance of witnesses or the
production of documentary evidence at a hearing may be
issued by the hearing officer on the hearing officer’s own
motion or upon written application by an interested party
or the Deputy. Such request shall contain the name of the
individual or documents desired, the address at which the
subpoena may be served, and a brief statement of the
facts which the applicant expects to prove by the individu¬
al or documents requested. The application shall be sub¬
mitted to the Department at least 5 calendar days before
the hearing to permit preparation and service of the sub¬
poena before the hearing.
4. Witnesses subpoenaed who attend hearings shall be
allowed fees at the same rate as paid by the Superior
Court.

E. Information. In any hearing in which a claimant appears
before the Appeals Board, the employing unit shall submit
sworn or unsworn reports with respect to such person
employed by it, which the Board deems necessary for the
proper presentation of the claimant’s claim.

F. Postponement of hearing. A hearing officer shall determine
and order hearing postponements as prescribed in A.R.S. § 23-
681(A) and (B).

G. Disqualification for cause. No person shall participate on
behalf of the Department in any case in which the person is an
interested party. A challenge regarding the interest of a hearing
officer may be heard and decided by that hearing officer, or,
upon written request by the party making the challenge,
referred to the hearing officer’s immediate supervisor. Chal¬
lenges regarding the interest of a member of the Appeals
Board shall be decided by the remaining members of the
Board, based upon A.R.S. § 38-503. When a challenge is sus¬
tained, or the member voluntarily withdraws from the case, the
Chairman of the Board shall so advise the Director, who may
appoint an individual to act for the member of the Board in the
particular case.

H. Change of hearing officer. Not later than 5 days prior to the
date set for the hearing, any interested party may file a written
request for change of hearing officer. The Appeal Tribunal
shall immediately transfer the matter to another hearing officer
who shall conduct the hearing. No more than 1 change of hear¬
ing officer shall be granted to any 1 party.

I. Representation of interested parties.
1. In proceedings before the Board or a hearing officer, par¬
ties may be represented as authorized by Supreme Court
rules.
2. An Appeal Tribunal or the Appeals Board may refuse to
allow any person who intentionally and repeatedly inter¬
feres with the orderly conduct of a proceeding before an
Appeal Tribunal or the Board or who fails to comply with
the provisions of the Employment Security Law or the
rules or orders of the Department to represent an inter¬
ested party in the proceeding.

J. Fees. To determine the reasonableness of a proposed fee in
excess of $750, the Appeal Tribunal or Board shall consider
the following factors:
1. The amount of time devoted to the representation,
2. The difficulty of the case and the novelty or complexity of
the issues,
3. The experience of the attorney or agent handling the case,
4. The merits of the claims or defenses presented by the opposing party.
5. Whether the attorney or agent’s efforts were superfluous to the results achieved in the case.
6. The results achieved by the agent or attorney, and
7. Any other relevant factors.

K. Written statement. Within 10 days prior to the hearing, an interested party may submit to the Department a written statement setting forth the facts of the case.

L. Hearings. All interested parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing and shall be prepared at such time to dispose of all issues and questions involved in the appeal or petition.
1. Public hearings. All hearings before an Appeal Tribunal or the Appeals Board shall be open to the public, but the hearing officer conducting a hearing may close the hearing to other than interested parties to the extent necessary to protect the interests and rights of the interested parties, within the requirements of A.R.S. §§ 23-722, 38-431.01, and 38-431.03.
2. Stipulations. The parties to an appeal, with the consent of the hearing officer, may stipulate to the facts involved in writing or in open forum and may also waive the hearing. The case may be decided based on such stipulations, or such additional evidence may be required or obtained as necessary to render a fair and complete decision.
3. Record of the hearing. A full and complete record, including properly identified exhibits, shall be kept of all proceedings in connection with an appeal or petition, and such record shall be open for inspection by any interested party. When a transcript of the proceedings is made for the Department’s use or for further proceedings, a copy may, upon written request be furnished to interested parties.
4. Oral arguments and briefs. At the conclusion of any hearing, the interested parties shall be granted a reasonable opportunity to present argument on all issues of fact and law to be decided. The hearing officer shall afford interested parties an opportunity either to present oral argument or to file briefs, or both; however, any party not represented as set forth in subsection (I)(1) shall be permitted oral argument. The hearing officer may limit the time of oral argument.
5. Continuances or re-openings. The hearing officer may, on the hearing officer’s own motion or at the request of any interested party, upon a showing of good cause, continue the hearing to a future time or reopen a hearing before a decision is issued to take additional evidence.

M. Decision.
1. Contents of the decision. All evidence, including records and documents of the Department which the Tribunal or Appeals Board makes a part of the record of the hearing shall be considered in determination of the case. Pursuant to A.R.S. § 23-674, every decision shall be in writing or in open forum and may also waive the hearing. The case may be decided based on such stipulations, or such additional evidence may be required or obtained as necessary to render a fair and complete decision.
2. Mailing to interested parties; notice of appeal rights. A copy of such decision, together with an explanation of appeal rights, shall be personally delivered or sent by either regular 1st class, postage prepaid mail or certified mail to each interested party or the party’s representative or attorney of record.

Historical Note
Former Regulation 20-1; Amended as an emergency effective April 28, 1976 (Supp. 76-2). Former Section R6-3-1502 repealed, new Section R6-3-1502 adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). Amended subsections (C) and (J) effective September 23, 1981 (Supp. 81-5). Amended effective September 25, 1991 (Supp. 91-3). Amended effective December 20, 1995 (Supp. 95-4).
ing on the merits is held concurrently with the good cause hearing.

d. A party shall establish good cause warranting reopening of a case upon proof that both the failure to appear and failure to timely notify the hearing officer were either beyond the reasonable control of the nonappearing party or due to excusable neglect.

e. A party may obtain only one good cause hearing for each hearing scheduled on the merits, therefore:

i. If a party does not appear at the scheduled good cause hearing, a party may file a written request for review to determine whether good cause exists for failure to appear at both the good cause hearing and the original hearing on the merits.

ii. If the Appeal Tribunal reopens a case upon a finding of good cause, and the party fails to appear at the time and date of the new hearing, the party may file a written request for review to determine whether good cause exists for failure to appear at the new hearing.

f. A request for review of an Appeal Tribunal decision shall state the reasons for the party’s failure to appear. The party shall attach copies of any documentation supporting the request.

g. The Appeal Tribunal shall review the request and the evidence of record to determine whether there is good cause to reopen the hearing on the issue of good cause or on the merits and shall issue a decision accordingly.

h. An interested party may file any request to reopen personally, or by mail, fax, or internet.

i. Any interested party may appeal, in writing, to the Unemployment Insurance Appeals Board from a decision of a hearing officer that denies reopening for lack of good cause, as defined in subsection (B)(3)(d). The party shall file the appeal within 15 calendar days after mailing or electronic transmission of the decision denying reopening. If the Unemployment Insurance Appeals Board reverses the denial to reopen, the Board shall remand the case to the Appeal Tribunal and the Tribunal shall reschedule the case for hearing on the merits in accordance with R6-3-1502.

j. If an appellant fails to appear or waive appearance, the Appeal Tribunal may enter a default disposition in accordance with R6-3-1502(A)(4) without further right to appeal except as provided in this Section.

k. Notwithstanding the foregoing provisions, an appellant who fails to appear may appeal to the Appeals Board from an adverse decision on the merits within 15 calendar days after mailing or electronic transmission of the decision is served on the party.

C. Finality of Appeal Tribunal decision. Under A.R.S. § 23-671, the decision of the Appeal Tribunal becomes final unless an interested party files a written petition for review within 15 calendar days after mailing or electronic transmission to the interested parties, or the Appeals Board assumes jurisdiction over the matter on its own motion. After a decision of the Appeal Tribunal has become final, the matter shall not be reopened, reconsidered, or reheard, and the decision shall not be changed except to correct clerical errors. Any interested party may file a petition for review personally, or by mail, fax, or Internet.

Historical Note
Former Regulation 20-2; Amended as an emergency effective April 28, 1976 (Supp. 76-2). Former Section R6-3-1503 repealed, new Section R6-3-1503 adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective December 3, 1979 (Supp. 79-6). Amended subsection (B)(3) effective September 11, 1981 (Supp. 81-5). Amended effective December 20, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 3648, effective August 28, 2000 (Supp. 00-3). Amended by final rulemaking at 19 A.A.R. 1793, effective September 7, 2013 (Supp. 13-3).

R6-3-1504. Review of Appeal Tribunal Decisions
A. Petition for review.

1. Any appeal will be entertained. An interested party to an Appeal Tribunal decision may petition for review of the decision. Petition for review may be based upon one or more of the following grounds:

a. Irregularity on part of presiding officer or other party to proceedings.

b. Abuse of discretion on part of hearing officer whereby petitioner was deprived of a fair hearing.

c. Newly discovered evidence which could not with reasonable diligence have been discovered and produced at time of original hearing.

d. There was error in admission or exclusion of evidence in Tribunal hearing.

e. There was error in law in Tribunal hearing.

f. Other good and sufficient grounds.

2. The petition shall be in writing and must be filed within 15 calendar days after mailing of the decision. The petition must be signed by the appellant or appellant’s authorized agent. The petition may be filed personally or by mail through any public employment office in the United States or Canada or directly with the Department of Economic Security, Phoenix, Arizona. The Board shall mail copies of such petition to the other interested parties and to the Deputy.

B. Powers of the Board. Upon receipt of a timely petition for review, the Board shall furnish the complete record of the case, including transcript unless the parties stipulate otherwise. Thereafter the Board may:

1. Affirm, reverse, modify or set aside the decision of the Appeal Tribunal on the basis of the record in the case, or

2. Order the taking of additional evidence, or

3. Issue a disposition in accordance with R6-3-1502(A).

C. Removal or referral to the Board.

1. Referral to Board by Appeal Tribunal. In accordance with A.R.S. § 23-671(B), an Appeal Tribunal may refer any case before it or any question involved therein to the Board. Such referral shall be in writing, specifying the reasons therefor and signed by the Appeal Tribunal. The Board shall mail copies of such referral to all interested parties.

a. If the entire case is accepted by the Board, the Board shall furnish the complete record of the case, including a transcript of any proceedings held. Thereafter, the Board may, after affording the parties reasonable opportunity for a fair hearing:

i. Affirm, reverse, modify or set aside the determination of the Deputy on the basis of the record in the case, or

ii. Order the taking of additional evidence, and decide the case.
b. If a question involved in a case is accepted by the Board, the Board shall be furnished with such information as the Board deems necessary to resolve the question. Thereafter the interested parties and the Appeal Tribunal shall be informed, in writing, of the Board’s resolution of the question. Upon resolution of the question, the Appeal Tribunal shall proceed with the case.

2. Removal from Appeal Tribunal by Board. In accordance with A.R.S. § 23-671(D) and (E), the Board may remove to itself any matter before an Appeal Tribunal if the Tribunal decision has not become final. If such action is taken, the Board shall mail written notice of the removal to the interested parties. The Board shall be furnished the complete record of the case, including a transcript of any proceedings held. Thereafter, the Board may:
   a. Set aside the decision of the Appeal Tribunal and remand the proceedings to another Appeal Tribunal for review and decision; or
   b. Order the taking of additional evidence; or
   c. Remove the proceedings to itself for review and decision; or
   d. Order the taking of additional evidence, and affirm, reverse, modify or set aside the determination of the Deputy or the decision of the Appeal Tribunal.

Historical Note
Former Regulation 20-3; Amended as an emergency effective April 30, 1976 (Supp. 76-2). Amended effective August 3, 1978 (Supp. 78-4). Former Section R6-3-1504 repealed, new Section R6-3-1504 adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). New Section R6-3-1504 adopted effective February 7, 1980 (Supp. 80-1). Amended subsection (A) effective September 23, 1980 (Supp. 80-5). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1505. Appeals Board Proceedings

A. Acting Member. If a Board member is unable, for any reason, to participate in a case or cases, upon request of the Chairperson of the Appeals Board, the Director shall appoint an individual to act for the member.

B. Waiver of Bond on Filing of Appeals. When an appeal is taken against the Department to the Court of Appeals, the Board shall waive filing of the bond, as provided by Rule 10(a) of the Arizona Rules of Civil Appellate Procedure.

Historical Note

R6-3-1506. Contribution Cases

A. This rule applies to petitions for review and appeals arising under A.R.S. §§ 23-724, 23-732, 23-733, and 23-750.

B. Petition for hearing or review
   1. Any interested party to a reconsidered determination or denial thereof involving 1 of the following issues:
      a. Benefits paid and chargeable to the account (A.R.S. § 23-732);
      b. The rate of contributions (A.R.S. § 23-732);
      c. Transfer of experience rating account of a distinct and severable portion of an employing unit (A.R.S. § 23-733);
   2. The petition must be filed within 30 days (unless the time is extended for good cause) after mailing of the reconsidered determination or denial thereof involving one of the following issues:
      a. An employing unit constitutes an employer (A.R.S. § 23-724);
      b. A nonprofit or governmental employing unit constitutes a rated or reimbursing employer (A.R.S. § 23-750(B));
      c. Services performed for or in connection with the business or the employing unit constitute employment (A.R.S. § 23-724);
      d. Remuneration for services constitute wages (A.R.S. § 23-724);
      e. The amount of payments in lieu of contributions due from the employing unit (A.R.S. § 23-750(C));
      f. Transfer of the entire experience rating account of predecessor employer to successor (A.R.S. § 23-733);
      g. Liability of successor employer for predecessor’s unpaid contributions (A.R.S. § 23-733).

C. Requirement for hearing or review. A petition for hearing or review shall be denied if the employer fails to comply with the contribution and wage report requirements of A.R.S. § 23-724 within 30 days of service of a reconsidered determination or disposition. The Department may, upon its finding of good cause, extend the 30-day period for filing the required reports. Upon denial of a petition for hearing or review, the prior reconsidered determination or disposition shall become final.

Historical Note
Former Regulation 20-4; Amended as an emergency effective April 30, 1976 (Supp. 76-2). Correction to subsection (D), paragraph (1) Supp. 76-2 (Supp. 77-6). Former Regulation 20-4; Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective March 21, 1980 (Supp. 80-2). Amended effective April 9, 1981 (Supp. 81-2). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1507. Appeals from Labor Dispute Determinations

A. This rule applies to appeals from determinations released under A.R.S. § 23-673.

B. Filing of appeal. Any interested party to a determination of a deputy denying or awarding benefits under the provisions of A.R.S. § 23-777 for unemployment due to a labor dispute may file an appeal within 15 calendar days after the determination is mailed to the interested party. The appeal shall be in writing, signed by the appellant or the appellant’s authorized agent, and may be filed personally or by mail through any public employment office in the United States or Canada or directly with the Department of Economic Security. Any appeal so filed is removed to the Appeals Board under the provisions of A.R.S. § 23-673(B).

C. Disposition by the Appeals Board
A. Each employing unit, as defined in A.R.S. § 23-614, including:

1. Determination based on hearing. If the determination appealed from was based on a fair hearing, the Appeals Board may:
   a. Make its decision based on the evidence previously submitted, or
   b. Order the taking of additional evidence.
2. Determination based on investigation. If the determination appealed from was based upon investigation without hearing, the Appeals Board shall direct that a hearing be held.

**Historical Note**
Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective December 3, 1979 (Supp. 79-6). Amended effective December 20, 1995 (Supp. 95-4).

### ARTICLE 16. FUNDS

**R6-3-1601. Transfers and warrants**

In conformity with sections 23-701, 23-702, 23-703 and 23-704 of the Employment Security Law of Arizona, transfers and refunds of funds from the Unemployment Compensation Fund -- Clearing Fund shall be made by warrant issued by the Department only for the following purposes:

A. To transfer monies to the Secretary of the Treasury of the United States to the credit of the account of this state in the Unemployment Trust Fund.

B. To refund monies to employers for overpayments of contributions, interest and penalties collected.

C. To transfer penalties and interest collected from employers to the Special Administration Fund.

D. To transfer lien fees collected from employers to the Administration Fund.

E. To transfer monies erroneously deposited to the clearing account to the proper account or fund.

**Historical Note**
Former Regulation 10-7.

### ARTICLE 17. CONTRIBUTIONS

**R6-3-1701. Identification of Workers Covered by Employment Security Law of Arizona**

A. An employer shall ascertain the Social Security account number of each worker in employment with the employer.

B. The employer shall report the worker’s Social Security account number in making any report required by the Department in the administration of the Employment Security Law with respect to a worker.

C. If an employer has a worker engaged in employment who does not have a Social Security number, the employer shall ask the worker to show a receipt issued by an office of the Social Security Administration acknowledging that the worker has filed an application for an account number. The receipt shall be retained by the worker. In making any report required by the Department with respect to such a worker, the employer shall report the date of issue of the receipt, its termination date, the address of the issuing office, and the name and address of the worker exactly as shown in the receipt.

**Historical Note**
Former Regulation 10-1. Amended effective December 20, 1995 (Supp. 95-4).

**R6-3-1702. Maintenance and inspection of records**

A. Each employing unit, as defined in A.R.S. § 23-614, including any employing unit which considers that it is not an employer subject to the Act or that services performed for it constitute exempt employment or do not constitute employment, shall establish and preserve true and accurate records of all disbursements made in cash, by check, or in any other medium. Such records shall contain the date of disbursement, the amount, or a clear identity of the form of remuneration if in any medium other than cash, the name of the payee and the purpose for the disbursement. Examples of records which shall be made available for audit, inspection or copying, as provided by subsections (C) and (E) of this regulation, include, but are not limited to, the following:

1. Check stubs and cancelled checks for all payments.
2. Cash receipts and disbursement records.
3. Payroll journal.
4. Purchase journal.
5. General journal.
7. Payroll tax reports for all federal and state agencies.
8. Individual earnings records.

B. Each employing unit shall establish and preserve records with respect to services performed for it which shall contain the following:

1. For each pay period:
   a. The beginning and ending dates of such period.
   b. The total amount of remuneration whether in cash, by check or in any other medium paid in such pay period and the date of such payment.
   c. The dates in each calendar week on which there were the largest number of workers in employment and the number of such workers.

2. For each worker:
   a. Full name.
   b. Social Security account number.
   c. Date on which the individual was hired, rehired, or returned to work after temporary layoff.
   d. Date of and reason for separation from work.
   e. Amount of remuneration whether in cash, by check, or in any other medium paid in each calendar quarter.
   f. The place in which the services are performed. For the purpose of this record, the place where the services are performed shall be reported as the city or town in which the services are performed in Arizona, or the county in which the services are performed in Arizona, if outside such a city. If the services are performed in more than one such city, town, or county in Arizona, the place where the services are performed shall be reported as the city, town, or county in Arizona in which the base of operation is located. If the services are performed both within and without Arizona, the place where the services are performed shall be reported as the city, town, or county in Arizona in which the base of operations is located; or if the base of operations is not located in Arizona, as the city, town, or county in Arizona from which the services are directed or controlled, or if the place from which the services are directed or controlled is also outside Arizona, as the city, town, or county in Arizona where the individual resides.
   g. The remuneration paid for each period showing separately:
      i. Money wages, excluding special payments.
      ii. Reasonable cash value, as determined by the Department, of the remuneration paid by the employing unit in any medium other than cash, but in no event shall such determined value be in an amount less than that provided by Depart-
The records required to be preserved in subsections (A) and (B) of this regulation shall be preserved for a period of not less than 4 full calendar years. Such records together with all other business records which, as determined by the Department, are reasonably necessary to verify the entries in such records or for a proper determination of coverage or tax liability or benefit eligibility shall be made available for audit, inspection or copying by the Department at any reasonable time and as often as may be necessary.

An employing unit shall no longer be required to preserve the records specified in subsections (A) and (B) with regard to all or certain individuals, services and remuneration after being notified in writing by the Department that those records are no longer required. Such notice from the Department shall be given only after the Department determines that the individuals, services and remuneration are not subject to the Act.

Any employing unit that does not maintain records in this state or certain individuals, services and remuneration after being notified in writing by the Department that those records are no longer required. Such notice from the Department shall be given only after the Department determines that the individuals, services and remuneration are not subject to the Act.

The records required to be preserved in subsections (A) and (B) of this regulation shall be preserved for a period of not less than 4 full calendar years. Such records together with all other business records which, as determined by the Department, are reasonably necessary to verify the entries in such records or for a proper determination of coverage or tax liability or benefit eligibility shall be made available for audit, inspection or copying by the Department at any reasonable time and as often as may be necessary.

An employing unit shall no longer be required to preserve the records specified in subsections (A) and (B) with regard to all or certain individuals, services and remuneration after being notified in writing by the Department that those records are no longer required. Such notice from the Department shall be given only after the Department determines that the individuals, services and remuneration are not subject to the Act.

Any employing unit that does not maintain records in this state that contain the information prescribed in this regulation pertaining to services performed for it in this state shall, upon the request of a representative of the Department, make such information available to the Department at a location specified by the Department without reasonable delay.

Historical Note
Former Regulation 40-2; Amended effective June 2, 1980 (Supp. 80-3). Amended effective November 18, 1981 (Supp. 81-6).

R6-3-1704. Due date of quarterly reports, contributions, and payments in lieu of contributions

A. Received date. If any due date prescribed in this regulation falls on a Saturday or Sunday, or a legal holiday, the due date shall be the next following business day. Quarterly reports, contributions, and payments in lieu of contributions, if mailed, shall be considered as received on the date shown on the postmark of the envelope in which they are received by the Department.

B. Regular due date. Each employer who continues operations but has discontinued paying wages to employees and does not expect to pay wages in the near future may request in writing that the Department suspend quarterly filing requirements.

C. Report of changes. Each employer as defined in A.R.S. § 23-613 shall promptly notify the Department in writing of any change in its business operations. Changes include: the acquisition or disposal of all or any part of the business operations or assets; a change in business name or address; bankruptcy or receivership; or any other change pertaining to the operation or ownership of the business operations. The notification shall include the date of change, and the name, address, and telephone number of the person, firm, corporation or official in charge of the organization, trade or assets of the business.

Historical Note
Former Regulation 40-2; Amended effective January 10, 1977 (Supp. 77-1). Correction, subsection (B), paragraph (1) (Supp. 81-6). Former Section R6-3-1703 repealed, new Section R6-3-1703 adopted effective October 24, 1983 (Supp. 83-5).
mailed to his last known address following the end of each calendar quarter.

C. Due date for new employer. Quarterly contribution and wage reports due from an employer for the first time by reason of said employer’s becoming subject during a current calendar year shall be deemed due on all wages paid by said employer for the preceding portion of that year on the last day of the month following the calendar quarter during which said employer became subject to Title 23, Chapter 4, A.R.S. Contributions due from such an employer who is liable for contributions shall be deemed due and payable on all wages paid by said employer for the preceding portion of that same year as his quarterly contribution and wage reports for such period are due.

D. Delinquent date, and penalty, and interest. A quarterly report or contributions payment or payment in lieu of contributions which is not received on or before the due date is delinquent.

1. An employer who fails to file on or before the due date a contribution and wage report shall pay to the Department for each such delinquent report, subject to waiver for good cause shown, a penalty as prescribed in A.R.S. § 23-723(A).

No penalty shall apply to delinquent reports when the employer proves to the satisfaction of the Department that no wages were paid and no contributions were due.

2. An employer who has not paid contributions or payments in lieu of contributions on or before the due date shall pay interest on the whole or part thereof remaining unpaid at the rate of 1% per month, or fraction thereof, from and after the due date until payment is received by the Department unless good cause is shown why such interest shall be waived.

E. Due date upon demand. If the Department finds that the collection of any contribution or payment in lieu of contributions will be jeopardized by delaying the collection thereof until the date otherwise prescribed, upon written demand by the Department such contribution or payment in lieu of contributions shall become immediately payable, and if not submitted within 10 days after such demand shall become delinquent.

F. Extension of time for submission of reports

1. When an employer files a written request for an extension of time for filing any quarterly contribution and wage report before the due date for the report, the Department may grant, in writing, an extension for filing such report and paying the contributions due thereon if good cause is shown for the employer being unable to file the report by the due date. No extension shall postpone the due date for more than 30 days nor shall any extension be granted solely to defer the payment of contributions.

2. Subject to waiver for good cause shown, an employer who has been granted an extension and who fails to file the report and to pay his contributions on or before the termination of the period of such extension, shall be assessed the penalty for late filing and interest shall be due and payable from the original due date as if no extension had been granted.

Historical Note
Former Regulation 40-3; Amended effective January 3, 1975 (Supp. 75-1). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5).
Amended effective November 18, 1981 (Supp. 81-6).

R6-3-1705. Wages

A. “Wages paid” includes both wages actually received by the worker and wages constructively paid. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually received. To constitute payment in such cases the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn at any time, and their payment brought within his own control and disposition.

B. The name by which the remuneration for employment, or potential employment as provided in subsection (E) of this rule, is designated or the basis on which the remuneration is paid is immaterial. It may be paid in cash or in a medium other than cash, on the basis of piece work or percentage of profits, or it may be paid on an hourly, daily, weekly, monthly, annual or other basis. The remuneration may also be paid on the basis of an estimated or agreed upon amount in order to resolve an issue arising out of an employment or potential employment relationship. Remuneration paid in goods or services shall be computed on the basis of the reasonable cash value of the goods or services at the time of payment.

C. When an employer succeeds to the business or a part of the business of a predecessor employer, wages for employment covered by A.R.S. Title 23, Chapter 4, paid to an individual by the predecessor and reported to the Department shall be used in determining the wages subject to contributions paid to such individual for continued employment by the successor employer.

D. The provisions of subsection (C) of this rule do not apply to an employer for any calendar year for which the employer is liable for payments in lieu of contributions.

E. Wages include payments made to an individual by an employer arising out of an actual or potential employment relationship. Such payments include:

1. An award of unpaid minimum wages or overtime compensation under the Fair Labor Standards Act.
2. An order of the National Labor Relations Board to compensate for the loss of pay.
3. An order of any federal or state agency on account of real or alleged discrimination in hiring, promotion, salary administration or termination in violation of law.
4. A decision of a court or an arbitrator in a dispute over an actual or alleged breach of contract pertaining to wages, hours of work or other conditions of employment.
5. A private agreement between the parties in settlement of any of the above situations in lieu of an award, order or decision.
6. Any other payments made on account of the employment relationship, except those listed in subsection (F) of this rule.

F. Wages do not include:

1. Payments by an employer made to an individual which are identified in an award, order, decision or agreement as exemplary damages or medical expenses.
2. Payment by employers made to a plan exempt under section 501(c)(17) of the Internal Revenue Code of 1986 for the payment of supplemental unemployment benefits.

Historical Note
Former Regulation 40-4; Amended effective January 10, 1977 (Supp. 77-1). Amended effective November 4, 1980 (Supp. 80-4). Amended subsections (B) through (F) effective April 30, 1982 (Supp. 82-2). Correction, subsection (D), deleted reference to subsection (F) of this regulation (Supp. 83-3).
new Section R6-3-1705 adopted effective March 16, 1988 (Supp. 88-1).

R6-3-1706. Combining included and excluded services
Section 23-615 of the Employment Security Law of Arizona provides that: “‘Employment’ means any service of whatever nature performed by an employee for the person employing him, . . .” In conformity with this section, the Department of Economic Security prescribes:

A. If 1/2 or more of the services performed during any period by an employee for the person employing him constitutes employment, all of the services of such employee for such period shall be deemed to be employment, but if more than 1/2 of the services performed during any such pay period by an employee for the person employing him does not constitute employment, then none of the services of such employee for such period shall be deemed to be employment.

B. As used in this regulation the term “pay period” means a period of not more than 31 consecutive days for which payment of remuneration is ordinarily made to the employee by the person employing him.

Historical Note
Former Regulation 40-5.

R6-3-1707. Repealed

Historical Note
Former Rule 10-3; Amended effective January 3, 1975 (Supp. 75-1). Repealed effective August 3, 1978 (Supp. 78-4).

R6-3-1708. Employer Charges
A. In conformity with A.R.S. §§ 23-727, 23-773, and 23-777, the Department of Economic Security prescribes:

B. When the Department establishes a benefit overpayment, the Department shall proportionately credit the amount of the overpayment to the experience rating accounts of the claimant’s base-period employers, who are being charged as of the calendar quarter the overpayment is established.

C. When the Department transfers wage credits to another state for use in establishing a claim, the Department shall:

1. Not charge an experience rating account for any benefits paid when the transferred wage credits are insufficient to establish a claim in this state; or
2. Determine chargeability of the experience rating account as prescribed in A.R.S. § 23-727(D) when the wage credits are sufficient to establish a claim, except, if the account is charged, total charges shall not exceed the maximum amount payable by this state; or
3. Not relieve a reimbursement employer of payments in lieu of contributions, including charges exceeding the maximum amount payable by this state.

D. Except as otherwise provided by A.R.S. § 23-727(E) and A.A.C. R6-3-1708(E), once the Department noncharges the experience rating account of an employer for benefits paid during the benefit year, the account remains noncharged for the duration of the benefit year. If the employer reemploys the claimant during the benefit year, the circumstances of the reemployment separation determine chargeability of the employer’s account for any benefits paid during a benefit year beginning after the reemployment separation.

E. As required by A.R.S. § 23-777(C):

1. The Department shall end the noncharge to the experience rating account of a base-period employer of a worker who is unemployed due to a labor dispute and shall determine the employer’s chargeability for benefits in accordance with A.R.S. § 23-727 in the following circumstances:

a. The labor dispute ended and the worker returned to work or refused an offer of work with the employer involved in the labor dispute; or
b. The dispute is ongoing and the worker:
   i. Had bona fide intervening employment that meets the provisions of R6-3-5604(C) and is no longer unemployed due to the labor dispute, or
   ii. Was permanently replaced by the labor dispute employer.

2. When a worker remains unemployed after a labor dispute ends, the Department shall continue to noncharge the experience rating account of the worker’s base-period employer if the labor-dispute employer presents evidence, within 10 days of the Department’s request, that the employer has a continuing employer-employee relationship with the worker. Evidence establishing the relationship may include:

   a. Placement of the worker’s name on the recall list;
   b. Continuation of the worker’s benefits, including insurance, profit sharing, vacation, and sick leave; and
   c. Retention of the worker’s seniority rights.

3. When the worker’s continued unemployment ceases to be a result of the labor dispute, the Department shall reevaluate the employer’s chargeability for benefits paid to the worker as prescribed in A.R.S. § 23-727.

F. For the purpose of applying A.R.S. § 23-727(F):

1. A retirement pay plan is a plan provided by either a non-governmental individual employer or group of employers in a collective retirement plan, and
2. A collective retirement plan is a group of employers and workers in an industry that pay into 1 fund for the workers’ retirement.

Historical Note
Former Regulation 30-9; Amended effective March 26, 1979 (Supp. 79-2). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-1709. Part-time Employment -- Employer Responsibilities
A. As used in A.R.S. § 23-727(E) and A.A.C. R6-3-1708(E), the phrase “to the same extent,” means:

1. When applied to an employee who is not paid by commissions, that the weekly wages earned in part-time employment during the weeks of a calendar quarter in which benefits are claimed are not less than 90% of the weekly wages earned in part-time employment during the last calendar quarter of the base period; and
2. When applied to an employee paid on a commission basis, that:

   a. The employer-employee relationship has not terminated; and
   b. The employment opportunity the employer has made available to the employee, during the calendar quarter in which the employee is claiming benefits, is no less than the opportunity made available during the last calendar quarter of the base period.

B. The Department may require an employer to submit proof that the employer is offering employment to the same extent, by sending the employer a written request for such information.

C. Within 10 work days of the mailing date of the request, the employer shall send the Department:

1. A week-by-week record of wages the employee has earned for part-time employment during the last 13 weeks of the base period; or
2. A written certification that the employer-employee relationship of an employee paid on a commission basis has not terminated and that the employer continues to provide such employee with an employment opportunity which is no less than the employer provided during the last quarter of the base period.

**Historical Note**
Former Regulation 30-12. Amended effective December 20, 1995 (Supp. 95-4).

**R6-3-1710. Notification and review of charges to experience rating accounts**
Section 23-727 of the Employment Security Law of Arizona requires the Department to maintain an account for each employer and to make appropriate charges and credits to the account. Section 23-732 of the Employment Security Law of Arizona provides for annual notice to the employer of his contribution rate, the procedure for review or redetermination, and for quarterly notification of benefits charged.

In conformity with the above sections, the Department of Economic Security prescribes:

A. Quarterly notification to an employer of benefits charged to his account shall be mailed to his last known address following the end of each calendar quarter. The notification shall set forth the name, social security account number, and the amount charged for each individual whose benefits are charged against the employer’s account. The charges set forth in the notification shall become conclusive and binding upon the employer for all purposes unless within 15 days after notification was mailed to him the employer files an application for redetermination.

B. If written request for redetermination of the charging of benefits to an employer’s account is filed and is timely, the Department shall grant such request if the notice of benefit charges:
   1. Includes an error in the amount or in the identity of the claimant or the employer; or
   2. Includes charges for any benefits which are not chargeable under the provisions of regulation R6-3-1708 and the Department failed to give any required notification to the employer of the claim filing, determination, or decision on which the charges are based.

**Historical Note**
Former Regulation 40-8; Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5).

**R6-3-1711. Computation of experience rates**
A. An employer whose account has been chargeable for benefits throughout the twelve month period immediately preceding the July 1 computation date shall receive a computed rate for the following calendar year as prescribed in A.R.S. § 23-730.

B. The term chargeable means that an employer has been subject to a commission basis has not terminated and that the employer continues to provide such employee with an employment opportunity which is no less than the employer provided during the last quarter of the base period.

**Historical Note**
Former Regulation 30-12. Amended effective December 20, 1995 (Supp. 95-4).

**R6-3-1712. Joint, Multiple, and Combined Employer Experience Rating Accounts**
A. Joint experience rating accounts
   1. Joint experience rating account means a combined experience rating account established for 2 or more employers owned or controlled directly or indirectly by the same interests.

   2. Employers may request establishment of a joint experience rating account by sending the Department a written request before March 1 of the calendar year for which the joint experience rating account is sought. The request shall identify all employers to be included as members in the joint experience rating account and provide documentation that the members are owned or controlled directly or indirectly by the same interests.

   3. The Department shall approve a request for a joint experience rating account when:
      a. The request is received before March 1 of the calendar year for which the joint experience rating account is sought;
      b. Each member identified in the request is owned or controlled directly or indirectly by the same interests; and
C. The experience rating account of each member has been chargeable with benefits throughout the 12 consecutive calendar months ending on June 30 of the year preceding the calendar year for which the joint experience rating account is requested.

4. The average annual payroll for a joint experience rating account shall be the sum of the average annual payrolls of the members of such account.

5. A member of a joint experience rating account may withdraw from a joint account as of January 1 of any year after participating in the joint account for at least 2 calendar years. To withdraw, the member shall file a written request for withdrawal before March 1 of the calendar year for which the withdrawal is sought. Upon approval of the withdrawal:
   a. The Department shall give the withdrawing member the member’s portion of the joint experience rating account and a contribution rate computed on the member’s separate experience, and
   b. The Department shall give the remaining members a contribution rate computed on the experience of the remaining members.

6. The Department shall remove a member from a joint experience rating account when the Department determines that common ownership or control has ceased to exist between 2 or more members of a joint account:
   a. The Department shall give the removed member, as of the date of the change of common ownership or control, a separate experience rating account and a contribution rate computed on a contribution rate computed on the removed member’s portion of the joint experience rating account;
   b. The remaining members shall:
      i. Retain the contribution rate of the joint experience rating account for the remainder of the calendar year in which the change occurred; and
      ii. Receive a contribution rate for the following calendar year computed on the basis of the experience of the remaining members.

B. Multiple experience rating accounts.

1. Multiple experience rating account means an experience rating account established for an employer which permits separate employer account numbers and quarterly reports for separately identified operations of the employer.

2. The Department may approve a request for a multiple experience rating account effective with the year in which the employer submits a written application for such account.

3. The notices of benefit charges sent to the employer shall identify charges to each operation, but the contribution rate for the employer shall be a single rate based on the combined experience of all operations.

4. Upon written request of the employer, the Department shall close 1 or more separate accounts in a multiple experience rating account and transfer the experience to a remaining account of the employer as of the beginning of the calendar year of the written request.

5. When an operation which is a part of a multiple account is sold or transferred, the Department shall transfer the experience rating reserve if the provisions of A.R.S. § 23-733 and A.A.C. R6-3-1713 are met.

C. Combined experience rating accounts

1. Combines experience rating account means an experience rating account established for an employer which requires separate employer account numbers, quarterly reports, and charge notices for separately identified operations that meet more than 1 of the coverage provisions described below, except that a combined account will not be established for agricultural employers if the employees covered under general coverage are in the agricultural industry. The contribution rate for the employer is a single rate based on the combined experience of all operations.

a. General coverage means coverage on the basis of employment of 1 or more individuals for 20 weeks in a calendar year, payment of $1500 or more wages in a calendar quarter, successorship, common ownership or control, voluntary election, or coverage under the Federal Unemployment Tax Act.

b. Agricultural coverage means coverage on the basis of employment of 10 or more individuals in agricultural labor for 20 weeks in a calendar year or payment of cash wages of $20,000 or more in a calendar quarter, voluntary election, successorship, or coverage under the Federal Unemployment Tax Act.

c. Domestic coverage means coverage on the basis of payment of cash wages of $1000 or more in a calendar quarter for domestic service, voluntary election, successorship, or coverage under the Federal Unemployment Tax Act.

2. The Department shall establish a combined experience rating account only on its own initiative for the reasons set forth in this Article.

3. The Department shall not permit the members to voluntarily withdraw from a combined account.

4. The Department shall remove a member of a combined account when a change of ownership occurs as provided in R6-3-1713 and A.R.S. § 23-733.

5. If the operation of a member of a combined experience rating account qualifies for termination under the provisions of A.R.S. § 23-725, the Department shall terminate the experience of the member’s account and assign a rate for the combined experience rating account of the remaining members for the next calendar year, based on the remaining members’ own experience.

Historical Note

Former Regulation 40-9; Amended effective March 28, 1978 (Supp. 78-2). Amended by deleting language prior to subsection (A) and amending subsection (A), paragraph (2) (Supp. 80-4). Correction, Historical Note for Supp. 80-4 should read effective July 9, 1980 (Supp. 80-6). Amended effective February 7, 1984 (Supp. 84-1). Amended effective December 20, 1995 (Supp. 95-4).
of the particular case. Among the factors to be considered are:

a. The place of business
b. The trade name
c. The staff of employees
d. The customers
e. The goodwill
f. The inventory
g. The accounts receivable/accounts payable
h. The tools and fixtures
i. Other assets.

3. For the purpose of determining successorship status under A.R.S. §§ 23-613(A)(3) and 23-733(A) or (B), an individual or employing unit who in any manner acquires or succeeds to all or a part of an organization, trade or business from an employer as defined in A.R.S. § 23-613 shall be deemed the successor employer provided the organization, trade or business is continued. Continuation of the organization, trade or business shall be presumed if the normal business activity was not interrupted for more than 30 days before or after the date of transfer. However, the interruption of business activity of a seasonal enterprise during its off season shall not be considered an interruption of normal business activity.

B. Special provisions

1. An individual or employing unit shall be determined a successor under the provisions of A.R.S. § 23-733(A) and receive the experience rating account of the predecessor when the organization, trade or business acquired or succeeded to constitutes all of the predecessor’s employment generating enterprise upon which the experience rating account was primarily established without regard to those factors retained by the predecessor which represent:

a. Exempt employment; or
b. Employment necessary for the liquidation of the trade or business; or
c. Employment arising from the activities establishing another trade or business; or
d. Employment as a result of an organization, trade or business succeeded to or acquired within two calendar days of the date of transfer of the enterprise upon which the experience rating account is based.

2. When the members of a partnership are changed, the new partnership will be treated as the same employing unit if more than 50% of the ownership existing prior to the change is retained. However, when a partnership dissolves and each partner takes a separately identifiable portion of the business which by itself would be an employer as provided in A.R.S. § 23-613, the reserve shall be proportionately transferred to each former partner provided the requirements of A.R.S. § 23-733(B) are met.

3. An individual or employing unit who acquires or succeeds to the organization, trade or business for which a separate account in a combined experience rating account is required under the provisions of R6-3-1301(C) shall receive the entire experience rating account for the operation transferred except that the experience attributable to domestic employment shall not be transferred.

C. Transfer of entire business

1. When the Department determines that an individual or employing unit is a successor and shall inherit the experience rating account of the predecessor as provided in A.R.S. § 23-733(A), the determination shall be subject to the same provisions as determinations made in accordance with A.R.S. § 23-724.

2. When the experience rating account is transferred to the successor, the successor’s account shall be charged with benefits determined chargeable as a result of the employment in the organization, trade or business acquired, and the successor’s contribution rate shall be determined in accordance with A.R.S. § 23-733(C) for the calendar year beginning on the date of acquisition.

D. Transfer of severable portion

1. The successor to a part of an organization, trade or business shall be determined a successor employer as defined in A.R.S. § 23-613(A) and subsections (A) and (B) above provided the portion acquired either during the calendar year in which the acquisition occurred or in the preceding calendar year had sufficient employment or wage history as specified in A.R.S. § 23-613 to be an employer without the remaining portion(s).

2. Application and required information

a. The reserve account of a distinct and separable portion of an organization, trade or business shall be transferred to an employing unit which has acquired such portion only if the successor employing unit:

i. Files with the Department a written application, approved in writing by the predecessor, within 180 days after the date of acquisition, unless the time is extended for good cause shown; and
ii. Submits necessary information establishing the separate identity of the account within 30 days after the Department’s request is mailed to it unless the time is extended for good cause shown; and
iii. Continues to operate the acquired portion of the business.

b. “Necessary information establishing the separate identity of the account” includes but is not limited to:

i. Written agreement to the transfer by the predecessor; and
ii. The date the portion of the business was acquired; and
iii. The date employees were first hired for both the retained and transferred portions of the predecessor’s business; and
iv. The amount of quarterly taxable wages attributable to each of the retained and transferred portions beginning with the 12th calendar quarter preceding the date of acquisition or beginning with the date employees were first hired if a portion of the business existed for less than 12 calendar quarters.

3. Portion of reserve and payrolls transferred. When the requirements for transfer have been met, there shall be transferred to the successor’s account as of the date of acquisition a percentage of the predecessor’s experience rating account. The percentage is arrived at by dividing the taxable payroll of the transferred portion by the predecessor’s taxable payroll for the period beginning with the first day of the 12th calendar quarter preceding the quarter of the transfer, or the date employees were first hired for any portion of the business if subsequent to the first day of the 12th calendar quarter.

4. Benefit charges. After the date of the transfer, benefits paid to the predecessor’s former employees, based on wages paid prior to the transfer date, shall be charged to both the predecessor’s and successor’s experience rating accounts in the same proportion as the percentage of the
Liability for predecessor’s debt

E. Liability for predecessor’s debt

1. Notwithstanding subsections (A) and (B) above, when an individual or employing unit in any manner succeeds to or acquires the organization, trade or business, or substantially all of the assets of an employer as defined in A.R.S. § 23-613, the successor shall be equally liable along with the predecessor for the contributions, interest and penalties due or accrued and unpaid by the predecessor as provided in A.R.S. § 23-733(D).

2. When the Department determines an individual or employing unit is equally liable for the unpaid contributions, interest and penalties of another as provided in A.R.S. § 23-733(D), the determination shall be subject to the same provisions as determinations made in accordance with A.R.S. § 23-724. The Department shall furnish the successor with a written statement of the amount of contributions, interest, and penalties due and unpaid by the predecessor unless the liability is waived under the provisions of A.R.S. § 23-733(D).

3. “Reasonable value” as used in A.R.S. § 23-733(D) means the price that would be arrived at in good faith negotiations between a knowledgeable and willing buyer and a knowledgeable and willing seller.

4. Waiver of the successor’s liability for the predecessor’s debt as provided in A.R.S. § 23-733(D) shall not be granted when any ownership interest of the predecessor’s business is found present in the ownership of the successor or when there is a reasonable basis for the successor to believe that there may be amounts due or accrued and unpaid by the predecessor employer.

Historical Note
Former Regulation 40-10; Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Former Section R6-3-1713 repealed, new Section R6-3-1713 adopted effective December 2, 1983 (Supp. 83-6).

R6-3-1714. Repealed

Historical Note
Former Regulation 40-11; Repealed effective August 23, 1984 (Supp. 84-4).

R6-3-1715. Computation of adjusted contribution rates

A. The fund means the Unemployment Compensation Trust Fund which shall include:

1. Funds which have been credited to the Trust Fund by the United States Treasury under the Employment Security Administrative Financing Act of 1954 (Reed Bill) on or before July 31 and which have not been appropriated by the Legislature.

2. The amount of contribution collections from experience rated employers consisting of all amounts deposited in the bank on or before July 31 for calendar quarters ending the preceding June 30.

3. The amount of contribution collections from experience rated employers deposited in the bank after July 31 which were received or postmarked on or before July 31 and which apply to calendar quarters ending the preceding June 30, but shall not include the amount of contribution credit balances (accounts payable) not refunded to the employer for calendar quarters ending the preceding June 30 or not used by the employer on or before July 31 for the payment of contributions, interest or penalty due.

4. The amount of payments in lieu of contributions consisting of all amounts deposited in the bank or before August 31 for reimbursing benefits paid in calendar quarters ending the preceding June 30.

5. The amount of payments in lieu of contributions deposited in the bank after August 31 which were received or postmarked on or before August 31 and which apply to calendar quarters ending the preceding June 30, but shall not include the amount of contribution credit balances (accounts payable) not refunded to the employer for calendar quarters ending the preceding June 30 or not used by the employer on or before August 31 for the reimbursement of benefits paid, interest or penalty due.

6. The amount on deposit with the State Treasurer and/or the bank for payment of unemployment compensation benefits, for which benefit checks have not been issued on or before July 31.

7. The interest earned on monies in the fund during the twelve-month period immediately preceding the computation date and credited to the fund by the United States Treasury on or before October 31 following the computation date.

B. Total taxable payrolls of all employers during the twelve-month period immediately preceding the July 1 computation date shall be used in computing adjusted contribution rates for the next calendar year. If an employer’s entire taxable payroll for the twelve-month period ending June 30 is reported on or before the following October 31, the reported payroll shall be used. If an employer’s entire taxable payroll for the twelve-month period ending June 30 is not reported on or before the following October 31, the estimate made in accordance with A.R.S. § 23-731 and R6-3-1711(b) shall be used.

C. Total taxable payrolls for the preceding twelve-month period ending June 30 of employers whose accounts are inactive on October 31 of the year preceding the calendar year for which the adjusted rates are applicable shall be included with total taxable payrolls in the new employer rate group of two and seven-tenths percent.

D. Method of computation:

1. Compute the fund ratio by dividing the total assets of the fund by the total taxable payrolls.

2. Determine the required income rate using the table contained in A.R.S. § 23-730(3).

3. Compute the estimated net required tax yield by multiplying the total taxable payrolls by the required income rate and subtracting the interest earned as defined by A.R.S. § 23-730(3).

4. Compute the estimated yield from unadjusted contribution rates by:

   a. Multiplying the taxable payrolls for employers ineligible for a reserve ratio by the new employer contribution rate of 2.7 percent.

   b. Multiplying the taxable payrolls for inactive employers by the new employer contribution rate of 2.7 percent.

   c. For all other employers, multiplying the unadjusted contribution rate for each reserve ratio defined in A.R.S. §§ 23-730(1) and 23-730(2) by the taxable payrolls for all employers having that reserve ratio.

   d. Summing the results of steps (4)(a), (4)(b), and (4)(c)

5. Compute the unadjustable yield by:

   a. Summing the estimated yields for employers ineligible for a reserve ratio and inactive employers.
b. If the estimated yield exceeds the estimated required tax yield, add the estimated yields for employers with a negative reserve balance and employers with a reserve ratio of 13% or more to the sum determined in (5)(a).

6. Compute the adjustment factor by dividing in the following manner:

\[ \text{estimated required tax yield} - \text{the unadjustable yield} \div \text{the estimated yield derived from unadjusted contribution rates}, \text{less the unadjustable yield}. \]

7. Compute the adjusted contribution rates by multiplying the unadjusted contribution rates for each reserve ratio subject to adjustment by the adjustment factor and round the result to the nearest .01% (or down if there is no nearest .01 percent).

8. Compute the estimated average tax rate by dividing the net required yield by the taxable payrolls and round to the nearest .01 percent.

**Historical Note**


R6-3-1716. Voluntary contributions

Section 23-726 of the Employment Security Law of Arizona provides for an employer to make voluntary payments in addition to required contributions, which are credited to his account and included in the computation of the employer’s experience rate. In conformity with this section, the Department of Economic Security prescribes:

A. Separate accounting records of voluntary contributions shall be established for each employer making such contributions. Money so paid and credited may not be credited to the separate account of employer contributions required on wages paid. Voluntary contributions shall be in any amount desired by the employer and need not bear any relationship to wages paid. When such voluntary payments have been received by the Department and credited in the voluntary contribution account of the employer, they may not be returned to the employer and shall be deposited in the trust fund of the Department.

B. The Department shall supply on request of the employer, received before January 31 of any calendar year, information as to the effect of any voluntary contribution on the yearly contribution rate commencing January 1 of such calendar year. Any voluntary contribution received by the Department post marked on or before January 31 of any calendar year shall be used in computing the rate for that calendar year.

**Historical Note**

Former Regulation 40-13.

R6-3-1717. Special Provisions for Reimbursement Employers

A. Reimbursement for benefits paid. The amount of benefits chargeable against or reimbursable from each base-period employer shall bear the same ratio to the total benefits paid to an individual as the base-period wages paid to the individual by the employer bear to the total amount of base-period wages paid to the individual by all his base-period employers. The provisions of sections 23-727, 23-773, and 23-777 which relieve an employer’s account of charges for benefit payments do not apply to reimbursement employers. A reimbursement employer shall reimburse the Department for its proportionate share of all regular benefits and 1/2 of its proportionate share of all extended benefits paid which were based upon wages paid during the effective period of the employer’s election to make payments in lieu of contributions; chargeable benefits paid based upon wages paid during a period when no such election is in effect shall be charged to the employer’s experience rating account.

B. Acquisition of a business

1. When a regular employer acquires the entire business of a reimbursement employer, all benefits paid which were based upon wages paid after the date of acquisition shall be charged to the successor’s experience rating account. Benefits paid which were based upon wages paid prior to the date of acquisition shall be reimbursed to the Department by the predecessor.

2. When a reimbursement employer acquires the entire business of a reimbursement employer, all benefits paid which were based upon wages paid after the date of acquisition shall be reimbursed to the Department by the successor. Benefits paid which were based upon wages paid prior to the date of acquisition shall be charged to the predecessor’s experience rating account.

3. When a reimbursement employer acquires the entire business of a regular employer, all benefits paid which were based upon wages paid after the date of acquisition shall be reimbursed to the Department by the successor. Benefits paid which were based upon wages paid prior to the date of acquisition shall be charged to the predecessor’s experience rating account.

4. When an employing unit eligible for reimbursement option reorganizes or changes ownership other than in a manner as provided for in paragraph (1), (2) or (3) above, the option of the predecessor shall be binding upon the successor.

5. A successor employer shall be liable for any unpaid amounts due from a predecessor reimbursement employer when the total business is acquired in the same manner and to the same extent as a successor employer is liable for unpaid contributions, penalties, and interest of a predecessor.

C. Reimbursement required when a request for redetermination is pending. When a reimbursement employer files a timely application for redetermination of payments due and no redetermination has been received on or before the 30th day after the billing for that quarter(s) was mailed by the Department, the employer shall pay the bill before the delinquent date, and at the same time may give notice to the Department that all or part of the payment is made under protest.

D. Group accounts

1. Group accounts shall become effective only at the beginning of a calendar year, and applications for a group account shall be made no later than 30 days prior to the effective date of such account.

2. Employers forming a group account shall remain reimbursement employers for not less than three years from the effective date of the group account without regard to the date they originally became reimbursement employers. A group account shall be terminated only at the end of a calendar year by written application made not later than 30 days prior to the date the account is to be terminated, provided the group account has been in effect for three calendar years.

3. A new employer may be added to a group account only at the beginning of a calendar year and only by making written application not later than 30 days prior to the beginning of the calendar year for which the application is to be effective.
4. A member may withdraw from a group account only at the end of a calendar year and only by making written application to do so not later than 30 days prior to the effective date of the withdrawal, provided the group account will have been in existence for at least three calendar years as of the effective date of the withdrawal.

5. The employees and wages paid in each unit of a group account shall be separately identified on the quarterly wage report submitted for the group.

E. Effective date of election for payment in lieu of contributions

1. When a nonprofit organization has been granted exempt status by the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code and, after providing the Department with a copy of the exempt determination, is determined to be a liable employer according to A.R.S. § 23-613(A)(2)(c), the effective date of a timely election to make payment in lieu of contributions shall be the effective date of the exempt status as determined by the Internal Revenue Service or the effective date of coverage, whichever is later.

2. When a nonprofit organization previously determined to be a liable employer on a basis other than A.R.S. § 23-613(A)(2)(c), provides the Department with a copy of a determination issued by the Internal Revenue Service granting exempt status to the organization under section 501(c)(3) of the Internal Revenue Code, which eliminates the liability of the organization under the Employment Security Law, the liability of the employing unit shall be removed effective with the effective date of the exempt status as determined by the Internal Revenue Service. The employing unit shall be eligible for refund or adjustment within the limitations provided by A.R.S. § 23-742.

3. When a nonprofit organization previously determined to be a liable employer on a basis other than A.R.S. § 23-613(A)(2)(c), provides the Department a copy of a determination issued by the Internal Revenue Service granting exempt status to the organization under section 501(c)(3) of the Internal Revenue Code within 90 days of the date issued, and remains a liable employer according to A.R.S. § 23-613(A)(2)(c), the effective date of a timely election to make payment in lieu of contributions shall be the effective date of exempt status as determined by the Internal Revenue Service. If, however, such an organization does not provide the Department a copy of the exempt determination within 90 days, the effective date of a timely election to make payment in lieu of contributions shall be the first day of the calendar quarter in which the copy of the exempt determination is received by the Department. Payment of contributions because evidence of exempt status had not been furnished to the Department by the organization shall not be considered due to the fault or mistake of the Department.

B. When an overpayment to a claimant has been established as provided in A.R.S. § 23-742, and a reimbursing employer has made payment in lieu of contributions for the benefits overpaid, the Department shall give the employer credit against the employer’s next quarterly statement of account of an amount not to exceed the amount recovered by the fund through offset or repayment. If the benefit overpayment was attributable to Department fault, mistake, or omission, the Department shall give the reimbursing employer a credit for the amount of the benefit overpayment, regardless of whether the overpayment has been repaid. The Department shall allow a reimbursing employer a refund of any credit balance remaining in the employer’s account after the Department determines that there will be no further charges to the account.

C. The Department shall issue a warrant drawn on the Unemployment Compensation Fund -- Clearing Account for any employer refund.

Historical Note
Former Regulation 40-16; Amended effective March 11, 1977 (Supp. 77-2). Amended subsection (A) effective June 17, 1985 (Supp. 85-3). Amended effective December 20, 1995 (Supp. 95-4).

R6-3-1719. Repealed

Historical Note

R6-3-1720. Exempting Certain Direct Sellers and Income Tax Preparers

A. Direct sellers. This subsection governs the determination of whether employment is exempt under A.R.S. § 23-617(22).

1. “Consumer goods” means tangible personal property normally used for personal, family, or household purposes, including property meant to be attached to or installed in any real property, regardless of whether such tangible property is actually attached or installed. Consumer goods do not include such things as:
   a. Services,
   b. Intangible property,
   c. Real property, or
   d. Goods held for resale or investment purposes.

2. When the solicitation or sale includes services or merchandise not within the definition of consumer goods, the exemption shall be allowed only if the services or merchandise are incidental to the consumer goods and do not exceed 50% or more of the total purchase price.

3. Compensation received by direct sellers may be “overrides” (commissions paid to direct sellers based on sales of other direct sellers) or “profits” (the difference between the price the direct seller pays for consumer goods purchased and the resale price the seller charges the consumer for the goods) as well as commissions.

4. “Primarily resulting” means that substantially all (80% or more) of the solicitations or sales of consumer goods are made by the direct seller “in person”, “in the home” of the prospective consumer. Boiler room telephone-type operations will not fall within this exemption as they are not “in person” nor are they solicitations or sales consummated “in the home”.

B. Income Tax Preparers. This subsection governs the determination of whether employment is exempt under A.R.S. § 23-617(23).

1. “Tax returns” means returns required to be filed under federal or state income tax laws.
2. “Related schedules and documents” means schedules and documents which accompany the tax returns, any forms prepared by the tax preparer in lieu of regular income tax forms, and information documents prepared from client interviews. Related schedules and documents do not include accounting records or financial statements.

3. “Preparation” of tax returns means obtaining necessary information from the taxpayer, deciding which tax rules apply and how, computing the tax, or completing the necessary forms. To qualify under the exemption, a tax preparer need not actually fill out or review the forms. However, preparation does not include the mere typing, reproducing, or reviewing of the forms.

4. The services of the tax preparer will not be exempt if such individual doing the work is subject to any controls, whether exercised or not, other than those required by the IRS. The IRS exercises control over tax preparers by imposing a penalty if the tax preparer:
   a. Does not sign the return (manual signature).
   b. Does not furnish an employer’s ID number and a Social Security Number.
   c. Does not show the business address where the return was completed.
   d. Does not keep copies or records of a return for three years available for inspection by the IRS.
   e. Does not provide a copy of the complete return to the taxpayer.
   f. Negligently or intentionally disregards the rules and regulations for preparing tax returns.
   g. Willfully understates tax liability (preparer must ask reasonable questions when the information furnished by the taxpayer seems to be incomplete or incorrect, and some deductions require specific documentation which a preparer must be satisfied actually exists).
   h. Endorses a refund check (excepting bank tax preparers).
   i. Does not file an annual information report, Form 5717, by July 31 of each year.

**Historical Note**


**R6-3-1721. Liability determinations; review; finality**

A. If an employer alleges a reconsideration determination issued in accordance with subsection (F) of A.R.S. § 23-724, or subsection (A) of A.R.S. § 23-732, is defective and so specifies in writing within the appeal period specified by law, the Department shall review its reconsidered determination for completeness as required by A.R.S. § 23-724(F), considering any alleged defects identified in writing by the employer within the appeal period.

B. Any defects found may be cured by issuing a corrected reconsidered determination and stating therein that all time periods applicable to the determination were suspended from the date of the original reconsidered determination to the date of the corrected reconsidered determination.

C. Any further defect alleged in the corrected reconsidered determination will be handled in the manner so specified in this regulation.

D. If the allegation of a defect in the reconsidered determination is not submitted within the period for appeal, an examination of the reconsidered determination reveals no defect of consequence, and the employer did not file a timely petition for hearing or review, the employer shall be notified in writing of the untimeliness of the allegation of defect, and that the reconsidered determination has become final. If, however, the employer had submitted timely petition for hearing or review, the employer shall be notified of the untimeliness of his allegation of defect, and that the matter is now with the appeals board for consideration of his petition for hearing or review.

E. If the allegation of defect in the reconsidered determination is not submitted within the period for the appeal, and upon examination of the reconsidered determination a defect of consequence is found to exist, a corrected reconsidered determination shall be issued which will include a statement that all time periods applicable to the determination were suspended from the date of the original reconsidered determination to the date of the corrected reconsidered determination.

F. If the allegation of defect in the reconsidered determination is submitted timely, but upon review defect is not found by the Department to exist, the employer shall be notified in writing that the reconsidered determination is considered adequate, and that the matter shall become final unless he notifies the Department in writing within 15 days that he wishes his timely allegation of defect to be considered a petition for hearing or review.

**Historical Note**

Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5).

**R6-3-1722. Casual labor**

A. “Casual labor” means service not in the course of the employing unit’s trade or business performed by an employee in any calendar quarter in which:
   1. Cash remuneration paid for such service is less than $50; and
   2. The services are performed by an individual who is not regularly employed by the employing unit to perform such services.

B. “Regularly employed by an employing unit” means that an employee performed similar services for the employing unit for some portion of each of 24 days during the calendar quarter in question or the preceding calendar quarter.

C. “Service not in the course of the employing unit’s trade or business” means service that does not directly promote or advance the trade or business of the employing unit. This term does not apply to domestic services in the private home of the employer or services performed for a corporation.

**Historical Note**

Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). New rule adopted effective November 6, 1979 (Supp. 79-6). Amended effective December 17, 1981 (Supp. 81-6). Former Section R6-3-1722 repealed, new Section R6-3-1722 adopted effective March 16, 1988 (Supp. 88-1).

**R6-3-1723. Employee defined**

A. “Employee” means any individual who performs services for an employing unit, and who is subject to the direction, rule or control of the employing unit as to both the method of performing or executing the services and the result to be effected or accomplished. Whether an individual is an employee under this definition shall be determined by the preponderance of the evidence.
   1. “Control” as used in A.R.S. § 23-613.01, includes the right to control as well as control in fact.
2. “Method” is defined as the way, procedure or process for doing something; the means used in attaining a result as distinguished from the result itself.

B. “Employee” as defined in subsection (A) does not include:
1. An individual who performs services for an employing unit in a capacity as an independent contractor, independent business person, independent agent, or independent consultant, or in a capacity characteristic of an independent profession, trade, skill or occupation. The existence of independence shall be determined by the preponderance of the evidence.
2. An individual subject to the direction, rule, control or subject to the right of direction, rule or control of an employing unit “...solely because of a provision of law regulating the organization, trade or business of the employing unit”. This paragraph is applicable in all cases in which the individual performing services is subject to the control of the employing unit only to the extent specifically required by a provision of law governing the organization, trade or business of the employing unit.

a. “Solely” means, but is not limited to: Only, alone, exclusively, without other.

b. “Provision of law” includes, but is not limited to: statutes, regulations, licensing regulations, and federal and state mandates.

c. The designation of an individual as an employee, servant or agent of the employing unit for purposes of the provision of law is not determinative of the status of the individual for unemployment insurance purposes. The applicability of paragraph (2) of this subsection shall be determined in the same manner as if no such designated reference had been made.

C. The following services are exempt employment under this Chapter, unless there is evidence of direction, rule or control sufficient to satisfy the definition of an employee under subsection (A) of this Section, which is distinct from any evidence of direction, rule or control related to or associated with establishing the nature or circumstances of the services considered pursuant to this subsection:
1. Services by an individual for an employing unit which are not a part or process of the organization, trade or business of the employing unit, and the individual is not treated by the employing unit in a manner generally characteristic of the treatment of employees.

a. Services by an individual not treated by the employing unit in a manner generally characteristic of the treatment of employees means the individual performing the services is not treated by the employing unit in substantially the same manner as employees of that employing unit.

b. The words “part” and “process” are not synonymous. If the individual performs services which are either a part of or process in the organization, trade or business, the conditions of this paragraph are not met and the services cannot be exempt under this paragraph. “Process” refers to those services which are directly responsible for carrying out the fundamental purpose or purposes for which the organization, trade or business exists; e.g., painting and repairing automobile bodies in an automobile body paint and repair shop. “Part” refers to any other services which are essential to the operation or maintenance of the organization, trade or business; e.g., routine cleaning of premises and maintenance of tools, equipment and building. In addition to services which are a part of or process in the organization, trade or business, there are those services which are for the purposes of the organization, trade or business but are merely ancillary or incidental and are not essential or necessary to the conduct of the organization, trade or business; e.g., landscaping area around the automobile body paint and repair shop.

2. Services by an individual for an employing unit through isolated or occasional transactions, regardless of whether such services are a part or process of the organization, trade or business of the employing unit.

a. The phrase “isolated or occasional” has its commonly understood meaning. The intent of the relationship between the employing unit and the individual performing the services is to be considered with the intent of the parties being that it is on a permanent basis or for a long period; e.g., an individual employed who either quits or is discharged after a brief period of employment, would not be considered an isolated or occasional transaction regardless of how brief the period of employment may be.

b. An individual who performs services on less than thirteen days in a calendar quarter will be presumed to be performing isolated or occasional transactions. An individual who performs services on thirteen days or more in a calendar quarter will be presumed not to be performing isolated or occasional transactions. In all cases in which there is a standing or continuing arrangement with an individual to perform required services on either a regularly scheduled basis or on call as requested, it will be presumed the individual is not performing isolated or occasional transactions.

D. In determining whether an individual who performs services is an employee under the general definition of subsection (A), all material evidence pertaining to the relationship between the individual and the employing unit must be examined. Control as to the result is usually present in any type of contractual relationship, but it is the additional presence of control, as determined by such control factors as are identified in paragraph (2) of this subsection, over the method in which the services are performed, that may create an employment relationship.

1. The existence of control solely on the basis of the existence of the right to control may be established by such action as: reviewing written contracts between the individual and the employing unit; interviewing the individual or employing unit; obtaining statements of third parties; or examining regulatory statutes governing the organization, trade or business. In any event, the substance, and not merely the form of the relationship must be analyzed.

2. The following are some common indicia of control over the method of performing or executing the services:

a. Authority over individual’s assistants. Hiring, supervising, and payment of the individual’s assistants by the employing unit generally shows control over the individuals on the job. Sometimes, one worker may hire, supervise, and pay other workers. He may do so as the result of a contract in which he agrees to provide materials and labor and under which he is responsible only for the attainment of a result; in which case he may be independent. On the other hand, if he does so at the direction of the employing unit, he may be acting as an employee in the capac-
b. Compliance with instructions. Control is present when the individual is required to comply with instructions about when, where and how he is to work. Some employees may work without receiving instructions because they are highly proficient in their line of work and can be trusted to work to the best of their abilities; however, the control factor is present if the employer has the right to instruct or direct. The instructions may be oral or may be in the form of manuals or written procedures which show how the desired result is to be accomplished.

c. Oral or written reports. If regular oral or written reports bearing upon the method in which the services are performed must be submitted to the employing unit, it indicates control in that the worker is required to account for his actions. Periodic progress reports relating to the accomplishment of a specific result may not be indicative of control if, for example, the reports are used to establish entitlement to partial payment based upon percentage of completion. Completion of forms customarily used in the particular type of business activity, regardless of the relationship between the individual and the employing unit, may not constitute written reports for purposes of this factor; e.g., receipts to customers, invoices, etc.

d. Place of work. Doing the work on the employing unit’s premises is not control in itself; however, it does imply that the employer has control, especially when the work is of such a nature that it could be done elsewhere. A person working in the employer’s place of business is physically within the employer’s direction and supervision. The fact that work is done off the premises does indicate some freedom from control; however, it does not by itself mean that the worker is not an employee. In some occupations, the services are necessarily performed away from the premises of the employing unit. This is true, for example, of employees in the construction trades, or employees who must work over a fixed route, within a fixed territory, or at any outlying work station.

e. Personal performance. If the services must be rendered personally it indicates that the employing unit is interested in the method as well as the result. The employing unit is interested not only in getting a desired result, but, also, in who does the job. Personal performance might not be indicative of control if the work is very highly specialized and the worker is hired on the basis of his professional reputation, as is the case of a consultant known in academic and professional circles to be an authority in the field. Lack of control may be indicated when an individual is required to hire a substitute without the employing unit’s knowledge or consent.

f. Establishment of work sequence. If a person must perform services in the order of sequence set for him by the employing unit, it indicates the worker is subject to control as he is not free to follow his own pattern of work, but must follow the established routines and schedules of the employing unit. Often, because of the nature of an occupation, the employing unit does not set the order of the services, or sets them infrequently. It is sufficient to show control, however, if the employing unit retains the right to do so.

g. Right to discharge. The right to discharge, as distinguished from the right to terminate a contract, is a very important factor indicating that the person possessing the right has control. The employing unit exercises control through the ever present threat of dismissal, which causes the worker to obey any instructions which may be given. The right of control is very strongly indicated if the worker may be terminated with little or no notice, without cause, or for failure to use specified methods, and if the worker does not make his services available to the public on a continuing basis. An independent worker, on the other hand, generally cannot be terminated as long as he produces an end result which measures up to his contract specifications. Many contracts provide for termination upon notice or for specified acts of nonperformance or default, and may not be indicative of the existence of the right to control. Sometimes, an employing unit’s right to discharge is restricted because of a contract with a labor union or with other entities. Such a restriction does not detract from the existence of an employment relationship.

h. Set hours of work. The establishment of set hours of work by the employing unit is a factor indicative of control. This condition bars the worker from being master of his own time, which is a right of the independent worker. Where fixed hours are not practical because of the nature of the occupation, a requirement that the worker work at certain times is an element of control.

i. Training. Training of an individual by an experienced employee working with him, by required attendance at meetings, and by other methods, is a factor of control because it is an indication that the employer wants the services performed in a particular method or manner. This is especially true if the training is given periodically or at frequent intervals. An independent worker ordinarily uses his own methods and receives no training from the purchaser of his services.

j. Amount of time. If the worker must devote his full time to the activity of the employing unit, the employing unit has control over the amount of time the worker spends working and, impliedly, restricts him from doing other gainful work. An independent worker, on the other hand, is free to work when and for whom he chooses. Full time does not necessarily mean an 8-hour day or a 5- or 6-day week. Its meaning may vary with the intent of the parties, the nature of the occupation and customs in the locality. These conditions should be considered in defining “full time”. Full-time services may be required even though not specified in writing or orally. For example, a person may be required to produce a minimum volume of business which compels him to devote all of his working time to that business, or he may not be permitted to work for anyone else, and to earn a living he necessarily must work full time.

k. Tools and materials. The furnishing of tools, materials, etc. by the employing unit is indicative of control over the worker. When the worker furnishes the tools, materials, etc., it indicates a lack of control, but lack of control is not indicated if the individual
E. Among the factors to be considered in addition to the factors of control, such as those identified in subsection (D), when determining if an individual performing services may be independent when paragraph (1) of subsection (B) is applicable, are:

1. Availability to public. The fact that an individual makes his services available to the general public on a continuing basis is usually indicative of independent status. An individual may offer his services to the public in a number of ways. For example, he may have his own office and assistants, he may display a sign in front of his home or office, he may hold a business license, he may be listed in a business directory or maintain a business listing in a telephone directory, he may advertise in a newspaper, trade journal, magazine, or he may simply make himself available through word of mouth, where it is customary in the trade or business.

2. Compensation on job basis. An employee is usually, but not always, paid by the hour, week or month; whereas, payment on a job basis is customary where the worker is independent. Payment by the job may include a predetermining lump sum which is computed by the number of hours required to do the job at a fixed rate per hour. Payment on a job basis may involve periodic partial payments based upon a percent of the total job price or the amount of the total job completed. The guarantee of a minimum salary or the granting of a drawing account at stated intervals, with no requirement for repayment of the excess over earnings, tends to indicate that existence of an employer-employee relationship.

3. Realization of profit or loss. An individual who is in a position to realize a profit or suffer a loss as a result of his services is generally independent, while the individual who is an employee is not in such a position. Opportunity for profit or loss may be established by one or more of a variety of circumstances; e.g.:
   a. The individual has continuing and recurring significant liabilities or obligations in connection with the performance of the work involved, and success or failure depends, to an appreciable degree, on the relationship of receipts to expenditures.
   b. The individual agrees to perform specific jobs for prices agreed upon in advance, and pays expenses incurred in connection with the work, such as wages, rents or other significant operating expenses.

4. Obligation. An employee usually has the right to end his relationship with his employer at any time he wishes without incurring liability, although he may be required to provide notice of his termination for some period in advance of the termination. An independent worker usually agrees to complete a specific job. He is responsible for its satisfactory completion and would be legally obligated to make good for failure to complete the job, if legal relief were sought.

5. Significant investment. A significant investment by a person in facilities used by him in performing services for another tends to show an independent status. On the other hand, the furnishing of all necessary facilities by the employing unit tends to indicate the absence of an independent status on the part of the worker. Facilities include equipment or premises necessary for the work, but not tools, instruments, clothing, etc., that are provided by employees as a common practice in their particular trade. If the worker makes a significant investment in facilities, such as a vehicle not reasonably suited to personal use, this is indicative of an independent relationship. A significant expenditure of time or money for an individual’s education is not necessarily indicative of an independent relationship.

6. Simultaneous contracts. If an individual works for a number of persons or firms at the same time, it indicates an independent status because, in such cases, the worker is usually free from control by any of the firms. It is possible, however, that a person may work for a number of people or firms and still be an employee of one or all of them. The decisions reached on other pertinent factors should be considered when evaluating this factor.

F. Whether the preponderance of the evidence is being weighed to determine if the individual performing services for an employing unit is an employee under the general definition of employee contained in subsection (A), or may be independent when paragraph (1) of subsection (B) is applicable, the factors considered shall be weighed in accordance with their appropriate value to a correct determination of the relationship under the facts of the particular case. The weight to be given to a factor is not always constant. The degree of importance may vary, depending upon the occupation or work situation being considered and why the factor is present in the particular situation. Some factors may not apply to particular occupations or situations, while there may be other factors not specifically identified herein that should be considered.

G. An individual is an employee if he performs services which are subject to the Federal Unemployment Tax Act or performs services which are required by federal law to be covered by state law.

Historical Note
Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted and amended effective November 6, 1979 (Supp. 79-6). Amended subsection (B), paragraph (1) effective October 2, 1980 (Supp. 80-5). Amended effective March 5, 1982 (Supp. 82-2).

R6-3-1724. Repealed

Historical Note

R6-3-1725. Licensed real estate, insurance, security and cemetery salesmen
A.R.S. § 23-617 exempts from employment services performed by individuals as insurance, real estate, security and cemetery salesmen, if compensated solely by way of commission.

1. Special compensation plans or agreements such as the following are not commissions: Stabilized earning programs, training allowances, sales incentive plans, payment of living expenses, and advances in excess of commissions earned when repayment is not required. Any such payment(s) nullifies the exemption for the cal-
The term “wages” does not include the value of any meals or board and lodging furnished by the employer. Meals or lodging as wages is paid for the convenience of the employer when they are furnished during regular working hours to have the employee on call during the meal period, or they are furnished during regular working hours because the employer’s business is such that the employee could not be expected to eat elsewhere in such a short period, or they are furnished during regular working hours because the employee could not otherwise secure meals in the area in which he works. Meals furnished before or after the working hours of the employee will not be regarded as furnished for the convenience of the employer except when they are furnished to a restaurant employee or other food service employee for each meal period in which the employee works, provided the meal is furnished immediately before or immediately after the working hours of the employee. Meals furnished on days in which the employee performs no services will not be regarded as furnished for the convenience of the employer unless they are furnished in connection with lodging which is furnished for the convenience of the employer.

### Historical Note

Adopted effective September 23, 1980 (Supp. 80-5).

#### R6-3-1726. Tips as wages

A. Any tip, gratuity or service charge received by or for an employee in the course of employment from persons other than the employing unit shall be considered wages if:

1. The tip, gratuity, or service charge is received on or after January 1, 1986, and is reported by the employee in writing to the employing unit on or before the 10th day of the month following the month in which it is received; or

2. The employing unit has actual knowledge of tips, gratuities, or service charges not accounted for by the employee and either:
   a. The tip, gratuity, or service charge is specified and collected by the employing unit; or
   b. The tip, gratuity, or service charge is used by the employer on or after August 3, 1984, in order to conform to the minimum wage requirement of federal or state law.

B. No benefits shall be paid based on any tip, gratuity, or service charge which the claimant failed to report as specified in subsection (A), paragraph (1) of this rule, unless the provisions of subsection (A), paragraph (2) apply.

C. For the purposes of reporting and paying contributions on any tip, gratuity, or service charge described in subsection (A) and (B) of this rule, the date on which the employer compensates the employee for the pay period in which either the tip, gratuity, or service charge has been reported to the employer by the employee or in which the employer has allocated the tip, gratuity, or service charge to the employee shall be considered the date the tip, gratuity or service charge is paid.

### Historical Note

Adopted effective March 16, 1988 (Supp. 88-1).

#### R6-3-1727. Meals or lodging as wages

A. The money value of board or lodging, or both, furnished a worker shall be the reasonable cash value thereof as determined by the Department. In arriving at the reasonable cash value, the Department shall consider the cost to persons other than the employee of similar goods and services in the vicinity. Unless in a given case a rate for board and lodging is determined by the Department, board or lodging furnished shall be deemed to have not less than the following values:

- Breakfast: $1.25
- Lunch: $1.50
- Dinner: $2.00
- Lodging - per day: $4.00
- Meals only - per month: $142.50
- Lodging only - per month: $120.00
- Full room and board - monthly: $262.50

B. The term “wages” does not include the value of any meals or lodging furnished to an employee by the employer for the convenience of the employer if, in the case of meals, the meals are furnished on the business premises of the employer, or in the case of lodging, the employee is required to accept such lodging on the business premises of the employer as a condition of his employment.

1. Meals will be regarded as furnished for the convenience of the employer when they are furnished during regular
claimant’s most recent employing unit or employer of the claim filing. The notice shall contain the reason given by the claimant for separation from employment and shall advise the employer that the employer may protest payment to the claimant upon any statutory grounds, if such grounds exist, by returning the protest within 10 days after the date of the notice.

C. In administering A.R.S. § 23-706(A), the Department shall issue a determination to a reimbursement employer on whether a benefit overpayment classified as administrative is a benefit overpayment caused by Department error.

Historical Note
Former Regulation 30-2; Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Amended effective June 11, 1980 (Supp. 80-3). Amended effective December 20, 1995 (Supp. 95-4). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-1804. Repealed

Historical Note
Former Regulation 10-3; Repealed effective August 3, 1978 (Supp. 78-4). New Section R6-3-1804 adopted effective March 26, 1979 (Supp. 79-2). Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-1805. Repealed

Historical Note
Former Regulation 30-11; Amended effective August 19, 1981 (Supp. 81-4). Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-1806. Interstate Claimants
Under A.R.S. § 23-644, the Department shall participate in the Interstate Benefit Payment Plan and shall act as the agent for the other states and Canada who subscribe to the Plan.

Historical Note
Former Regulation 30-4; Amended effective December 17, 1975 (Supp. 75-2). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-1807. Repealed

Historical Note
Former Regulation 30-5. Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-1808. Payment on Account of Retirement
A. Pension Defined. Pension, as used in A.R.S. §§ 23-791 and 23-624, does not include survivor’s benefit payments or other periodic payment which bears no direct relationship to the level of prior remuneration or the length of past employment of the claimant.

B. Weekly Deduction.
1. The Department shall determine the amount of pension attributed to a week by dividing the pension recipient’s monthly pension by 4.333 and rounding the result to the lowest dollar.
2. When the recipient contributed at least 45% of the amount for the pension, the Department shall determine the deductible amount by multiplying the weekly pension by .45 and rounding the result to the lowest dollar.

C. Effective Date. The effective date of a reduction in benefits required by A.R.S. § 23-791(A) begins with the 1st week in which either of the following occurs:
1. The recipient receives a pension payment; or
2. The recipient receives a determination or official notification from the pension source that provides the effective date and the amount of the pension payment and the payment will be made for the week in question.

D. Retroactive Payments.
1. An overpayment shall not result from retroactive pension payments for weeks prior to receipt of official notification, nor shall an overpayment result from any retroactive recomputation of the pension payment, unless the recipient fails to disclose the recomputation.
2. The Department shall not pay retroactive benefits previously denied due to the claimant’s receipt of a pension payment that was made in error and must be repaid.

E. Lump-sum Payments. The Department shall:
1. Allocate a pension received in 1 lump-sum payment to the week in which the payment is received;
2. Treat a yearly lump-sum pension payment as a periodic payment and allocate the payment over 52 weeks;
3. Disregard a lump-sum or yearly lump-sum payment that is rolled over into a non-taxable retirement plan in accordance with provisions of the Internal Revenue Code; and
4. Disregard a lump-sum payment or other type payoff made because of a separation occurring before the time the recipient meets the length of service terms and age requirement established by the pension plan even if the payment includes pension funds.

Historical Note
Former Regulation 30-7; Repealed effective February 18, 1977 (Supp. 77-1). Adopted as an emergency effective June 18, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former emergency adoption now adopted and amended effective November 7, 1979 (Supp. 79-6). Amended effective March 5, 1982 (Supp. 82-2). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-1809. Eligibility for Approved Training
A. Approved training under A.R.S. § 23-771.01 includes vocational training or academic courses that provide a claimant the opportunity to achieve reemployment through the development of the claimant’s skills and abilities.

1. A claimant is “in training with the approval of the department” when the claimant presents a document from the sponsoring agency that the claimant is participating in 1 of the programs listed in this subsection.
   a. Training, except for on-the-job training, under Titles II, III, or IV of the Job Training Partnership Act, or its successor.
   b. A vocational rehabilitation program sponsored or administered by the Department or another public agency.
   c. Training sponsored or administered by 1 or more programs of the Department.
   d. Training designed to improve a claimant’s understanding of the fundamentals of English or mathematics or training that is intended to result in a general equivalency diploma (GED), unless the claimant is a student enrolled in and regularly attending a public or private secondary educational institution.
   e. Training recommended or financed by the claimant’s only base-period employer who is subject to charges for benefits paid to the claimant.

2. If the training does not meet any of the provisions of subsection (A)(1), the claimant is in training with the approval of the Department if all the following conditions are met:
a. The training facility is registered with the Department of Education or its successor, or a comparable agency of another state, and is located within the United States.
b. The training course is approved by the Department of Education or its successor, or a comparable agency of another state and:
   i. Is for a duration of at least 4 weeks but not more than 52 weeks of instruction; and
   ii. At an academic institution, requires either a minimum of 12 credit hours during fall and spring semesters or at least 6 credit hours during summer sessions, and results in a training certificate; or
   iii. At a vocational training facility, requires a minimum of 20 hours per week of supervised participation.
c. Either the claimant’s:
   i. Prospects for continuing employment for which the claimant is fitted by training and experience are minimal and are not likely to improve in the foreseeable future in the locality in which the claimant resides or is seeking work; or
   ii. Training, skills, and past work history establish that the claimant only qualifies for jobs that normally pay at or within $1.00 of the minimum wage and are unlikely to provide advancement opportunity.
d. The claimant possesses aptitudes or skills which can be usefully supplemented by retraining and has the qualifications and aptitudes necessary to reasonably assure successful completion of the training course.
e. The training course is likely to prepare the claimant for an occupation for which there are, or are expected to be in the immediate future, reasonable full-time employment opportunities in the locality in which the claimant resides or is seeking work.

B. Weekly Eligibility.
   1. The Department shall pay unemployment insurance benefits, including extended benefits under A.R.S. §§ 23-626 through 23-639, to an otherwise eligible claimant while the claimant is in approved training if the claimant files a timely claim for a week of benefits in the format prescribed by the Department:
      a. The claim shall include the following information for the applicable claim period, 
         i. A statement of any employment the claimant held and any wages the claimant earned, 
         ii. A statement of any training assistance the claimant received or will receive, 
         iii. A statement as to whether the claimant missed any scheduled training, 
         iv. The claimant’s signature or personal identification number, 
         v. A statement from the training facility as to whether the claimant is enrolled in training and satisfactorily pursuing the training course, and 
         vi. The signature or identification number of the training facility’s representative which is on file with the Department as being authorized to certify to the claimant’s training attendance and progress.
      b. The claim is timely filed when the Department receives the claim within 14 days of the claim week ending date. If the claim is not received within 14 days, the claimant shall establish good cause for the untimeliness as prescribed in R6-3-5475(H).
   c. If the training facility has a temporary break in training of less than 6 weeks, and the facility notifies the Department by telephone or in writing that the claimant will continue the training after the break, the Department shall deem the claimant in training.
   2. For purposes of A.R.S. § 23-771.01(B), the Department shall deem subsistence benefits received from a governmental, nonprofit, or community agency for the claimant’s own personal entitlement as a training allowance.
      a. A subsistence payment for the claimant’s own personal entitlement includes funds covering transportation or meal costs, but does not include funds covering course costs, tuition, books, supplies, tools, or an allowance for dependents.
      b. The Department shall allocate the training allowance for each week claimed starting with the week the claimant 1st receives the allowance or the week the claimant receives notice from the agency paying the allowance of the amount to be paid, whichever occurs 1st.
      c. An overpayment shall not result from retroactive payments for weeks prior to the paying agency notice or 1st payment, unless the claimant fails to tell the Department about the allowance.

Historical Note

R6-3-1810. Requalifications
A. The Department shall apply the definitions of wages in R6-3-1705 for requalification under this Section.
B. In determining whether a claimant has earned sufficient wages to requalify under A.R.S. §§ 23-634.01, 23-771(A)(7), 23-775(1), (2), or 23-776(A), the following shall apply:
   1. The Department shall use both insured and non-insured wages, but shall not use income from self-employment.
   2. The Department shall use any income, including wages from agricultural and domestic work, that would be reportable as wages on a continued claim for unemployment insurance, but shall not use income from self-employment.
C. In determining whether wages are usable for requalification purposes, the following shall apply:
   1. In considering requalification under A.R.S. §§ 23-775(1), (2), and 23-776(A), the Department shall consider services performed subsequent to the date of the act that resulted in the disqualification.
   2. In considering requalification under A.R.S. § 23-771(A)(7), the Department shall consider services performed during the period starting with the beginning date of a benefit year and prior to the effective date of a subsequent benefit year.
   3. In considering requalification under A.R.S. § 23-634.01, the Department shall consider services performed subsequent to the week in which the failure to apply for, accept, or seek work occurred. The claimant shall document that the claimant has worked in each of at least four calendar weeks and the claimant’s total wages equal at
least four times the weekly benefit amount. The weeks need not be consecutive.

D. The proof required to establish wages for requalification under A.R.S. §§ 23-634.01, 23-771(A)(7), 23-775(1), (2), or 23-776(A) may consist of a check stub or other payment record, an employer statement, or W-2 form. When the employer’s quarterly wage reports submitted to the Department show the contended wage items, the Department may accept the reports as proof of the wages.

E. Except for wages that are included on an employer’s quarterly wage reports to the Department, the burden of establishing requalifying wages shall rest on the claimant. The Department may assist the claimant in the verification of wages that the claimant states the claimant has earned but has no proof, or insufficient proof, by contacting the employer either by telephone, in writing, or through electronic communication.

F. The Department shall not terminate a disqualification period before the end of the week in which the claimant’s wages total an amount sufficient to requalify.

G. In determining whether a disqualification carries over from one benefit year to a subsequent benefit year, the following shall apply:

1. Unless a disqualification is terminated within the benefit year, the Department shall carry over a disqualification assessed in a benefit year under A.R.S. §§ 23-775(1), (2), or 23-776(A) unless the Department’s wage records establish that the claimant earned sufficient wages to requalify subsequent to the date of the act that resulted in the disqualification.

2. The Department shall not carry over a disqualification assessed under A.R.S. § 23-634.01 into a subsequent benefit year.

H. In determining the amount of wages required to requalify after disqualifications, the following shall apply:

1. The amounts required to requalify after disqualification imposed under A.R.S. §§ 23-634.01, 23-775(1), (2), or 23-776(A) shall not be cumulative. The amount of wages required to terminate the largest disqualification shall remove all disqualifications, as long as the wages that are used to requalify were earned subsequent to the date of occurrence of the act that resulted in the disqualification.

2. For disqualifications under A.R.S. § 23-634.01, the work shall have been performed subsequent to the week of occurrence of the act that resulted in the disqualification and in each of at least four weeks, as shown in subsection (C)(3).

I. In determining the amount of wages required to requalify:

1. The amount of required wages to requalify under A.R.S. §§ 23-634.01, 23-775(1), (2), or 23-776(A) is based on the weekly benefit amount payable at the time the disqualification is imposed. When a revised determination of wages earned results in a change in the weekly benefit amount, the Department shall adjust the amount required to requalify after any disqualification not previously terminated, in accordance with the new weekly benefit amount and notify the claimant of the change.

2. The amount of required wages to requalify under A.R.S. § 23-771(A)(7) is based on the weekly benefit amount that would be calculated under A.R.S. § 23-779 for a subsequent benefit year. If a revised determination of wages earned results in an increase in the weekly benefit amount, the claimant shall requalify in terms of the increased weekly benefit amount. If the claimant cannot requalify at the higher amount, and has received benefits based on requalification at the previous lower amount, the Department shall establish an overpayment.

Historical Note

Adopted effective April 17, 1975 (Supp. 75-1). Amended effective December 10, 1976 (Supp. 76-5). Amended effective January 10, 1977 (Supp. 77-1). Correction, subsection (A), paragraph (2) incorrectly shown as amended effective January 10, 1977, subsection (B), paragraph (2) amended effective January 10, 1977 (Supp. 77-4).

Amended effective August 3, 1978 (Supp. 78-4).

Amended effective February 24, 1982 (Supp. 82-1).

Amended by deleting subsection (I) effective August 29, 1984 (Supp. 84-4). Amended by final rulemaking at 15 A.A.R. 176, effective March 7, 2009 (Supp. 09-1).

R6-3-1811. Redetermination of benefits

A. When a statutory revision of the Arizona Employment Security Law requires UI benefits (awards and unpaid balances) to be redetermined for claims with a benefit year current as of the effective date of the revision (law revision date) and requires payments for weeks beginning on or after the law revision date to be paid at the redetermined rate, the redetermination and related actions shall be made as stated below.

B. The claimant’s benefits shall be redetermined as follows:

1. The weekly benefit amount payable for weeks beginning on or after the law revision date shall be recomputed in accordance with A.R.S. § 23-779.

2. A maximum benefit amount (MBA) shall be computed in accordance with A.R.S. § 23-780, using the new weekly amount in the recomputation. This MBA shall be utilized to redetermine the balance payable indicated in paragraph (3) below.

3. When the old balance payable is equal to the old MBA, the new balance shall be equal to the recomputed MBA. When the old balance is less than the old MBA (payments, statutory deductions, etc. were made prior to the redetermination), the new balance shall be redetermined by dividing the new MBA by the old MBA and multiplying that result by the old balance. The computed amount shall then be rounded to the nearest dollar with 50¢ being rounded to the next higher dollar.

4. A redetermination notice shall be issued to a claimant only if the recomputed weekly benefit amount is greater than the old weekly amount.

C. After the law revision date, benefit payments and other transactions for periods prior to the law revision date shall be computed using the old weekly benefit amount in the computation. The new balance payable of many claims will have been increased as indicated in (B)(3) above; therefore, the balance shall be adjusted by the transaction amount after it is adjusted by a computation similar to that in (B)(3). This will insure claimants having delayed claims transactions will be treated as equals to claimants whose transactions were processed before the law revision date.

D. Claimants are entitled to file a protest when they believe the results of the redetermination of benefits to be incorrect. The Department shall check the redetermination results by manually recomputing the claimant’s benefits as indicated in (B) above. A corrected Wage Statement shall be issued if the original redetermination is found to be incorrect. If the redetermination is found to be correct, a written appealable decision shall be issued.

Historical Note

Adopted effective June 3, 1975 (Supp. 75-1). Amended effective December 17, 1975 (Supp. 75-2). Repealed effective May 3, 1978 (Supp. 78-3). Adopted as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emer-
R6-3-1812. Interest on benefit overpayments
A. Interest will be computed in accordance with the provisions of A.R.S. § 44-1201 on the last day of each calendar month on all outstanding unemployment insurance overpayments with the following exceptions:
1. No interest shall be computed on any overpayment established during that same month.
2. The accumulation of interest on overpayments created through no fault on the part of the claimant will not begin until the sixth calendar month following the month in which the overpayment was established. If, however, a claimant not at fault in creating the overpayment has entered into an acceptable agreement for repayment and is conforming to the conditions of the agreement, the accumulation of interest will continue to be postponed as long as these conditions are met.
3. If the recoupment of an overpayment has been waived, this waiver will include any interest due at the time of waiver and no further interest will be computed.
B. Interest shall be computed monthly on the unpaid balance of the overpayment.
C. Cash payments submitted by a claimant on an unemployment insurance overpayment shall be applied first to the unpaid balance of the overpayment, next to any accumulated interest, and finally to any lien filing and/or any lien release fees.

Historical Note
Adopted effective October 13, 1977 (Supp. 77-5). Repealed effective July 26, 1978 (Supp. 78-4). New Section R6-3-1812 adopted effective February 24, 1982 (Supp. 82-1).

R6-3-1813. Overpayment Deduction Percentage
A. As used in A.R.S. § 23-787(D), the phrase “no reasonable attempt” means:
1. At least 12 months have elapsed since the Department established the overpayment and issued the most recent benefit payment; and
2. During the most recent 12 months, the claimant has not repaid at least $250 or 20% of the unpaid principal and interest balance, whichever is less. For the purpose of this subsection, the Department shall not consider funds recouped through setoff of tax refunds or Arizona lottery winnings, wage garnishments, or any other involuntary recoupment methods.
B. When the deduction amount is raised to 50%, as provided in A.R.S. § 23-787(D), it shall remain at 50% until the Department has recouped the entire overpayment.

Historical Note
Adopted effective December 20, 1995 (Supp. 95-4).

ARTICLE 19. RECODIFIED

R6-3-1901. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1901 repealed, new Section R6-3-1901 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1901 recodified to A.A.C. R6-14-101 effective February 13, 1996 (Supp. 96-1).

R6-3-1902. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1902 repealed, new Section R6-3-1902 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1902 recodified to A.A.C. R6-14-102 effective February 13, 1996 (Supp. 96-1).

R6-3-1903. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1903 repealed, new Section R6-3-1903 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1903 recodified to A.A.C. R6-14-103 effective February 13, 1996 (Supp. 96-1).

R6-3-1904. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1904 repealed, new Section R6-3-1904 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1904 recodified to A.A.C. R6-14-104 effective February 13, 1996 (Supp. 96-1).

R6-3-1905. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1905 repealed, new Section R6-3-1905 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1905 recodified to A.A.C. R6-14-105 effective February 13, 1996 (Supp. 96-1).

R6-3-1906. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1906 repealed, new Section R6-3-1906 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1906 recodified to A.A.C. R6-14-106 effective February 13, 1996 (Supp. 96-1).

R6-3-1907. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 17, 1976 (Supp. 76-3). Former Section R6-3-1907 repealed, new Section R6-3-1907 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1907 recodified to A.A.C. R6-14-107 effective February 13, 1996 (Supp. 96-1).

R6-3-1908. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1908 repealed, new Section R6-3-1908 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1908 recodified to A.A.C. R6-14-108 effective February 13, 1996 (Supp. 96-1).

R6-3-1909. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1).
R6-3-1910. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1909 repealed, new Section R6-3-1909 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1909 recodified to A.A.C. R6-14-109 effective February 13, 1996 (Supp. 96-1).

R6-3-1911. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-1910 repealed, new Section R6-3-1910 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1910 recodified to A.A.C. R6-14-110 effective February 13, 1996 (Supp. 96-1).

R6-3-1912. Repealed

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-1913. Repealed

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-1914. Repealed

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-1915. Repealed

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-1916. Repealed

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed effective May 24, 1979 (Supp. 79-3).

ARTICLE 20. RECODIFIED

R6-3-2001. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2001 repealed, new Section R6-3-2001 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2001 recodified to A.A.C. R6-14-201 effective February 13, 1996 (Supp. 96-1).

R6-3-2002. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2002 repealed, new Section R6-3-2002 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2002 recodified to A.A.C. R6-14-202 effective February 13, 1996 (Supp. 96-1).

R6-3-2003. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2003 repealed, new Section R6-3-2003 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2003 recodified to A.A.C. R6-14-203 effective February 13, 1996 (Supp. 96-1).

R6-3-2004. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2004 repealed, new Section R6-3-2004 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2004 recodified to A.A.C. R6-14-204 effective February 13, 1996 (Supp. 96-1).

R6-3-2005. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2005 repealed, new Section R6-3-2005 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2005 recodified to A.A.C. R6-14-205 effective February 13, 1996 (Supp. 96-1).

R6-3-2006. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2006 repealed, new Section R6-3-2006 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2006 recodified to A.A.C. R6-14-206 effective February 13, 1996 (Supp. 96-1).

R6-3-2007. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2007 repealed, new Section R6-3-2007 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2007 recodified to A.A.C. R6-14-207 effective February 13, 1996 (Supp. 96-1).

R6-3-2008. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2008 repealed, new Section R6-3-2008 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2008 recodified to A.A.C. R6-14-208 effective February 13, 1996 (Supp. 96-1).

R6-3-2009. Recodified
ARTICLE 23. RECODIFIED

R6-3-2301. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2301 repealed, new Section R6-3-2301 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2301 recodified to A.A.C. R6-14-501 effective February 13, 1996 (Supp. 96-1).

R6-3-2302. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2302 repealed, new Section R6-3-2302 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2302 recodified to A.A.C. R6-14-502 effective February 13, 1996 (Supp. 96-1).

R6-3-2303. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2303 repealed, new Section R6-3-2303 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2303 recodified to A.A.C. R6-14-503 effective February 13, 1996 (Supp. 96-1).

R6-3-2304. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2304 repealed, new Section R6-3-2304 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2304 recodified to A.A.C. R6-14-504 effective February 13, 1996 (Supp. 96-1).

R6-3-2305. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2305 repealed, new Section R6-3-2305 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted effective March 11, 1980 (Supp. 80-2). R6-3-2305 recodified to A.A.C. R6-14-505 effective February 13, 1996 (Supp. 96-1).

R6-3-2306. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former
Section R6-3-2306 repealed, new Section R6-3-2306 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2306 recodified to A.A.C. R6-14-506 effective February 13, 1996 (Supp. 96-1).

R6-3-2307. Recodified

**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2307 repealed, new Section R6-3-2307 adopted as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Former Emergency Adoption now adopted and amended effective March 11, 1980 (Supp. 80-2). R6-3-2307 recodified to A.A.C. R6-14-507 effective February 13, 1996 (Supp. 96-1).

R6-3-2308. Repealed

**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2309. Repealed

**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2310. Repealed

**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2311. Repealed

**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2312. Repealed

**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

R6-3-2313. Repealed

**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Repealed as an emergency effective May 24, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-3). Repealed effective March 11, 1980 (Supp. 80-2).

**Section R6-3-2401. Recodified**

**Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 6, 1976 (Supp. 76-3). Former Section R6-3-2401 repealed, Section R6-3-2402 renum-
R6-3-2402. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2402 repealed, new Section R6-3-2402 adopted effective May 6, 1976 (Supp. 76-3). Former Section R6-3-2402 renumbered as Section R6-3-2401, Section R6-3-2403 renumbered as Section R6-3-2402 effective July 25, 1977 (Supp. 77-4). Former Section R6-3-2402 repealed, new Section R6-3-2402 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2402 recodified to A.A.C. R6-14-601 effective February 3, 1996 (Supp. 96-1).

R6-3-2403. Repealed

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2403 repealed, new Section R6-3-2403 adopted effective May 6, 1976 (Supp. 76-3). Former Section R6-3-2403 renumbered as Section R6-3-2402, Section R6-3-2404 renumbered as Section R6-3-2403 effective July 25, 1977 (Supp. 77-4). Repealed effective May 24, 1979 (Supp. 79-3).

R6-3-2404. Recodified

Historical Note
Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective May 6, 1976 (Supp. 76-3). Former Section R6-3-2404 renumbered as Section R6-3-2403 effective July 25, 1977 (Supp. 77-4). New Section R6-3-2404 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2404 recodified to A.A.C. R6-14-604 effective February 3, 1996 (Supp. 96-1).

R6-3-2405. Recodified

Historical Note
Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2405 recodified to A.A.C. R6-14-605 effective February 3, 1996 (Supp. 96-1).

R6-3-2406. Recodified

Historical Note
Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2406 recodified to A.A.C. R6-14-606 effective February 3, 1996 (Supp. 96-1).

R6-3-2407. Recodified

Historical Note
Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2407 recodified to A.A.C. R6-14-607 effective February 3, 1996 (Supp. 96-1).

R6-3-2408. Recodified

Historical Note
Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2408 recodified to A.A.C. R6-14-608 effective February 3, 1996 (Supp. 96-1).
R6-3-2507. Repealed

Historical Note
Adopted as an emergency effective March 5, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency expired. New Section R6-3-2507 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

ARTICLE 26. REPEALED

Former Article 26 consisting of Sections R6-3-2601 through R6-3-2623 repealed effective May 24, 1979.

ARTICLE 27. REPEALED

Former Article 27 consisting of Section R6-3-2701 repealed effective May 24, 1979.

ARTICLE 28. RESERVED

ARTICLE 29. RESERVED

ARTICLE 30. RESERVED

ARTICLE 31. RESERVED

ARTICLE 32. RESERVED

ARTICLE 33. RESERVED

ARTICLE 34. RESERVED

ARTICLE 35. REPEALED

Former Article 35 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 36. REPEALED

Former Article 36 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 37. REPEALED

Former Article 37 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 38. REPEALED

Former Article 38 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 39. REPEALED

Former Article 39 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 40. REPEALED

Former Article 40 consisting of Sections R6-3-3501 through R6-3-4003 repealed effective February 15, 1978 (Supp. 78-1).

ARTICLE 41. REPEALED

Former Article 41 consisting of Sections R6-3-4101 through R6-3-4106 repealed effective July 9, 1980 (Supp. 80-4).

ARTICLE 42. RESERVED

ARTICLE 43. RESERVED

ARTICLE 44. RESERVED

ARTICLE 45. RESERVED

ARTICLE 46. RESERVED

ARTICLE 47. RESERVED

ARTICLE 48. RESERVED

ARTICLE 49. RESERVED

ARTICLE 50. VOLUNTARY LEAVING BENEFIT POLICY

R6-3-5001. Reserved
R6-3-5002. Reserved
R6-3-5003. Reserved
R6-3-5004. Reserved
R6-3-5005. General Provisions
A. For the purpose of interpreting A.R.S. § 23-775(1), the following phrases have the meanings prescribed in this subsection:
1. “In connection with the employment” means a condition related to employment caused a worker to leave employment. If the employer changes the conditions or terms of employment, and the changes affect the worker’s personal affairs, the worker leaves employment in connection with the employment rather than as a result of personal circumstances.
2. “Left work voluntarily” means that a worker terminated the worker-employer relationship and intended to do so.
B. For the purpose of interpreting A.R.S. § 23-727(D), the following phrases have the meanings prescribed in this subsection:
1. “Compelling personal reasons” mean causes which arise from a worker’s personal circumstances rather than from a condition created by or relating solely to the employment and which leave the worker with no reasonable alternative but to end the employment relationship.
2. “Not attributable to the employer” means that an employer committed no act or omission to make an employment relationship unsuitable for a worker.

Historical Note
Former Rule number - Voluntary Leaving 5. - 5.1 Former Rule repealed, new Section R6-3-5005 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended subsection (C), paragraphs (1) and (2) effective July 24, 1980 (Supp. 80-4). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5006. Reserved through R6-3-5039. Reserved

R6-3-5040. Attendance at School or Training Course
A. Leaving to Attend School. Except as provided in subsection (B), a worker who leaves a job to attend school or training quits voluntarily without good cause in connection with the work.
B. Leaving for Approved Training. A worker approved for and attending training as prescribed in A.R.S. § 23-771.01 and A.A.C. R6-3-1809 leaves work for a compelling personal reason if the work:
1. Was temporary employment during school vacation periods or other breaks and the worker leaves work to continue training when school reopens; or
2. Hinders the worker from making satisfactory progress in school.

**Historical Note**
Former Rule number - Voluntary Leaving 40. Former Rule repealed, new Section R6-3-5040 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-5041. Reserved through R6-3-5049. Reserved

R6-3-5050. Repealed

**Historical Note**
Former Rule number - Voluntary Leaving 50. Former Rule repealed, new Section R6-3-5050 adopted effective January 24, 1977 (Supp. 77-1). Section repealed effective July 22, 1997 (Supp. 97-3).

R6-3-5051. Reserved through R6-3-50134. Reserved

R6-3-50135. Quit or Discharge

A. Distinguishing Quits and Discharges
   1. Except as otherwise provided in this Chapter, a worker’s separation from employment is either a quit or a discharge.
      a. The separation is a quit when the worker acts to end the employment and intends this result.
      b. The separation is a discharge when the employer acts to end the employment and intends this result. A discharge includes:
         i. A layoff for lack of work, and
         ii. A request by the employer for the worker’s resignation.
   2. The Department shall determine whether a separation is a quit or discharge by considering all relevant factors, including:
      a. Both parties’ remarks and actions,
      b. Who initiated the separation, and
      c. The parties’ intentions.
   3. A party’s expression of criticism or effort to clarify the position of the other party does not by itself constitute notice of intent to quit or discharge.
   4. When the worker or the employer gives notice of intent to end an employment relationship, later attempts to withdraw the termination do not change the type of separation, except as otherwise provided in subsection (A)(5).
      a. The type of separation does not change even if:
         i. The party who causes the separation allows the other party to choose the time or type of separation, or
         ii. The parties agree to delay the date of separation.
      b. A separation is a quit when the worker tells the employer the worker is quitting but agrees to work long enough to train a replacement. The separation remains a quit if the employer later fails to temporarily keep the worker.
   5. A separation is a quit when an employer, who previously gave a worker notice of intent to end the employment relationship, on or before the intended termination date offers continued employment under conditions not amounting to new work, and the worker elects to leave as of the original termination date.

B. Leaving before Effective Date of Discharge

1. Unless a worker establishes good cause or a compelling personal reason for leaving, as prescribed in this Article, a worker who quits before the effective date of discharge leaves work without good cause in connection with the work.
2. When a worker quits because the employer has told the worker that the worker is to be discharged for acts or omissions amounting to misconduct connected with the work, as determined by the Department, the rules in Article 51 governing separation for misconduct apply.

C. Leaving in Anticipation of Discharge. If a worker, based on information other than the employer’s authorized notification of discharge, believes that the employer intends to discharge the worker, the worker shall take steps, prior to leaving, to find out if the worker is, in fact, to be discharged. If the worker fails to do so and was not to be discharged, the worker leaves work voluntarily without good cause in connection with the work.

D. Discharge before Effective Date of Resignation
   1. If a worker submits a resignation with a specific effective date, and the employer discharges the worker before the effective date:
      a. The separation is a discharge for reasons other than work-connected misconduct if the discharge is because of the resignation and is 15 days or more before the effective date of the resignation; and
      b. The separation is a quit if the discharge is because of the resignation and is less than 15 days before the effective date of the resignation. The reason for the resignation shall determine whether the worker had good cause for quitting or was compelled to quit.
   2. If the discharge is not because of the resignation, the Department shall determine whether to assess a disqualification based on the reason for discharge, in accordance with Article 51 of this Chapter.

**Historical Note**

R6-3-50135.01. Quit or Discharge; Absence From Work
Except as provided in R6-3-50135.03 and R6-3-50135.04, when a separation occurs because of a worker’s absence from work, and a discharge is not established:
   1. The separation is a discharge if:
      a. The worker had a reason for the absence,
      b. The worker intended to return to work upon a certain occurrence, and
      c. The worker tried to return to work; or
   2. The separation is a quit if:
      a. The worker did not intend to return to work, and
      b. Made no attempt to preserve the job.

**Historical Note**
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.02. Quit or Discharge; Volunteering for Layoff
When a worker’s separation is the result of the worker volunteering for a layoff or furlough due to a reduction in the work force, the Department shall determine whether a disqualification is assessed based on whether the employer or the worker initiated the action.
   1. The separation is a discharge for nondisqualifying reasons when the employer determines that a layoff is to
F. A separation is a layoff when a worker on a leave of absence applies for benefits within the suspension period and the employer acts upon the request, unless the worker establishes that the leaving was for a compelling personal reason.

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.03. Quit or Discharge; Leave of Absence
A. "Leave of absence" means an agreement between an employer and a worker in which the employer promises the worker that the employer may return to work on a particular date or when a reasonably foreseeable event occurs.
1. A leave of absence agreement may be oral or written.
2. A leave of absence may, but is not required to be, based on a collective bargaining agreement or a company policy.
B. An agreement in which an employer offers a worker only preference for rehire is not a leave of absence.
C. If a worker does not return to work at the end of a leave of absence for a definite period, the worker’s reason for not returning determines the type of separation.
D. If a worker who is on a leave of absence for a definite period asks to return to work prior to the end of the leave, and work is not available until the leave ends, the separation is for a compelling personal reason.
E. If the worker described in subsection (D) later fails to return to work when the leave period ends, and work is available, the Department shall determine that the worker separated as of the 1st working day after the leave expires and shall determine whether to assess a disqualification based on the worker's reason for not returning to work.
F. A separation is a layoff when a worker on a leave of absence tries to return to work at the end of a definite leave period, or following a foreseeable event, but the employer has no work for the worker.
G. When a worker on a leave of absence applies for benefits without 1st notifying the employer of the worker’s availability for work, the worker’s reason for not attempting to return determines the type of separation.

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.04. Quit or Discharge; Investigative or Disciplinary Suspension
A. If an employer places a worker on a suspension without pay, pending the investigation of an alleged wrongdoing or as a disciplinary action, the employer-employee relationship is presumed to continue during the suspension period unless 1 of the following events occurs during the suspension period.
1. The worker gives notice to the employer that the worker does not intend to return to work. When the reason for the leaving is because of the worker’s objection to a disciplinary action, the worker’s eligibility is determined in accordance with R6-3-50138.
2. The employer notifies the worker that the job will not be available at the end of the suspension. The Department shall determine the reason for separation based on the reason the job is no longer available.
3. The worker files a claim for benefits.
B. When a worker files a claim for benefits during the suspension period, the Department shall determine the type of separation based on the worker’s reason for filing the claim and subsections (B)(1) through (5).
1. If the suspension is for an unreasonable period of time and the worker cannot reasonably be expected to remain ready to return to work at the end of the suspension, the suspension terminates the employer-employee relationship and the worker is discharged on the date the worker was suspended and for the reason the worker was suspended.
2. If the suspension period is not unreasonable, the separation is a voluntary quit.
3. For the purpose of this rule, a suspension of 16 or more of the employer’s workdays is a suspension for an unreasonable period of time.
4. If returning to work at the end of the suspension would create an intolerable work situation for the worker, pursuant to R6-3-50513, the separation is a voluntary leaving with good cause in connection with the work.
5. If personal circumstances deemed compelling pursuant to this Article arise during the suspension, making it unreasonable for the worker to return to work, the worker leaves for compelling personal reasons not attributable to the employer.

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.05. Quit or Discharge; Corporate Officer
When a worker separates from a business in which the worker was a corporate officer, the Department shall use the following guidelines to determine whether to assess a disqualification.
1. A corporate officer who, on the officer's own accord or as a participant in a decision made by a majority of the officers, decides to sell or close the business or to otherwise separate from the corporation, leaves voluntarily. The reason for the sale or closure determines whether the corporate officer left for compelling personal reasons or had good cause for leaving.
2. If the corporation is sold because of declining income and increasing indebtedness, the corporate officer leaves voluntarily without good cause unless the corporation could not have continued.
3. If a corporate officer is forced out by a majority decision of the other officers, the corporate officer is discharged for reasons other than misconduct unless the termination was for reasons which constitute misconduct as defined in A.R.S. § 23-619.01 and Article 51 of this Chapter.

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50135.06. Quit or Discharge; Temporary Service Employer and Leasing Employer
A. If a worker separates from a temporary services employer or leasing employer, both as defined in A.R.S. § 23-614(G), after finishing work for the employer’s client, the separation is either a quit or a layoff due to lack of work.
1. If the worker has, in accordance with the temporary services or leasing employer’s rules and procedures about which the worker knew or should have known, failed to report to the employer regarding subsequent work, the separation is a quit and the Department shall determine the worker’s eligibility, in accordance with Article 50 of this Chapter.
2. If the worker reported to the employer in the manner required and the employer did not immediately refer the worker to a new assignment, the separation is a layoff for lack of work.
A. A worker may leave because of disciplinary action taken against him by his employer. He leaves without good cause in connection with the work if:
1. The event which resulted in the disciplinary action was within his control, or
2. He was responsible for the event.
B. He leaves with good cause in connection with the work if he makes a reasonable attempt to adjust his grievance prior to leaving and the disciplinary action was:
1. Discriminatory, or
2. Unreasonable, or
3. Unduly severe.

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-50136. Reserved

R6-3-50137. Reserved

R6-3-50138. Disciplinary action (V L 138)
A. A worker may leave because of disciplinary action taken against him by his employer. He leaves without good cause in connection with the work if:
1. The event which resulted in the disciplinary action was within his control, or
2. He was responsible for the event.
B. He leaves with good cause in connection with the work if he makes a reasonable attempt to adjust his grievance prior to leaving and the disciplinary action was:
1. Discriminatory, or
2. Unreasonable, or
3. Unduly severe.

Historical Note
Former Rule number -- Voluntary Leaving 150. - 150.2. Former Rule repealed, new Section R6-3-50138 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-50139. Reserved through
R6-3-50149. Reserved

R6-3-50150. Distance to Work
A. Transportation
1. When a worker quits because of transportation difficulties, it must be determined if the worker left without good cause in connection with the work, or whether the worker separated for compelling personal reasons not attributable to the employer and not warranting disqualification. Factors to be considered are:
   a. Availability of transportation, both public and private;
   b. Time, distance, and cost of travel in relation to wages paid;
   c. Customary practice of workers in claimant’s locality;
   d. Customary practice in worker’s trade;
   e. Worker’s past pattern of transportation;
   f. Relocation of work site;
   g. Adverse effect of travel on claimant’s health;
   h. Prospects of obtaining other work without serious transportation problems.
2. If a worker quits because the employer violates an agreement to provide transportation, the worker leaves with good cause connected with the work.
B. Commuting distance
1. If a worker elects to move the worker’s residence beyond reasonable commuting distance for non-compelling reasons and quits work for that reason, the worker’s leaving is without good cause in connection with the work.
2. If a worker quits because the employer moves the work premises beyond reasonable commuting distance, the worker leaves with good cause in connection with the work.

Historical Note

R6-3-50151. Reserved

R6-3-50152. Reserved

R6-3-50153. Reserved

R6-3-50154. Reserved

R6-3-50155. Domestic Circumstances
A. General
1. A worker who left work because of a domestic obligation involving a legal or moral responsibility of such a compelling nature that the worker could not disregard it left work for a compelling personal reason not attributable to the employer.
2. However, the mere existence of such a domestic obligation under subsection (A)(1) does not of itself mean that the worker was compelled to leave. If the worker had a reasonable alternative to leaving work that the worker failed to exercise, the worker left voluntarily.
B. Care of children. A worker who left work to provide care for a child may have left:
1. For a compelling personal reason not attributable to the employer, depending upon the degree of necessity for the worker to provide that care. The Department shall consider the following factors when making its determination:
   a. Child’s age,
   b. Child’s health,
   c. Home and neighborhood surroundings that might affect the child’s safety,
   d. Availability of child care arrangements, and
   e. Availability of a leave of absence for the worker; or
2. With good cause in connection with the work if:
   a. The hours of work or place of employment were changed; or
b. The employer, without valid reason, refused a leave of absence.

c. Child; d. Sibling; and 
e. Any other person with a similar relationship to the worker, including foster parent, step-child, or guardian.

G. Marriage.
1. When a worker left work to get married or because the worker has married, the leaving is voluntary and without good cause in connection with the work.
2. If the employer terminated the employment because of a company rule that prohibits continuing employment of both employees when co-workers marry, the separation is a discharge.

H. Domestic violence. Under A.R.S. § 23-771(D), if a worker left work because of domestic violence as defined in A.R.S. § 13-3601 or § 13-3601.02, the worker has left for a compelling personal reason not attributable to the employer if:
1. The circumstances required the worker to leave work and a leave of absence was not available or would have been impractical; or
2. Remaining with the employer would present a threat to the safety of the worker, the worker’s family, or co-workers and no other reasonable alternative to leaving work existed.

Historical Note

R6-3-50156. Reserved through R6-3-50189. Reserved
R6-3-50190. Evidence (V L 190)

A. General (V L 190.05)
1. Evidence is that which furnishes any mode of proof or that which is submitted as a means of learning the truth of any alleged matter of fact. This evidence is usually in the form of oral or written statements of a claimant, employer, and/or witnesses. The adjudicator must obtain all pertinent evidence reasonably available to make a non-monetary determination.
2. A claimant or employer statement, written and signed by him, is valuable as evidence. Documentary evidence, such as physicians’ statements or union by-laws and contracts, is often significant. Such evidence should be fully identified and proved authentic in order to have evidential weight.

B. Burden of proof and presumption (V L 190.1)
1. The burden of proof consists of the requirement to submit evidence of such nature that, taking all other circumstances into account, the facts alleged appear to be true. When this burden has been met, the evidence becomes proof.
2. The burden of proof rests upon the individual who makes a statement.
   a. If a statement is denied by another party, and not supported by other evidence, it cannot be presumed to be true.
A worker need not take such steps before quitting if they are impracticable or impossible, or would obviously not be fruitful.

**Historical Note**
Former Rule number -- Voluntary Leaving 210. Former Rule repealed, new Section R6-3-50210 adopted effective January 24, 1977 (Supp. 77-1).

A. General (V L 235.05)
1. Leaving work due to health or physical conditions may be for:
   a. Compelling personal reasons; or
   b. Good cause in connection with the work.
2. A contention that a leaving is for reasons of health or physical conditions must be substantiated. Supporting evidence may be:
   a. Doctor’s statement; or
   b. Employer or witness statement; or
   c. Adjudicator’s observation.
3. All separations from work caused by illness or physical disability raises a question of ability to work. This issue should be investigated and determined under R6-3-52235.

B. Illness or injury (V L 235.25)
1. A worker who quits because his health or physical condition is adversely affected by the conditions of work must make a reasonable effort to correct the situation to avoid disqualification, unless efforts to correct the situation would be impossible or impractical. A reasonable effort might include:
   a. Requesting a leave of absence to recover.
   b. Requesting transfer to other duties which are not detrimental to his health.
   c. Requesting that unfavorable working conditions be corrected.
2. A worker would leave with good cause connected with his work if:
   a. The injury or impairment of health was caused by working conditions which are substantially less favorable than those prevailing for similar work in the area; or
   b. The job becomes too strenuous due to a change in working conditions placed in effect by the employer after the worker has established his ability to do the work for which he was hired.
3. A worker leaves for compelling personal reasons not attributable to the employer if:
   a. The work aggravates a health or physical condition which existed prior to the claimant’s acceptance of the job; or
   b. His services are terminated as a result of compensable industrial injury, unless such injury was caused by working conditions substantially less favorable than those prevailing for similar work in the area; or
   c. He is absent because of illness or injury, which fact he has reported to the employer, and during his absence he is replaced. Exception: If the disability lasts for seven working days or less and the worker is replaced, the finding shall be that the claimant was discharged for nondisqualifying reasons.
4. As a general rule the worker who quits because of a physical handicap which makes his work too difficult for him leaves for a compelling personal reason not attributable to the employer. The determination depends upon the extent to which the worker is handicapped or to which the physical handicap increases his risk of injury or illness. Among the factors to consider are:
   a. Did the worker give the job a fair trial?
   b. Did he request a transfer to other work which he could perform?
   c. Is the work suitable, considering the worker’s health and safety?

**Historical Note**
Former Rule number -- Voluntary Leaving 210. Former Rule repealed, new Section R6-3-50210 adopted effective January 24, 1977 (Supp. 77-1).
5. If the employer changes the conditions of work, making it unsuitable for the handicapped worker, he leaves with good cause in connection with the work.

C. Pregnancy (V L 235.4)
   1. A woman who quits work because of pregnancy leaves voluntarily without good cause if the work was within her physical limitations.
   2. A woman who quits because her work became too difficult due to her pregnancy separates for a compelling personal reason provided that she had no reasonable alternative such as:
      a. Taking time off to recover from a minor spell of inability such as morning sickness.
      b. Transfer to less strenuous work.
   3. A woman who quits because the employer changes her work assignments so that the work is too difficult for her to perform due to her pregnancy, leaves voluntarily with good cause in connection with the work.
   4. A woman who is required by her employer to leave employment due to pregnancy, whether or not there is an employer rule requiring such separation, is discharged from employment. Such cases shall be considered under R6-3-51235.

D. Risk of illness or injury (V L 235.45)
   1. If a claimant quits because of an established risk to his health or safety, he leaves with good cause in connection with the work. Such risk might be shown by the employer’s failure to comply with government requirements concerning sanitation, temperature, ventilation, or safety regulations. This is a question of fact which should be determined upon information from appropriate governmental authorities.
   2. Standard and legally acceptable conditions of the industry may present undue risks to the health or safety of an individual because of some health problem peculiar to him. Such a leaving is for a compelling personal reason. Refer to R6-3-5005(C) and R6-3-50235(B).
   3. A worker may leave employment merely because he fears that his health and physical well being are endangered.
      a. Such a fear generally does not provide good cause for leaving unless the conditions of the work are substantially less favorable than those prevailing for similar work in the area. Refer to R6-3-50235(B) and R6-3-50515(D).
      b. The leaving must be rested for good cause. Refer to R6-3-50210.

Historical Note

R6-3-50230. Reserved through
R6-3-50304. Reserved
R6-3-50305. Repealed

R6-3-50345. Retirement
A. Except as otherwise provided in subsection (B) and R6-3-50135.02, a worker who chooses to retire from employment leaves voluntarily without good cause in connection with the employment.

B. If a worker retires for health reasons, the Department shall determine whether the worker left for good cause in connection with the employment or for a compelling personal reason not attributable to the employer as prescribed in R6-3-50235.

Historical Note
Former Rule number -- Voluntary Leaving 345. Former Rule repealed, new Section R6-3-50345 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-50346. Reserved through
R6-3-50359. Reserved
R6-3-50360. Personal affairs (V L 360)
An individual who quits work to care for personal affairs generally leaves voluntarily without good cause in connection with his employment. However if the personal circumstances are so compelling or burdensome that the claimant has no reasonable alternative to quitting, his leaving is for compelling personal reasons. Leaving to care for personal affairs may involve business matters, settlement of an estate, a lawsuit, divorce proceedings, etc.

Historical Note
Former Rule number -- Voluntary Leaving 360. Former Rule repealed, new Section R6-3-50360 adopted effective January 24, 1977 (Supp. 77-1).
Leaving part-time work to accept full-time work (VL 365.42)

C. B. Leaving to enter self-employment (VL 365.3). A worker who quits to enter self-employment leaves voluntarily without good cause in connection with his work.

D. Leaving full-time work to accept part-time work (VL 365.43)

1. A worker who has no objection to the work he has been doing, but no definite offer, leaves voluntarily without good cause in connection with his work.

2. A leaving to accept employment that would clearly better the claimant’s economic or personal circumstances or working conditions, is for a compelling personal reason.
   a. If the prospective employment fails to materialize because of circumstances beyond the control of the claimant the determination on the leaving would remain the same.
   b. The claimant’s statement that he left to accept other work is questionable when there is an unreasonable time lapse between the two jobs. This point may be decisive in determining whether or not the claimant left for a compelling personal reason.

3. A quit because the claimant objects to some aspect of the work he has been doing should be considered with reference to the appropriate Benefit Policy rule.

B. Leaving to enter self-employment (VL 365.3). A worker who quits to enter self-employment leaves voluntarily without good cause in connection with his work.

C. Leaving part-time work to accept full-time work (VL 365.42)

1. Workers who leave part-time work to accept full-time work usually leave for compelling personal reasons not attributable to the employer.

2. Workers who leave part-time work to accept full-time work when the hours and earnings have been reduced by the employer from full-time to part-time work, leave with good cause connected with the work.

D. Leaving full-time work to accept part-time work (VL 365.43)

1. A worker who leaves full-time work for part-time work merely because of a preference for part-time work leaves without good cause in connection with his work.

2. A worker who leaves full-time work for part-time work leaves for compelling personal reasons not attributable to his employer if:
   a. It can be shown that personal circumstances or health reasons compelled the change; or
   b. He quits unsuitable full-time work to accept part-time work for which he is qualified.

Historical Note

R6-3-50386. Reserved through R6-3-50388. Repealed

Historical Note

R6-3-50441. Reserved through R6-3-50449. Reserved

R6-3-50450. Time (VL 450)

A. General (VL 450.05)

1. As discussed in this section time refers to hours, or days of work, whether it be part time or full time, irregular or excessive, shift work or temporary work, and definite or indefinite dates.

2. When time is an issue it is advisable to obtain verification of exact hours, days or dates worked.

3. A worker who leaves his job for any reason involving time would be expected to attempt to adjust his grievance prior to leaving if such attempt was feasible.

B. Days of week (VL 450.1)

1. A worker may elect to leave his job because he objects to working a particular day or days of the week. Normally a worker will object to working on Saturday or Sunday because recreational and religious activities usually are centered on these days.
   a. Objection to working Saturday or Sunday because of inconvenience does not constitute good cause for leaving unless it creates a work week which is excessive or interferes with activities determined to be compelling.
   b. If a worker objects to working on Saturday or Sunday because of compelling religious reasons, his leaving will be for a compelling personal reason.

2. A worker leaves because he is working only a limited number of days a week, he leaves without good cause unless his work schedule or the employer’s stand-by requirements unreasonably interferes with a search for full time employment.

C. Hours (VL 450.15)

1. General (VL 450.151)
   a. A worker who leaves because of a reasonable objection to his hours would leave with good cause in connection with his work.
   b. Any legislation such as maximum hour provisions for certain individuals or occupations must be taken into consideration in the determination.

2. Irregular hours (VL 450.152)
   a. A worker who leaves his job because his employer refuses his request for irregular hours generally leaves without good cause. If refusal of his request results in the worker having no reasonable alterna-
F. Layoff imminent (V L 450.25). A worker who leaves a job because he is required to work nights generally leaves without good cause if he can establish that his working hours were excessively affecting his health or so restricting his domestic life that he had no reasonable alternative to leaving, his leaving will be for a compelling personal reason.

b. Leaving because of objection to short hours is normally disqualifying unless restrictions imposed by the employer prevent the worker from looking for full time work during his off duty hours.

4. Night work (V L 450.154)
   a. A worker who leaves because he is required to continue to work nights generally leaves without good cause. If he can establish that his working hours were adversely affecting his health or so restricting his hours over an extended period of time and these hours unreasonably restrict his ability to maintain a normal private life, he leaves for good cause.
   b. Leaving because of objection to short hours is normally disqualifying unless restrictions imposed by the employer prevent the worker from looking for full time work during his off duty hours.

5. Prevailing standard (V L 450.155). A worker should not be disqualified for leaving work in which the hours are significantly in excess of the prevailing hours for similar work in the locality.

D. Irregular employment (V L 450.2). A worker who leaves his job because employment is irregular leaves without good cause if he can seek work during his time off. If a worker is in an isolated area which offers little or no prospects of full time work, and his hours have been substantially reduced, his leaving is for good cause if he leaves to seek work elsewhere.

E. Layoff imminent (V L 450.25). A worker who leaves a job prior to the effective date of a definite layoff leaves without good cause, if the layoff is the reason for leaving, unless he has a definite offer of new work.

F. Leave of absence or holiday (V L 450.3)
   1. When a worker leaves a job because he is refused a leave of absence or time off from the job, the adjudicator must consider the urgency of the worker’s request and the effect the absence would have on the employer. If the claimant establishes that he was compelled to take time off and was refused, his leaving is not disqualifying.
   2. A leaving because a worker was required to work on a particular holiday is disqualifying unless it is shown that he was discriminated against in the assignment of holiday work.

G. Overtime (V L 450.35)
   1. The worker who quits his job because his employer refuses his request for overtime work leaves without good cause unless:
      a. He can establish that the employer violated an agreement to provide him with overtime, or
      b. He can establish that he has been discriminated against in the assignment of overtime work.
   2. Occasional overtime work at the request of the employer does not constitute good cause for quitting even though overtime wages are not paid. However, many employers are required by legislation to pay overtime rates for overtime worked. Their failure to do so would constitute good cause for leaving.
   3. Usually leaving because of required overtime, which is compensated for at overtime rates, is a disqualifying separation, unless it is shown that the overtime was discriminatory or unreasonable.

H. Part time work (V L 450.4). A worker who leaves part time work because of a desire to seek full time work leaves without good cause, unless the circumstances of the part time employment prevent him from seeking full time work during his non-working hours.

I. Shift work (V L 450.5). Leaving work because of an objection to working a particular shift is disqualifying unless it is shown that:
   1. The employer discriminated against the worker in assigning the shift, or
   2. The worker is unable to work the shift for a compelling reason.

Historical Note
Former Rule number - Voluntary Leaving 450. - 450.5. Former Rule repealed, new Section R6-3-50450 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 22, 1979 (Supp. 79-2).

R6.3-50451. Reserved through
R6.3-50474. Reserved
R6.3-50475. Union relations (V L 475)

A. Agreement with employer (V L 475.1). A Collective Bargaining Agreement is an agreement between employer(s) and an organized group of workers which covers reciprocally agreed conditions of work.
   1. The violation of a Collective Bargaining Agreement by either the employer or employee except in cases involving application of the labor dispute resolution provision under A.R.S. § 23-777 is merely a breach of an obligation to abide by the terms of the agreement.
   2. A violation of a bargaining agreement by an employer would not necessarily provide a worker with a good cause for leaving under the provisions of the Employment Security Law of Arizona. Good cause in connection with the work would be found if:
      a. The employer’s action caused or would cause the claimant to suffer a substantial hardship or possible physical injury; or
      b. The claimant can establish that continuation of the employment would result in penalty by his union which would be detrimental to him in obtaining other work.
   3. Leaving work because of alleged violations of a bargaining agreement concerning wages, hours, or working conditions should be adjudicated under the appropriate section of these rules.
   4. In any case, failure by the claimant to attempt to adjust his grievance through the grievance procedure of his union would preclude a finding of good cause.

B. Refusal to join or retain membership in union (V L 475.6)
   1. A worker who has separated from work because of his refusal to join or retain membership in a union in a state which does not have a “right-to-work” law will have left work voluntarily without good cause in connection with the work when:

June 30, 2018 Page 62 Supp. 18-2
Title 6, Ch. 3  
Arizona Administrative Code  
6 A.A.C. 3

Department of Economic Security - Unemployment Insurance

A. General (V L 500.05)

1. A leaving because of dissatisfaction with wages usually involves one of the following situations. For a discussion of specific wage issues refer to the indicated section of these policy rules.

   a. Agreement concerning wages (R6-3-50500(B))
   b. Failure or refusal to pay (R6-3-50500(C))
   c. Piece rate or commission basis (R6-3-50500(F))
   d. Prevailing wage (R6-3-50500(G))
   e. Reduction in rate of pay (R6-3-50500(H))

2. A worker is generally aware of the rate of pay prior to accepting a job. If he accepts employment at a specified wage, he cannot thereafter establish good cause for leaving because he becomes dissatisfied with his wages. This is true even though his rate of pay is substantially below prevailing for similar work. Good cause for leaving can be shown only if the rate of pay is below the legal minimum.

3. A worker who leaves because of dissatisfaction with his wage must make a reasonable effort to adjust his grievance prior to quitting in order to establish good cause.

B. Agreement concerning wages (V L 500.1)

1. An agreement concerning wages shall be considered to exist when a worker was informed about his rate of pay or failed to make an attempt to ascertain his wage rate when he accepted a job, and the worker is bound by the agreement. The wage agreement is no longer binding upon him, however, if the employer changes other conditions of employment sufficiently to constitute “new work”. See R6-3-50315.

2. When an agreement concerning wages exists, a worker who leaves work solely because of dissatisfaction with the wage rate shall be disqualified for voluntarily leaving without good cause unless his rate of pay is below the legal minimum.

3. If the employer failed to inform the claimant of his rate of pay as requested at the time of hire, or the claimant is misinformation about his wage rate by an employment agency or agent, good cause for leaving may be established, if

   a. The rate of pay makes the work unsuitable in accordance with R6-3-53500(B); and
   b. He took action to adjust his grievance immediately upon learning the actual wage rate.

4. The employer’s failure to abide by a wage agreement does not necessarily establish good cause for quitting work. See R6-3-50500.H.

C. Failure or refusal to pay (V L 500.3)

1. A claimant would have good cause for quitting if the facts clearly establish that his employer willfully refused to pay him wages that were actually due, provided that he first made a reasonable attempt to adjust his grievance.

2. A worker has the right to receive his wage in the proper amount and when due. It would be unreasonable to expect him to continue working unless he is reasonably certain of being paid for his services. Thus a claimant would leave with good cause connected with his work, when:

   a. The employer is repeatedly late paying his wages;
   b. The claimant is repeatedly paid with checks drawn on insufficient funds even if restitution is made.

3. Isolated instances of late payment of wages, or payment of wages with a bad check when prompt restitution is made will not establish good cause for leaving.

4. A worker who quits because his employer deducts certain amounts from his wages to cover shortages, breakages, etc., leaves without good cause connected with the work if such deductions were made pursuant to a prior agreement, even though the claimant may not be at fault, provided the size of the deduction is reasonable. It would be unreasonable for an agreement or contract to require a deduction greater than 25% of a claimant’s net wages from a single paycheck.

5. In the absence of a prior agreement between the claimant and the employer permitting such deductions, leaving with good cause in connection with the work will depend upon whether the employer has acted reasonably. If the facts establish that the claimant is guilty of willful or culpable negligence in connection with the cash shortages or breakage which lead to the deduction, the employer is considered to have acted reasonably, provided the size of the deduction is reasonable. It would be unreasonable for an employer to deduct more than 25% of a claimant’s net wages from a single paycheck.

6. For the purposes of this regulation, net wages means gross wages less mandatory deductions.

7. If the employer makes deductions for shortages or breakage not authorized by the prior agreement, and the facts do not establish that the claimant is guilty of either willfulness or negligence, a claimant would have good cause for quitting unless the employer had refunded the deduction.

D. Increase refused (V L 500.4)

1. A worker who quits solely because his employer has refused to grant him a pay increase leaves work voluntarily without good cause in connection with his employment, unless:

   a. He has been assigned more responsible duties normally carrying a higher rate of pay for longer than a temporary short period of time; and
2. He attempted to adjust his grievance before leaving.

E. Living or low wage (V L 500.45). When a claimant has left his employment because of low wages or because he contends his wages do not constitute a living wage, the adjudicator should give first consideration to the prevailing rate R6-3-50500(G), and if applicable to piece rate or commission R6-3-50500(F).

F. Piece rate or commission (V L 500.65)
   1. In resolving separation issues for commission or piece rate worker’s the adjudicator must determine whether the claimant left his job because he was personally unsuccessful, or because the employer’s requirements or the conditions of work provided by the employer would have caused the average worker with proven ability to be unsuccessful.

2. Generally, at the time of hire the employer will provide the commission or piece rate worker with a reasonable approximation of the amount of wages he can expect to earn while on the job. If the employer entices a worker to accept employment by quoting completely unrealistic potential earnings, or providing misleading wage information, and the worker’s actual wages are disproportionately low, he would have good cause for leaving.

3. An employer will be considered to have furnished misleading wage information when he indicates that the worker can expect to earn more than 10% in excess of the average wage of the other employees doing the same work on the same basis as the claimant.

4. A worker’s wages will be considered disproportionately low, if, after giving the work a fair trial, his average weekly earnings are substantially below the average weekly wage of his employer’s other workers. The adjudicator will consider only those workers who did the same type of work and were paid on the same basis as the claimant. The period of time on which this average is based should as nearly as possible include a full cycle of the employer’s business to avoid distortions created by seasonal fluctuations.

5. The commission or piece rate worker would leave for compelling personal reasons not attributable to the employer; if
   a. The employer provides the worker with a reasonable appraisal of the amount of wages he can expect to earn on the job but the worker’s wages are disproportionately low because of personal inability to produce or sell; or
   b. The employer did not discuss potential earnings with the worker before hire, or the adjudicator is unable to determine the approximate wages discussed, and his wages are disproportionately low.

6. The worker leaves voluntarily without good cause when it is established that his low earnings are a result of his failure to:
   a. Devote necessary time and effort to his work; or
   b. Follow reasonable instructions of his employer; or
   c. Give the work a fair trial.

7. Determining if a worker devoted the necessary time and effort to a job or if he failed to follow reasonable instructions of his employer should not be unduly difficult. However, a determination as to whether a worker has given the work a “fair trial” is sometimes difficult. Several factors must be considered, such as:
   a. Whether the claimant had actual or related experience in the type of work before accepting the job. Generally, the more extensive the prior experience, the shorter the time necessary to achieve success in the new job.
   b. The length of time required to attain proficiency, or to develop contacts or leads necessary to result in average earnings in the occupation. For example, selling appliances may require much less time in developing leads than selling insurance.
   c. The financial strain which would have been created for the claimant had he attempted to continue. For example, 2 or 3 months with little or no income would create an impossible situation for many workers even though they might have achieved success within 6 months.

G. Prevailing wage (V L 500.7). A claimant who leaves work solely because his wage is below the prevailing wage shall be disqualified for voluntarily leaving without good cause in connection with the work if he agreed to the wage when he accepted the job unless his rate of pay is below the legal minimum.

H. Reduction in wages (V L 500.75)
   1. General (V L 500.751). Under the ordinary employment relationship, there is neither an express nor implied agreement that the employer will not reduce wages.
   2. A claimant who quits solely because his wages were reduced shall be disqualified for leaving work voluntarily unless he attempted to adjust his grievance prior to leaving and:
   a. The wage rate is reduced to an amount which is below the legal minimum, or which would make the work unsuitable in accordance with the refusal of work portion of these rules; or
   b. The employer arbitrarily reduced the wages as a means of discriminating against the worker, even though the reduced wage is not below the prevailing rate. Arbitrarily reduced means the reduction was substantial or disproportionate and not generally applied.

   Historical Note

R6-3-50501. Reserved
R6-3-50502. Reserved
R6-3-50503. Reserved
R6-3-50504. Reserved
R6-3-50505. Repealed

   Historical Note
   Former Rule number -- Voluntary Leaving 505. Former Rule repealed, new Section R6-3-50505 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-50506. Reserved through
R6-3-50514. Reserved
R6-3-50515. Working conditions (V L 515)
A. General (V L 515.05)
   1. The term “working conditions” includes all aspects of the employer-employee relationship, but in this Section it will be confined to environmental conditions such as light, sanitation, fellow-employees, etc.
   2. A worker who leaves because of dissatisfaction with working conditions, must show that one or more of these conditions are substantially below those prevailing in the
area for similar work. Mere dislike, distaste, or inconvenience created by small variations in working conditions will not establish good cause for leaving work. The determination generally will turn on a comparison of the claimant’s actions with the degree of tolerance the normal worker would be expected to exercise before leaving under the same conditions.

3. When an employer imposes unreasonable demands or working conditions which force a worker to terminate his employment, the worker would leave with good cause.

4. Before good cause or a compelling personal reason for leaving can be established, a worker must have attempted to adjust his grievance prior to leaving unless such an attempt was not feasible.

B. Apportionment of work (V L 515.2)
1. An employer may reasonably alter or add to the job duties of an employee from time to time. Unless these changes render the work unsuitable, this is not good cause for leaving. Occasional emergency assignments do not establish good cause.

2. Assignment of more work to one employee than another in the same classification does not in itself establish good cause for leaving. It may be good cause if:
   a. The assignment is unreasonably difficult; or
   b. The assignment of work was made on a discriminatory basis.

C. Fellow employee (V L 515.4)
1. A worker who leaves because of inharmonious relations with a fellow employee leaves with good cause if he is established that the conditions were so unpleasant that remaining at work would create an intolerable work situation for him.

2. In determining whether a situation is intolerable, the following factors should be considered:
   a. Would continued employment create a severe nervous strain or result in a physical altercation with the other employee?
   b. Was the worker subjected to extreme verbal abuse or profanity? The importance of profane language as an adverse working condition varies in different types of work.

3. A physical attack by a fellow-employee would be good cause for leaving if the claimant was clearly not at fault, unless the employer had taken reasonable steps to avoid a recurrence.

D. Prevailing conditions for similar work in the area (V L 515.55)
1. A worker who establishes that the actual conditions of his job were substantially below the prevailing standards in the area, leaves for good cause.

2. It will often be difficult to compare conditions in one establishment against those prevailing in the area for similar work. The adjudicator, in making his determination, may want to refer to such information as:
   - union contracts
   - state or federal law
   - public health regulations

3. If the conditions are not substandard, but yet create an undue hardship on the individual worker, he leaves for a compelling personal reason not attributable to the employer.

E. Production requirement or quantity of duties (V L 515.6)
1. A worker who leaves because of the employer’s production requirements leaves without good cause if these requirements are reasonable. The following factors should be considered in determining reasonableness:
   a. Are the production requirements creating a condition substantially below those prevailing in the area?
   b. Are the requirements reflected equitably in the worker’s wages?
   c. Are the requirements discriminatory? See R6-3-50515(B).

2. When a worker who leaves because he cannot, for some personal reason, meet an employer’s work requirements, the adjudicator must consider the appropriate Section of these rules relating to his specific reason for leaving.

F. Supervisor (V L 515.8). When a worker leaves his job for any reason involving his relations with a supervisor, the adjudicator will apply the same considerations that apply to relations with a fellow employee; see R6-3-50515(C).

Historical Note
Former Rule number -- Voluntary Leaving 515 - 515.8.
Former Rule repealed, new Section R6-3-50515 adopted effective January 24, 1977 (Supp. 77-1).

ARTICLE 51. DISCHARGE BENEFIT POLICY

R6-3-5101. Reserved
R6-3-5102. Reserved
R6-3-5103. Reserved
R6-3-5104. Reserved
R6-3-5105. General (Misconduct)

A. Misconduct
1. The following constitute misconduct sufficient to disqualify a worker from receipt of unemployment insurance benefits pursuant to A.R.S. § 23-775(2):
   a. An act of wanton or willful disregard of the employer’s interest;
   b. A deliberate violation of the employer’s rules;
   c. A disregard of standards of behavior that the employer has the right to expect of an employee; or
   d. Negligence to such a degree, or a recurrence of negligence that:
      i. Manifests culpability, wrongful intent, or evil design; or
      ii. Shows an intentional and substantial disregard of the employer’s interest or of the employee’s duties and obligations to the employer.

2. A worker does not need to have intended to wrong the employer for the Department to find misconduct connected with the work. Misconduct may be established if there is:
   a. Indifference to and neglect of the duties required of the worker by the contract or terms of employment; or
   b. A material breach of any material lawful duty required under the employment contract or terms of employment, when the employer expressly or impliedly sets forth the duty to the worker and the facts show the worker should have reasonably been able to avoid the situation that brought about the discharge.
      i. In determining whether a worker should have been reasonably expected to have avoided the situation that caused the discharge, the Department shall consider the worker’s knowledge of the worker’s responsibilities through past experience, explanations, warnings, or other similar occurrences.
      ii. The Department shall evaluate the materiality of a duty and the materiality of the breach of
B. Discharge for a compelling personal reason not attributable to the employer.
   1. The Department ordinarily restricts the determination of a separation from work for compelling personal reasons not attributable to the employer to circumstances that have no direct relationship to a worker’s employment and the worker left employment for a cause beyond the worker’s control. However, the Department may make a determination that the worker was discharged for a compelling personal reason not attributable to the employer when the employer discharged the worker under subsections (B)(2), (3), and (4).

2. The Department may determine that the worker was discharged for a compelling personal reason not attributable to the employer when:
   a. The employer had no reasonable alternative but to discharge the worker; and
   b. One or more of the following circumstances is present:
      i. The worker was discharged because of an absence due to incarceration that is determined not to be misconduct under R6-3-5115(E)(1);
      ii. The worker was discharged because of a physical or mental condition that might have endangered the worker’s own safety on the job or the safety of others, such as epilepsy or active tuberculosis; or
      iii. The worker was discharged because the worker was unable to properly perform the work due to a physical or mental condition; or
      iv. The worker was discharged because the employer entered into an agreement with another party, other than the worker, that would result in a violation by the employer of a federal or state law if the worker were retained in employment.

3. The Department shall determine that a discharge was for a compelling personal reason not attributable to the employer when a worker was discharged because of events beyond the worker’s reasonable control as a result of the worker being a victim of domestic violence, as defined in A.R.S. §§ 13-3601 and 13-3601.02. Examples of such events are the worker receiving unsolicited phone calls, unauthorized visitors, or other types of harassment at the work place.

4. The Department shall determine that a discharge was for a compelling personal reason not attributable to the employer if:
   a. The worker’s employment was terminated because the worker’s employer was called into active duty in the military; or
   b. The worker’s employment was terminated because a former employee of the employer returned to work for the employer after having been called into active duty in the military, displacing the worker.

Historical Note
D. Reasons for absence (Misconduct 15.2)

1. A claimant who is discharged due to absences beyond his control such as illness, accident, unavoidable delay in transportation, urgent domestic responsibilities and the like is discharged for reasons other than misconduct. Even repeated absences for these causes are not deemed to be misconduct if the facts indicate the absence could not have been avoided. However, failure to give notice of such absences may constitute misconduct. Failure to give notice is discussed in R6-3-5115(B), “Notice.”

2. Absence from work due to reasonably pressing domestic circumstances is not misconduct when proper notice is given. For example: serious illness or death of a close relative is deemed of such pressing circumstances as to justify the absence.

3. A claimant’s discharge is considered to be for misconduct connected with his work when he is discharged because of an absence from work; when
   a. He is absent for a capricious reason; or
   b. He is absent for causes he does not substantiate, or gives no excuse for; or
   c. He is absent from work due to intoxication.

E. Absence due to incarceration (Misconduct 15.25)

1. A discharge for absence due to incarceration is disqualifying when:
   a. The claimant did not properly notify, or failed to make a reasonable effort to properly notify the employer of his absence; or
   b. The evidence clearly indicates that the claimant could have avoided his incarceration by the payment of a fine; or
   c. The claimant was incarcerated for a second time while working for his last employer; or
   d. The claimant was confined for a period in excess of 24 hours, and the available evidence tends to establish that he committed the offense for which he was confined.

2. A claimant who is discharged because of an absence or failure to give notice due to incarceration is separated from work for a compelling personal reason not attributable to his employer when the separation is determined not to be misconduct under rule R6-3-5115(E)(1).

3. If a claimant was discharged because of the offense which caused his incarceration the determination should be based on rule R6-3-51490, “Violation of law”.

Historical Note
A worker who is discharged for engaging in a business, whether or not it is his own, that is in competition with the employer is discharged for disqualifying reasons. Even though he may be performing the work on his own time, if it is work which could have been performed by the employer, his actions are a disregard of the employer’s interests.

Misconduct may be indicated when an employee recommends a competitor of his employer to a customer who desires a service or product the employer can furnish.

If an employer has an established rule which prohibits salesmen from carrying a competing line of merchandise, violation of such rule constitutes misconduct.

Damage to equipment or materials (Misconduct 45.25)

If a worker causes damage to, or creates a situation of potential damages to an employer’s property, equipment or materials through indifference or carelessness, misconduct may be established.

While minor instances of carelessness or negligence may not amount to indifference, repetition, especially after warning(s) establishes a disregard of the employer’s interest and constitutes misconduct connected with the work. For a further discussion of negligence and accidents see R6-3-51300 and R6-3-51310.

Disloyalty (Misconduct 45.3)

Disloyalty is misconduct when manifested by acts or omissions by a worker which establish a breach or the obligations owed his employer.

Conspiring with fellow employees or others to cause damage or loss or ignoring a duty to act to prohibit loss or dam age to the employer is disloyalty and is disqualifying.

Knowing, speaking or demonstrating against the employer’s product(s) or operation in a manner which could adversely affect the confidence of customers or damage the reputation of the employer constitutes a disregard of the employer’s interest.

Security clearance (Misconduct 45.32). A worker discharged because he cannot be cleared by the employer for access to classified security information which is required for the job is deemed to have been discharged for misconduct connected with the work if he knew or could reasonably be expected to know that clearance would be required and intentionally gave false or misleading information, or knowingly failed to disclose information that might affect his security clearance.

Indifference (Misconduct 45.35)

Normally a worker’s lack of interest in the plans, purpose, or goals of his employer is not misconduct if the worker performs his own duties in a generally satisfactory manner.

A worker who is discharged because he is not interested in or is considered not suited for promotion is not discharged for misconduct.

Isolated acts of inefficiency, inability, errors in judgment or discretion, as well as single acts of ordinary negligence, do not establish indifference to a degree that warrants a finding of misconduct. Only when such indifference amounts to a serious neglect of the duties and responsibilities assigned to the worker would misconduct be indicated. In determining when neglect shows a degree of indifference warranting disqualification, the nature of the neglect, the number of instances of neglect, the worker’s understanding of his duties as pointed out through expressed rules, warnings, etc., must be considered. See R6-3-51310.

Injury to employer through relations with patron (Misconduct 45.4)

It is of unusual importance to employers, who rely on public acceptance of their products or service, to have their employees serve the public in such a manner that the customer is pleased.

It should be remembered, however, that in constantly dealing with the public, some friction will occur. Although an employer may well adopt the attitude that in such frictional situations the customer is always right, this is not necessarily so. Thus, an employee discharged because of some disagreement with a customer, is generally not to be disqualified unless he has allowed himself to act out of all proportion to the cause of the dispute.

Historical Note

Former Rule number Misconduct 45. - 45.4. Former Rule repealed, new Section R6-3-5145 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-5146. Reserved through R6-3-5184. Reserved

R6-3-5185. Connected with work (Misconduct 85)

A disqualification for misconduct is assessed only when a claimant’s discharge is determined to be in “connection with the work.” Any action by a worker in the course of his duties, or committed on the employer’s premises during working hours is connected with the work.

B. Generally, what a worker does when he is off work is of no concern to the employer and the employer has no basis for holding him accountable for his off-duty conduct. However, when a worker’s off-duty conduct bears such a relationship to his job as to render him unsuitable to continue in his job because of the adverse affect it would have on the employer’s operation, such off-duty action would be connected with the work.

C. If an employee’s duties and responsibilities are such that his actions while off-duty may adversely affect the reputation, public trust, or confidence on which his employer’s business is dependent his off-duty misconduct may be connected with the work.

D. Adjudicators should refer to the following sections of the Policy rules for guidance on specific off-duty conduct issues:

- Absence due to incarceration R6-3-5115(E)
- Intoxicants and use of intoxicants R6-3-51270
- Garnishment R6-3-51485(B)
- Violation of law R6-3-51490

Historical Note

Former Rule number Misconduct 85. Former Rule repealed, new Section R6-3-5185 adopted effective January 24, 1977 (Supp. 77-1). Amended subsection (D) effective July 9, 1980 (Supp. 80-4).

R6-3-5186. Reserved through R6-3-51134. Reserved

R6-3-51135. Repealed

Historical Note

Former Rule number Misconduct 135. - 135.35. Former Rule repealed, new Section R6-3-51135 adopted effective January 24, 1977 (Supp. 77-1). Section repealed effective July 22, 1997 (Supp. 97-3).
A claimant who is discharged for falsification of work or time records is discharged for misconduct. A claimant who is discharged for retaining company funds to which the claimant honestly believes the claimant is entitled, and makes adjustment or restitution upon notification, is discharged for reasons other than misconduct relating to such funds. A claimant who is discharged for retaining company property to which the claimant honestly believes the claimant is entitled, and makes adjustment or restitution upon notification, is discharged for reasons other than misconduct relating to such company property.

A claimant who is discharged for knowingly misappropriating company funds is discharged for misconduct related to employment. A claimant who is discharged for misappropriating company property, or conversion of the employer’s property or theft is discharged for misconduct connected with employment.

B. Burden of proof and presumption (Misconduct 190.1)

1. The burden of proof consists of the requirement to submit evidence of such nature that, taking all other circumstances into account, the facts alleged appear to be true. When this burden has been met, the evidence becomes proof.

2. The burden of proof rests upon the individual who makes a statement.

a. If a statement is denied by another party, and not supported by other evidence, it cannot be presumed to be true.

b. When a discharge has been established, the burden of proof rests on the employer to show that it was for disqualifying reasons. This burden may be discharged by an admission by the claimant, or his failure or refusal to deny the charge when faced with it.

c. An employer who discharges a worker and charges misconduct but refuses or fails to bring forth any evidence to dispute a denial by the claimant does not discharge the burden of proof. It is important to keep in mind that mere allegations of misconduct are not sufficient to sustain such a charge.

C. Weight and sufficiency (Misconduct 190.15)

1. Evidence must be evaluated during the course of adjudication to determine whether it is sufficient to make a decision. Sufficiency is reached when further rebuttal or circumstantial evidence will not alter the conclusions of the adjudicator.

2. When sufficient evidence has been obtained, all the facts available must be weighed. Only relevant evidence can be considered.

a. Unsupported oral statements may be outweighed by documentary evidence from disinterested third parties.

b. Specific detailed facts must be given more credence than general statements.

c. Credible testimony of an eye witness must be given more credence than general statements.

3. When the evidence, in its entirety, is evenly balanced, or weighs in favor of the claimant, misconduct has not been established and no disqualification is in order. When there is conflicting evidence, but the adjudicator concludes that the weight of evidence supports the employer’s allegations, he should hold that the claimant was discharged for misconduct.

Historical Note

Former Rule number Misconduct 140. - 140.25. Former Rule repealed, new Section R6-3-51140 adopted effective January 24, 1977 (Supp. 77-1). Amended as an emergency effective August 1, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). Former emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Amended effective December 20, 1995 (Supp. 95-4). Amended by final rulemaking at 24 A.A.R. 1417, effective June 19, 2018 (Supp. 18-2).
Inefficiency caused by the off-duty use of intoxicants may be

Absences or tardiness caused by off-duty intoxication or its
effects on the employer’s premises under the influence of intoxicants,
a disregard of the employer’s interest may be established.

A discharge for intoxication off the job is not disqualifying
when a worker knowingly fails to exercise ordinary care
in the performance of his duties.

“Ordinary care” means that degree of care which persons
of ordinary prudence are accustomed to exercise under
the same or similar circumstances, having due regard to
his or others’ rights and safety and to the objectives of the
employer. This standard is general and application will
vary with the circumstances. For example, the ordinary
care expected of a precision engineer will vary consider-
ably from the care expected of a ditch digger. The accepted
standard of performance establishes what is
ordinary care.

This does not mean that every claimant discharged
because of unsatisfactory work performance is subject to
disqualification. In the absence of gross carelessness or
negligence, or recurrence of ordinary carelessness or neg-
ligence, the claimant’s failure to perform his work
properly is presumed to be attributed to good faith error in
judgment, inability, incapacity, inadvertence, etc. A con-
scientious employee may be unable to perform his duties
to the satisfaction of his employer because of limited
mental capacity, inexperience, or lack of coordination. If
such person is discharged for unsatisfactory work his dis-
charge is not for misconduct.

Accident (Misconduct 300.1)

1. Accident is defined as “an event that takes place without
one’s foresight or expectation.” A worker is expected to
exercise that degree of ordinary care in proportion to the
danger(s) inherent in the activity in which he is engaged.

2. When a worker fails to exercise ordinary care and an
accident occurs, it establishes his negligence. The degree
of negligence will determine whether there is miscon-
duct. In determining the degree of negligence, the follow-
ing should be considered:

   a. The worker’s knowledge of the potential seriousness
      of damage that could result from his negligence.
   b. Whether he had been previously warned against
      negligent behavior which contributed to the final
      accident.
   c. Pressure under which the worker had to make deci-
      sions which contributed to the accident.
   d. Possibility for the claimant to have avoided the acci-
      dent.
   e. Extent to which other responsible persons contrib-
      uted to the accident.

Intoxication and use of intoxicants (Misconduct 270)

A. When a claimant is discharged for drinking intoxicating liquor,
or using illegal drugs at work, or reporting to work, or coming
on the employer’s premises under the influence of intoxicants,
a disregard of the employer’s interest may be established.

B. A discharge for intoxication off the job is not disqualifying
unless it can be shown that a claimant’s off-duty intoxication is
connected with his work. See R6-3-5185.

C. Absences or tardiness caused by off-duty intoxication or its
after effects are usually considered to be for capricious reasons
and should be adjudicated in accordance with R6-3-5115(C)
and R6-3-5115(D).

D. Inefficiency caused by the off-duty use of intoxicants may be
misconduct, and should be treated the same as any other
charge of inefficiency caused by actions within the control of
the claimant. See R6-3-51300.
Title 6, Ch. 3  Arizona Administrative Code  6 A.A.C. 3

Department of Economic Security - Unemployment Insurance

R6-3-51309. Reserved

R6-3-51310. Neglect of duty (Misconduct 310)

A. Duties not discharged (Misconduct 310.1)
   1. When an employee is given certain tasks to do, an employer may expect that such duties will be performed in accordance with the ability of the worker. Failure to complete assigned work will be considered the same as improper completion of work. The reason(s) for the non-performance or improper performance will determine whether there was misconduct.
   2. A worker discharged for failing to do work which he could reasonably have been able to do or who does work improperly without reasonable excuse, is discharged for misconduct. Important considerations are:
      a. The worker’s knowledge and understanding of his responsibilities, and
      b. The extent of his opportunity and ability to do his work properly.

B. Personal comfort and convenience (Misconduct 310.15)
   1. Loafing, as distinguished from inability to maintain a production requirement, must be considered in the light of the employee’s past record and previous warnings.
   2. Sleeping on the job is generally considered to be misconduct connected with the work. However, sleeping on the job may not establish misconduct, such as when:
      a. The claimant’s sleeping was caused by an unusual circumstance, such as a lengthy period of work; or
      b. Drowsiness induced by medically prescribed drugs.

C. Temporary cessation of work (Misconduct 310.2)
   1. Unauthorized cessation of work, for reasons within the control of the employee, and for inadequate cause, is considered misconduct connected with the work.
   2. Employees need certain personal time during working hours. Temporary cessation of work for such purposes is generally not misconduct. However, failure to follow rules and procedures concerning leaving work area may be misconduct. The reasonableness of the worker’s action under the specific circumstances will determine whether the act is misconduct.

Historical Note
Former Rule number Misconduct 310. - 310.2. Former Rule repealed, new Section R6-3-51310 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-51311. Reserved through R6-3-51344. Reserved

R6-3-51345. Retirement

A. A worker who has no alternative to retiring or leaving employment to accept a pension, because of a requirement imposed by the worker’s employer or a collective bargaining agreement, is discharged for nondisqualifying reasons when:
   1. The collective bargaining agreement under which the worker is employed mandates the worker’s retirement at a specified age,
   2. The employer has a rule mandating retirement at a specified age, or
   3. The employer notifies the worker that the worker has no choice but to accept retirement.

B. The Department shall determine the employer’s chargeability for benefits in accordance with A.R.S. § 23-727 and A.A.C. R6-3-1708.

Historical Note
Former Rule number Misconduct 345. Former Rule repealed, new Section R6-3-51345 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 22, 1997 (Supp. 97-3).

R6-3-51346. Reserved through R6-3-51384. Reserved

R6-3-51385. Relation of offense to discharge (Misconduct 385)

A. Before a disqualification for a discharge for misconduct may be applied, the worker must have committed an act(s) of misconduct connected with his work and he must have been discharged for such act(s).

B. Generally, only the employer can state authoritatively the reasons for the worker’s dismissal. If the discharge does not follow the commission of misconduct in a prompt and reasonable sequence of events, the burden falls on the employer to establish the causal relationship. When an unreasonable length of time has elapsed between the commission of the act and the discharge, the employer has in effect condoned the act, and the subsequent discharge is not for work-connected misconduct.

Historical Note
Former Rule number Misconduct 385. Former Rule repealed, new Section R6-3-51385 adopted effective January 24, 1977 (Supp. 77-1). Amended effective April 6, 1979 (Supp. 79-2).

R6-3-51386. Reserved through R6-3-51387. Reserved

R6-3-51388. Reserved

R6-3-51389. Reserved

R6-3-51390. Relations with fellow employees (Misconduct 390)

A. General (Misconduct 390.05). An employer has the right to expect that his employees will not conduct themselves toward each other in such manner as to interfere unduly with the routine or efficient conduct of his business. Temperamental inability to get along with fellow employees is not deemed to be misconduct connected with the work. Only when incompatibility manifests itself in an overt act which could impair the efficiency of operations, or could result in injury to the employer’s interest may it be deemed misconduct.

B. Abusive or profane language (Misconduct 390.1)
   1. The use of abusive or profane language may be work connected misconduct depending upon the circumstances. If the employment is of a nature that the use of such language interferes with the proper routine of the employer’s business, misconduct exists as there is a violation of the employee’s duty to the employer.
   2. At some work sites mildly abusive and profane language are accepted as normal standards of behavior. The use of such language in those employment situations does not constitute misconduct. Only when it is used in such a belligerent or vociferous manner that there is interference with good order and discipline at the establishment can misconduct be established.
   3. The occasional use of profanity is not misconduct unless it leads to dissatisfaction and discord among employees, and the employer had previously warned against its use.

C. Altercation or assault (Misconduct 390.2). Fighting with a fellow employee on the employer’s premises is generally considered to be misconduct connected with the work. However, if the claimant is acting in self-defense or the evidence indicates that the fault and first blow or attempted assault rests with the other employee, the claimant is not deemed to have committed an act of misconduct connected with the work.
D. Annoyance of fellow employee (Misconduct 390.25)
   1. If an individual molests, knowingly irritates, or otherwise
      annoys his fellow employees during working hours, he
      shall be considered to have committed an act of misconduct
      connected with the work unless the disagreeable situation
      resulted from good faith actions or in connection with
      the worker’s responsibilities.

   2. Ordinary bickering with or “baiting” a fellow employee
      generally is not deemed misconduct conducted with the
      work unless it becomes potentially harmful to the
      employer and the worker has been made aware through
      general rules or warnings that he must avoid or discontinue
      such action(s).

   Historical Note
   Former Rule number Misconduct 390. - 390.25. Former
   Rule repealed, new Section R6-3-51390 adopted effective
   January 24, 1977 (Supp. 77-1).

R6-3-51391. Reserved through
R6-3-51434. Reserved

R6-3-51435. Tardiness (Misconduct 435)
   A. The duty to report to work on time is similar to the duty to
      be present for work. The responsibility for punctuality is
      expressed or implied in the contract of employment.

   B. The degree of responsibility may vary in proportion to the
      potential harm to the employer and to the degree of control
      the worker had over his tardiness. Late arrival due to unavoidable
      delay in transportation, emergency situations, or causes not
      within the claimant’s control is not misconduct. Unnecessary
      delay in arrival beyond the time that the worker should have
      been able to get to work after considering his reason for delay
      may constitute misconduct.

   C. An isolated instance of tardiness usually is not misconduct.
      However, when an employee has special responsibilities such
      as opening an establishment, furnishing power and heat for
      others and the like, his failure to exercise a high degree of con-
      cern for punctuality may amount to misconduct. In the absence
      of pressing responsibilities, misconduct may be found in repeti-
      tion of tardiness caused by the worker’s failure to exercise
      due care for punctuality.

   Historical Note
   Former Rule number Misconduct 435. Former Rule
   repealed, new Section R6-3-51435 adopted effective Janu-
   ary 24, 1977 (Supp. 77-1).

R6-3-51436. Reserved through
R6-3-51474. Reserved

R6-3-51475. Union relations (Misconduct 475)
   A. Membership or activity in union (Misconduct 475.5). Union
      activity except as hereinafter specified does not constitute an
      intentional breach of a worker’s obligation toward his
      employer, nor may it be construed as disregard of the
      employer’s interest. Membership in a union, agitation for
      unionization, or support of a union are not acts of misconduct
      in themselves. A worker who is discharged for joining a union
      is not discharged for misconduct connected with his work.
      This is generally also true of a worker dismissed because of
      union activity. However, when the union activities violate a
      known and reasonable company rule such as unauthorized
      solicitation of membership, or collection of dues and the like
      on company time or premises, a discharge for that reason is
      usually for misconduct connected with the work.

   B. Refusal to join or retain membership in union (Misconduct
      475.6)
      1. The Constitution of Arizona provides: “No person shall
         be denied the opportunity to obtain or retain employment
         because of non-membership in a labor organization, nor
         shall the state or any subdivision thereof, or any corpora-
         tion, individual or association enter into any agreement,
         written or oral, which excludes any person from employ-
         ment or continuation of employment because of non-
         membership in a labor organization.” In accordance
         therewith, a worker who is discharged in Arizona or in
         another state having a “right to work” law because of
         refusal to pay union initiation fees or membership dues,
         is discharged for a reason other than misconduct connected
         with the work.
      2. If the worker is discharged from employment in a state
         which does not have a “right to work” law, refer to R6-3-
         50475(B).

   Historical Note
   Former Rule number Misconduct 475. -475.6. Former
   Rule repealed, new Section R6-3-51475 adopted effective
   January 24, 1977 (Supp. 77-1). Amended effective March
   19, 1979 (Supp. 79-2).

R6-3-51476. Reserved through
R6-3-51484. Reserved

R6-3-51485. Violation of company rule (Misconduct 485)
   A. General (Misconduct 485.05)
      1. An employee, discharged for violating a company rule,
         generally is considered discharged for misconduct con-
         nected with the work. This principle is based on the
         theory that when hired, an employee agrees to abide by the
         rules of his employer. This section covers rules peculiar
         to a particular employer, and not rules constituting the
         general code of industrial misconduct. In order for mis-
         conduct connected with the work to be found, it must be
determined that the claimant knew “or should have
known” of the rule and that the rule is reasonable and uni-
formly enforced.
      2. Recognition must be accorded to the type of business in
         which the employer is engaged and other surrounding cir-
         cumstances. The rule must be reasonable in light of pub-
lc policy and should not constitute an infringement upon
the recognized rights and privileges of workers as indi-
uals. Rules to affect the employee’s conduct outside
the employer’s premises and which could not reasonably
affect the employer’s interests are generally considered
unreasonable.

   B. Garnishment, assignment of wages, or failure to meet financial
   obligation (Misconduct 485.6)
      1. Effective July 1, 1970, the Consumer Credit Protection
         Act prohibits an employer from discharging an employee
         on the ground that the employee's wages were subjected
to garnishment for any one indebtedness (U.S.C.A. 15-
1671, et seq.). A discharge in violation of this law is not
disqualifying.
         a. “Garnishment for a single indebtedness” would
            include all garnishments taken to collect one debt
            and relates only to a garnishment action taken during
employment with one employer.
         b. Questions as to whether continuing or revolving
            accounts and other similar debt making processes
constitute a single indebtedness should be directed
to any office of the Wage and Hour Division of the
Department of Labor, the organization charged with enforcement of this law.

2. When a worker is separated for a garnishment on other than a first indebtedness, misconduct may be established when the worker had received prior warning that discharge might result from such garnishment and:
   a. He incurred the subsequent indebtedness through nonessential purchases, or
   b. He failed to make a reasonable effort to pay for essential purchases when financially capable or make a reasonable effort to forestall garnishment on an essential purchase when not financially able to pay.

C. Motor vehicle (Misconduct 485.65). A claimant discharged for violating a company rule regarding the operation of a motor vehicle, is discharged for misconduct connected with the work. It is only when a rule is petty, unknown to the workers, or previously has been unenforced, or is violated unwittingly that misconduct is not found. In considering cases involving such situations, the extent of the hazard presented by the violation of the rule, and the care which the claimant exercised, are to be considered.

Historical Note

R6-3-51486. Reserved
R6-3-51487. Reserved
R6-3-51488. Reserved
R6-3-51489. Reserved
R6-3-51490. Violation of law (Misconduct 490)

General (Misconduct 490.05)

1. A worker discharged from employment because of an alleged violation of a public law or rule shall be found to have been discharged for misconduct provided a preponderance of evidence establishes that:
   a. The act(s) amounted to misconduct connected with the work (see R6-3-5185), and
   b. The worker committed the act(s) alleged.

2. The allegation, arrest, charge, information or indictment is not evidence that the worker committed the alleged violation of public law or rule.

3. A felony offense connected with the work is misconduct. A misdemeanor offense or a violation of a public rule which has the potential to substantially and adversely affect the employer’s business interest is misconduct.

4. A worker discharged for refusal to violate a public law or rule will be found to have been discharged for a reason other than misconduct connected with the work.

5. A benefit determination shall not be delayed pending action by a court or another agency.

Historical Note

ARTICLE 52. ABLE AND AVAILABLE FOR WORK

R6-3-5201. Reserved
R6-3-5202. Reserved
R6-3-5203. Reserved
R6-3-5204. Reserved
R6-3-5205. General

An unemployed claimant is eligible to receive benefits under A.R.S. § 23-771 for a work week if the Department finds that the claimant was able and available to work during that week.

1. Availability for work is the readiness of a claimant to accept suitable work when offered. To be available for work, a claimant shall be:
   a. Accessible to a labor market;
   b. Ready to work on a full-time basis;
   c. Free from personal circumstances that interfere with the claimant’s ability to accept and undertake some form of full-time work; and
   d. Actively seeking work or following a course of action reasonably designed to result in the claimant’s prompt reemployment in full-time work.

2. The criterion is availability for work, rather than availability of work. The willingness or unwillingness of an employer to hire is irrelevant.

3. The term “work” means suitable work (work that is in a recognized occupation, for which the claimant is reasonably qualified and that the claimant does not have good cause to refuse).

4. “Availability for work” is a relative term. The objective of availability is to determine whether a claimant is genuinely and regularly attached to the labor market. “Availability for work” also is the relationship between the restrictions imposed by a claimant and the job requirements of the work that the claimant is qualified to perform. It implies that restrictions do not unduly lessen the possibilities of the claimant accepting suitable work.

5. A claimant’s eligibility is not impaired when the claimant is physically unable to work, or engaged in activities that would prevent the claimant from working, provided:
   a. The period involved is not more than one full calendar day; and
   b. The inability or activities do not reduce or jeopardize the claimant’s opportunities for employment.

6. A claimant who is unable to work full-time because of an established disability is not ineligible as long as the claimant is:
   a. Seeking work up to the limit of the claimant’s disability;
   b. Is not completely unable to work; and
   c. Able to work part time as provided by medical evidence that the restriction is due to a disability.

7. The Department shall consider only the working days in the claimant’s customary occupation when applying the one day’s inability to work or unavailability for work. “One working day” means a normal work shift. A normal shift for any claimant is what is standard for the claimant’s occupation. If the claimant is not able or available...
for more than a full shift, the claimant is ineligible for benefits.

8. The Department shall determine whether a claimant’s activities during a working day have reduced or jeopardized the claimant’s employment opportunities. This determination must be made objectively. For example, under any of the following situations, a claimant’s activities on the day in question may have reduced or jeopardized the claimant’s employment opportunities:

   a. The claimant refused a job or referral;
   b. The claimant failed to comply with the claimant’s union registration or referral regulations;
   c. The Department or the claimant’s union tried to contact the claimant for possible referral but was unable to do so; or
   d. An employer made an effort to contact the claimant for a job offer or interview, but was unable to do so.

9. In applying this rule, the nature of the claimant’s activities is not a factor. It is immaterial whether the activities resulted from compelling circumstances or from normal activities of people in general.

### Historical Note
Former rule number - Able and Available 5. Former rule repealed, new Section R6-3-5205 adopted effective January 24, 1977 (Supp. 77-1). Amended by final rulemaking at 24 A.A.R. 1417, effective June 19, 2018 (Supp. 18-2).

### R6-3-5206. Reserved through R6-3-5239. Reserved

### R6-3-5240. Attendance at School or Training Course

#### A.
In this rule, “full-time student” means a person who:

1. Satisfies the criteria for being a full-time student, as established by the school the student is attending;
2. Is a part-time student at 2 different schools if the number of the student’s combined hours meets at least 1 school’s definition of full-time student; or
3. Would be considered a full-time student under (1) or (2) and is enrolled in online courses that require the student to attend online lectures, participate in “blackboard” discussions, or be involved in other activities at a specific time that falls within the normal work day, unless the claimant meets one of the exceptions in (B)(1).

#### B.
Except as otherwise provided in A.R.S. § 23-771.01 and A.A.C. R6-3-1809, a claimant who is or was a full-time student during the most recent regular school term is presumed unavailable for work.

1. A claimant who is currently attending school may remove the presumption of unavailability through 1 of the methods described in this subsection.
   a. The claimant shows a pattern of concurrent, full-time work and full-time school attendance for the 9 month period before the claimant files an initial claim for unemployment insurance, and the claimant has not, in order to attend school or a training course:
      i. Left suitable full-time work,
      ii. Refused suitable full-time work, or
      iii. Reduced the hours of work to part-time;
   b. The claimant, who cannot establish a 9-month pattern of concurrent full-time work and full-time school attendance because the claimant was engaged in active military service or other similar service for the United States during that period shows that the claimant:
      i. Is conducting a work search as prescribed in R6-3-52160, and
      ii. Is willing to change class hours or drop classes to accept suitable full-time work, or
      iii. Is able to work full time during hours other than the class hours.
   c. The claimant shows that the claimant attends classes only at night and is experienced at and seeking work readily available during daytime hours.
   d. The claimant is enrolled in online courses that allow the student to complete the courses at any time including evenings and weekends. The Department considers a claimant taking full time classes that fall into this category a “night” student and claimant may be eligible if the claimant is willing to accept full time work that falls during the claimant’s normal occupation work hours, and claimant is seeking this type of work.

2. A claimant who is not currently attending school, but who attended school as a full-time student during the most recent regular term, may remove the presumption of unavailability if the claimant:
   a. Graduated or completed the course,
   b. Discontinued school prior to the end of the term, or
   c. Does not intend to return for the next regular term.

#### C.
A claimant attending school as a part-time student is presumed available for work when the claimant establishes that:

1. Schooling is incidental to full-time employment,
2. The claimant did not leave full-time work to enroll as a part-time student, and
3. There is full-time work available during hours other than the time when the claimant attends classes, or
4. The claimant will change the hours of school attendance or drop classes in order to accept full-time work.

#### D.
A claimant attending a training course of less than 4 weeks’ duration is eligible for benefits if:

1. The course is sponsored by an employer who will employ the claimant upon the claimant’s successful completion of the course, or
2. The course provides a vocational evaluation or other service that assists the claimant in becoming reemployed.

### Historical Note
Former rule number - Able and Available 40. - 40.1. Former rule repealed, new Section R6-3-5240 adopted effective January 24, 1977 (Supp. 77-1). Amended by final rulemaking at 24 A.A.R. 1417, effective June 19, 2018 (Supp. 18-2).
A claimant who places certain restrictions upon his availability and restricts himself solely to work requiring citizenship is unavailable for work.

**Historical Note**
Former rule number - Able and Available 70. Former rule repealed, new Section R6-3-5270 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-5270. Citizenship or residence requirements (Able and Available 70)**

A. An alien claimant who is residing illegally in the United States is unavailable for work.

B. A claimant lawfully in the United States who lacks citizenship and restricts himself solely to work requiring citizenship is unavailable for work.

**Historical Note**
Former rule number - Able and Available 70. Former rule repealed, new Section R6-3-5270 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-5271. Reserved**

**R6-3-5289. Reserved**

**R6-3-5290. Conscientious objection (Able and Available 90)**

A claimant who places certain restrictions upon his availability because of religious convictions may be held available for work if it can be shown that work for which he is qualified exists within these limitations, or if he has previously performed full-time work under such limitations.

**Historical Note**
Former rule number - Able and Available 90. Former rule repealed, new Section R6-3-5290 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-5291. Reserved**

**R6-3-52104. Reserved**

**R6-3-52105. Contract obligation (Able and Available 105)**

A. An individual’s normal field of employment may be narrowed by contract obligations. For example:

1. Under contract terms with his last employer, he may be prohibited from accepting work in a certain line; or
2. His contract with an employer may require that he hold himself ready to answer work calls from that employer on certain days of the week; or
3. He may be required by a lease to remain on a certain piece of property most of his time.

B. Before determining whether a contract renders an individual unavailable, the relevant restrictions of the contract must be considered. If the contract requires full-time employment, the claimant is not available for work. If it does not, the claimant’s obligations must be examined to see whether they unduly restrict accepting full-time employment for which he is qualified. Undue restriction consists of that degree of restriction which leaves no reasonable possibility of acceptance of full-time employment. Thus, if a salesman is obligated not to take sales work and cannot or will not take other work, he is unduly restricted and is unavailable for work.

C. An individual may be under certain contractual obligations and still assert that if employment were offered he would accept it in violation of his contract. This assertion must be viewed in the light of all the circumstances; if it appears to be true, there is no restriction in fact. In this type of case, thoroughness of investigation by the adjudicator cannot be too greatly emphasized.

D. A claimant who is “on call” or on “extra” or “stand-by” basis, but who is not required to work specific hours, may be presumed available for work if other circumstances indicate a readiness to accept work. A claimant on call who is not required to work specific hours and is ready to accept other work may be held available for work.

E. A contract to work in the future does not affect availability for the present, unless preparation for employment restricts the claimant’s acceptance of suitable work. There is no requirement that the individual must be available for work at some future time. The mere fact that the claimant has a contract to begin another job several months after filing his initial claim does not render him unavailable during the period prior to beginning work under the contract. However, if the claimant states that he is unwilling to accept work because he has a contract for work beginning some time in the near future, he is unavailable for work.

**Historical Note**
Former rule number - Able and Available 105. Former rule repealed, new Section R6-3-52105 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-52106. Reserved**

**R6-3-52149. Reserved**

**R6-3-52150. Distance to work (Able and Available 150)**

A. General (Able and Available 150.05)

1. There is a presumption of unavailability if an individual resides in a community in which there is no type of work which is available for which he is qualified, and he is unable to seek and accept work in other communities in which such work does exist. This presumption can be overcome by a showing that the individual has an attachment to the community in which he is residing and that other suitable work exists. In arriving at a determination of this nature it is necessary to identify the type or types of work which the individual might reasonably be able to do and establish that such work does exist. If such work does exist, a period of adjustment is permitted before the claimant is expected to seek work elsewhere. The length of the adjustment period will depend on the length and nature of the claimant’s attachment to the community and his prospects of securing other related work. In establishing the existence or lack of existence of such work it is essential to consider the total number of jobs of such classifications rather than the number of job openings or job orders.

2. Regardless of the claimant’s attachment to the community, he should be held available if some work exists in the community in which he resides and there is a reasonable expectancy of his obtaining such work.

B. In transit (Able and Available 150.1)

1. When an individual moves from locality to locality, it is important to determine whether the individual’s activities are directed toward efforts to obtain work or are directed to personal efforts inconsistent with his attachment to the labor market.

2. A claimant who is absent from his home or the community in which he most recently performed work, without additional evidence as to the reason for his absence, is presumed unavailable for work.
3. When the circumstances show that the claimant’s purpose in traveling was to obtain employment and it was reasonable for him to believe that his opportunities for employment would be improved by the travel, he may be considered available for work during the period in which he was in transit.

C. Removal from locality (Able and Available 150.15)

1. Generally, a claimant must be in a position to accept work of a type for which he is qualified at a place where that type (or types) of work is done. The mere fact that a claimant goes or moves from one locality to another is not of itself a basis for holding him unavailable for work. The main factors to consider in such a case are:
   a. What are his work opportunities in the new locality?
   b. Does he actually want work in the new locality?
   c. Does his reason for leaving the old locality or leaving employment in the former locality still exist and, if so, does this unduly restrict his availability for work?

2. A claimant who goes to a new locality generally will be presumed available for work if:
   a. The labor force conditions there afford him some work opportunities;
   b. He has registered for work;
   c. He is seeking work in the manner ordinarily followed by persons seeking work there; and
   d. There are no undue restrictions on his employability.

3. However, if the claimant left employment to go to the new locality or if his move was necessitated by personal or domestic circumstances, a more intensive inquiry into the reason surrounding the move must be made since the reason for leaving may restrict the individual’s availability in the new location.

4. If the individual left work in the old locality because of dissatisfaction with wages or some other working condition, the same or other objectionable working conditions may exist in the new locality. Thus, he may be restricting his employability in the new locality to such an extent that he is not considered available for work.

5. If he left the locality because of his own health or illness or that of a member of his family, his ability to work or availability may be restricted in the new locality by the same circumstances, e.g., new climate does not improve health enough to enable him to work; member of family requires care which the claimant must give because of inability or unwillingness to obtain someone else to care for the family member.

6. Various other factors may have a bearing as to whether a claimant is available for work in a new locality. Among these are:
   a. The anticipated permanency of his stay;
   b. His reasons for going there if he intended to remain only a temporary period;
   c. The nature of the restrictions upon his employability;
   d. His reasons for anticipating job opportunities in the new community;
   e. His reasons for refusing work in other localities;
   f. His willingness to relax restrictions as to other types of work he might accept after a reasonable period of time.

7. If the community is so small that there is a question as to whether any work opportunities exist, the adjudicator must evaluate the work opportunities in the locality and the number of vacancies which would normally occur in the occupations for which the claimant is qualified and will accept.

D. Transportation and travel (Able and Available 150.2)

1. The availability of a worker whose employment has terminated because he lacked transportation to and from the work he had been performing is questionable. This is particularly so when the loss of transportation appears to largely preclude his access to the work opportunities which characterize the specific labor force locality in which he seeks work.

2. “Availability for work” generally presupposes that the individual is accessible to suitable work opportunities which the particular community ordinarily supplies. Generally, if the claimant cannot accept the work opportunities that exist because of lack of transportation, he is not deemed employable and therefore, is unavailable for work; however, the fact that he may lack transportation to any specific employment does not require this result. The adjudicator shall evaluate the work opportunities that do exist not only as to number but as to the amount of attrition which would normally occur in the types of positions that exist in the area and the claimant’s accessibility to such work opportunities.

3. When job offers are refused because of the distance, the issue of availability may enter into the decision because of transportation restrictions. Some points to be considered are:
   a. The transportation facilities available to the claimant;
   b. If dependent on public transportation, the proximity, routes and schedules are to be reviewed for the claimant’s accessibility to adequate job opportunities;
   c. If dependent on a relative or neighbor for transportation, the name and location of such relative or neighbor, the location of such job and the time the relative or neighbor leaves for and returns from work should be examined for the practicability of reliance on such individual for transportation.
   d. The cost of transportation;
   e. The transportation facilities the claimant had on his last job;
   f. If no transportation is available to the main employment centers, whether he reduced his opportunity for reasonable expectancy of employment.

4. A claimant who does not have public transportation available to him must have transportation previously arranged so that he would be immediately able to commute to suitable work to which he might be referred.

5. A claimant without transportation from his residence to the major labor market centers during those hours in which the majority of the jobs for which he is reasonably fitted are performed generally will be held to be unavailable for work.

6. A claimant who refuses to travel a reasonable commuting distance substantially reducing his opportunities for employment is not available for work unless there is a reasonable expectancy of his obtaining work in the restricted locality. “Beyond reasonable commuting distance” is generally:
   a. More than 20 miles from the claimant’s residence to place of employment, or
   b. More than one hour elapsed commuting time one way,
   c. Commuting expense equal to 15% or more of a claimant’s gross wage. (The Department accepts the
A claimant is considered available for work only when he is prepared to accept at once (or within a reasonable time) any offer of suitable full-time employment. When the claimant’s domestic circumstances are such that no work can be accepted for a temporary or permanent period, the claimant is unavailable for work. If, however, the claimant’s circumstances do not unduly restrict his chances of employment, he may be available.

The restrictions must be considered in the light of the prevailing conditions of work, the claimant’s past experience in working under such restrictions, and the opportunity of obtaining work under such restrictions. Quantitative standards cannot be set forth, but a good working rule is that a claimant’s restrictions must not narrow his field of employment to such a degree that he has no reasonable possibility of obtaining or accepting employment for which he is reasonably fitted.

Historical Note
Former rule number - Able and Available 150. - 150.2. Former rule repealed, new Section R6-3-52155 adopted effective January 24, 1977 (Supp. 77-1). Amended subsection (A), paragraph (1) and subsection (D), paragraphs (3) and (6) (Supp. 83-4).

R6-3-52151. Reserved
R6-3-52152. Reserved
R6-3-52153. Reserved
R6-3-52154. Reserved

R6-3-52155. Domestic circumstances (Able and Available 155)

A. A claimant is considered available for work only when he is prepared to accept at once (or within a reasonable time) any offer of suitable full-time employment. When the claimant’s domestic circumstances are such that no work can be accepted for a temporary or permanent period, the claimant is unavailable for work. If, however, the claimant’s circumstances do not unduly restrict his chances of employment, he may be available.

B. The restrictions must be considered in the light of the prevailing conditions of work, the claimant’s past experience in working under such restrictions, and the opportunity of obtaining work under such restrictions. Quantitative standards cannot be set forth, but a good working rule is that a claimant’s restrictions must not narrow his field of employment to such a degree that he has no reasonable possibility of obtaining or accepting employment for which he is reasonably fitted.

Historical Note
Former rule number - Able and Available 155. Former rule repealed, new Section R6-3-52155 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52156. Reserved
R6-3-52157. Reserved
R6-3-52158. Reserved
R6-3-52159. Reserved

R6-3-52160. Effort to secure employment or willingness to work (Able and Available 160)

A. Application for work (Able and Available 160.1)

1. In order to maintain continuing eligibility for unemployment insurance a claimant shall be required to show that, in addition to registering for work, he has followed a course of action which is reasonably designed to result in his prompt reemployment in suitable work. Consideration shall be given to the customary methods of obtaining work in his usual occupation or for which he is reasonably suited, and the current condition of the labor market. Subject to the foregoing, the following actions by a claimant either singular or in combination may be considered a reasonable effort to seek work.

   a. Registering and continuing active checking with the claimant’s union hiring or placement facility.
   b. Registering with a placement facility of the claimant’s professional organization.
   c. Applying for employment with former employers.
   d. Making application with employers who may reasonably be expected to have openings suitable to the claimant.
   e. Registering with a placement facility of a school, college, or university if one is available to the claimant in his occupation or profession.
   f. Making application or taking examination for openings in the civil service of a governmental unit.
   g. Registering for suitable work with a private employment agency or an employer’s placement facility.
   h. Responding to appropriate “want ads” for work which appear suitable to the claimant.
   i. Any other action found to constitute an effective means of seeking work suitable to the claimant.

No claimant, however, shall be denied benefits solely on the ground that he has failed or refused to register with a private employment agency or any other placement facility which charges the job seeker a fee for its services.

2. A claimant shall be deemed to have failed to make a reasonable effort to seek work on his own behalf if he has wilfully followed a course of action designed to discourage prospective employers from hiring him for suitable work.

3. Notwithstanding any of the foregoing, if the prospects of suitable job openings other than those listed with the public Job Service in a particular locality, or time period are so remote that any effort to seek work other than by registration for work would be fruitless to the claimant and burdensome to employers, then such registration by the claimant shall be deemed a reasonable effort to seek work.

4. A claimant is not required to register for work with the Job Service if he is unemployed due to a labor dispute at the establishment of his employer and he intends to return to work for such employer following termination of the dispute. Any claimant who is unemployed due to a labor dispute and who states on his initial claim that he register for work and lists his occupation is deemed to have met the Department’s registration requirements. This applies equally to those claimants who normally obtain work by registering with their union hiring or placement facility.

5. When a claimant has a definite date to return to work for a former employer, or a definite starting date for employment or approved training, the question of availability as it relates to continued work search will depend on the nature of the claimant’s usual work, the condition of the labor market, and the span of time until he is to begin work or training.

   a. A claimant who customarily performs work in which temporary employment is common must continue to seek temporary jobs until the beginning date of work or training to be considered available for work.
   b. A claimant qualified only in work for which odd job employment seldom exists will not be expected to seek other employment during a reasonable period before the job or training is to start. A reasonable period is generally considered to be two weeks.

B. Registration and reporting (Able and Available 160.3). When a claimant fails to respond as directed to a Job Service call-in card or telephone call-in regarding a possible referral to employment, he is unavailable for work for the week in which he fails to respond unless such failure was due to non-receipt of the card or message through no fault of his or his agent.
Historical Note
Former rule number Able and Available 160. - 160.3. Former rule repealed, new Section R6-3-52160 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 19, 1979 (Supp. 79-2).

R6-3-52161. Reserved

R6-3-52162. Reserved

R6-3-52163. Reserved

R6-3-52164. Reserved

R6-3-52165. Employer requirements (Able and Available 165)
A. General (Able and Available 165.05)
   1. An employer has the right to set certain requirements which must be met by an individual to obtain employment. The failure or inability of an individual to meet the employer’s requirements, although indicating a lack of qualifications for a particular job, will not render him unavailable for work if there are no undue restrictions upon the acceptance of other employment for which he is reasonably fitted. Some employers may require that an employee be bonded; others require physical and mental examinations, possession of certain tools, doctor’s certificate, automobiles, or other equipment. Whether failure to meet such requirements would effectively bar the individual from suitable full-time employment depends on the customary practices in the claimant’s occupation in that labor market area.
   2. The refusal of employers to hire a worker because of non-work related requirements such as age, marital status, race or religion, constitutes unreasonable discrimination and does not render the worker unavailable.

B. Physical status (Able and Available 165.2). When a claimant is unable to meet a particular employer’s physical requirements, he may be presumed able to work if it can be established that he is able to perform work for which he is reasonably qualified in some recognized occupation which exists in the community. The claimant’s inability to pass an employer’s physical examination or to meet its insurance requirements, in itself, does not establish his inability to work.

Historical Note
Former rule number -- Able and Available 165. - 165.2. Former rule repealed, new Section R6-3-5 2165 adopted effective January 24, 1977 (Supp. 77-1). Amended effective May 8, 1979 (Supp. 79-3).

R6-3-52166. Reserved through R6-3-52169. Reserved

R6-3-52180. Equipment (Able and Available 180)
A. In certain skilled occupations such as automobile mechanic, bricklayer, carpenter, plasterer, plumber, or welder, workers customarily own the hand tools or special clothing which they use in performing their work. If a claimant is seeking work only in such occupations it is his responsibility to have such equipment available for immediate use during periods of unemployment.

B. When a worker does not possess the customary equipment for his occupation and is unable or unwilling to purchase it, he is unavailable for work unless he is qualified for and is willing to accept other work existing in the area.

Historical Note
Former rule number Able and Available 180. Former rule repealed, new Section R6-3-52180 adopted effective January 24, 1977 (Supp. 77-1).
d. The claimant’s receipt of disability compensation, health insurance benefits, or workmen’s compensation.

e. Leaving or refusal of work because of physical restrictions.

f. Evidence that the claimant was unemployed for long periods of time, or intermittently, because of his physical condition.

6. When questions of inability do arise the claimant has the burden of establishing his ability to work. The presumption of disability may be rebutted by the claimant through any or all of the following: medical evidence, proof of employment, under the same circumstances prior to the date of the claim and discovery of additional work skills.

7. A presumption of unavailability may be raised by various circumstances such as:

a. Voluntary leaving of employment.

b. Refusal of work.

c. Discharge for misconduct.

d. Failure to register for work.

e. A long period of unemployment, or self employment.

f. Attendance at school or training, other than approved training.

g. Allegations by interested parties.

h. Domestic or personal circumstances.

i. Union restrictions.

j. Contract obligations, etc.

8. A claimant’s certification that he is available for work is accepted as prima facie evidence of availability in the absence of evidence to the contrary. His statement that he is unwilling to accept work is accepted as proof of his unavailability. Seeking work, regular reporting to the Job Service office and registration for work is evidence of availability.

9. Statement of specific conditions and limitations on the type of work or the circumstances under which work will be accepted may create presumptions of unavailability. For example, the presumption of unavailability exists where a claimant states that he will only accept work of a type for which he is inadequately qualified by his inability to meet established standards, union membership requirements, and the like, or, where he restricts himself to work which does not exist in the community. There must be a reasonable possibility of his obtaining the type of work for which he claims he is available during the hours to which he restricts himself, at the wages, and under the conditions stipulated by him. The work to which he restricts himself must be in a recognized occupation.

C. Weight and sufficiency (Able and Available 190.15)

1. Many factors relating to ability are identical with those bearing on availability. Factors involving involuntary leaving, refusal of work, failure to report to the local office, and a long period of unemployment are reviewed under the subject of availability. Additional factors relating exclusively to the establishment of ability to work are treated in paragraphs (2) and (3) of this rule.

2. The claimant who is unable to engage in his usual occupation because of illness or disability may be presumed able to work if he is qualified by training and experience for other work. In such cases, a doctor’s certificate generally is sufficient evidence of ability, but the nature of the certificate should be scrutinized carefully. For example, a certificate showing that a claimant is able to engage in a “sedentary occupation, such as boot and shoe repairing,” is not proof of ability when the claimant does not have the skill or training requisite for such an occupation. The recency of the physical examination must be considered in evaluating a medical report. When medical reports of the claimant’s ability to work conflict, the major emphasis is placed upon the statement which most conforms to other information in the possession of the adjudicator.

3. A doctor’s opinion that a worker’s physical condition makes him more susceptible to industrial injuries and a bad employment risk is not of itself conclusive evidence, that the worker is unable to work. The term “ability to work” is interpreted as the actual physical ability of a claimant to perform work for which he is qualified.

4. The most convincing evidence of availability is full-time employment. Although an individual may have left work because of domestic duties, the fact that he subsequently accepts work when offered is evidence of availability for work. Previous full-time employment under circumstances similar to the individual’s present circumstances is evidence of availability. For example, the individual who restricts herself to day work only because she is unable to find someone to care for her child except during the day is available for work if such work is generally performed in the area.

5. The extent to which a claimant’s restrictions limit his possibility for employment is the criterion for establishing his availability.

Historical Note

Former rule number Able and Available 190. - 190.15. Former rule repealed, new Section R6-3-52190 adopted effective January 24, 1977 (Supp. 77-1). Typographical error corrected (Supp. 97-3).

R6-3-52191. Reserved through R6-3-52234. Reserved

R6-3-52235. Health or Physical Condition

A. General

1. A claimant is able to work if the claimant possesses the physical and mental capabilities necessary to perform suitable work for which the claimant is reasonably qualified.

2. “Work for which a claimant is qualified” is not restricted to the customary occupation of the claimant. It includes any type of work for which the claimant is reasonably qualified and that the claimant can perform under normal conditions of employment. A disability may entirely prevent a claimant from pursuing the claimant’s customary occupation and yet the claimant may retain sufficient physical and mental ability to perform some gainful work for which the claimant is reasonably qualified. The Department shall determine a claimant’s “ability to work” on the basis of whether the claimant is able to work and not whether the claimant can obtain work.

3. “Able to work” does not include a claimant’s appearance or any personal characteristic that might prejudice an employer against employing the claimant. To determine whether a claimant is able to work, the Department shall consider whether:

a. The work for which the claimant is qualified exists as a recognized part of the labor market; and

b. The claimant is capable of performing such work without endangering the claimant, coworkers, the public, or the employer.
4. The Department considers a skilled worker who can no longer follow the worker’s trade more able to work than an unskilled worker because a skilled worker:
   a. Typically possesses a number of skills that can be transferred to a larger number of related fields; and
   b. Usually can assume more positions of responsibility.
B. Age. Age, in itself, does not create a presumption that a claimant is unable to work. A statement that a claimant was separated or retired because the claimant was unable to maintain the claimant’s production raises just as much of a question as to the effect of the employer’s requirements for the job as it does on the claimant’s ability to perform work. If the claimant can show that the claimant is able to perform other suitable work for which the claimant is qualified and reasonably fitted, or that the claimant could still meet the production standards of other employers, the claimant would be able to work.
C. Communicable disease
1. The Department may consider a claimant who suffers from an infectious or communicable disease to be able to work if the claimant is able to work in an occupation for which the claimant is reasonably qualified and:
   a. The claimant is willing to accept work in an occupation where the disease would not be a hazard; or
   b. The claimant is under medical treatment and a physician certifies that the disease is in a noncommunicable state.
2. Except, a claimant is not able to work until a physician certifies that the claimant is able to work without endangering others when:
   a. The claimant’s physician states that the claimant should not work because of the danger of infecting others; or
   b. The law of the community prohibits the claimant’s employment because of the disease.
D. Seizures. When a claimant is subject to periodic seizures, attacks, or any episodic conditions that render the claimant unable to work during the seizure, attack, or episodic condition, the Department may consider the claimant able to work if, during the intervals between seizures, attacks, or episodic conditions, the claimant is able to perform work for which the claimant is qualified.
E. Pregnancy
1. Pregnancy does not affect a woman’s ability to work unless her physician restricts her from working in any occupation for which she is qualified.
2. A pregnant woman who leaves employment because it is too difficult for her to perform work in her customary occupation may be considered able to work if there is medical evidence that she is able to do less strenuous work for which she is reasonably qualified and she is ready to accept such work.
3. The Department shall consider a woman unavailable for work if the woman, because she is pregnant, voluntarily leaves suitable employment that she could have continued to perform and that did not adversely affect her health.
4. When a woman was unable to work in the early months of pregnancy and has recovered sufficiently to be able to return to work, the Department shall consider her able to work if her physician agrees that she is physically able to return to work.
5. When a pregnant woman restricts her availability for employment to work that does not require her to stand, lift heavy objects, or travel great distances, the Department may consider her able to work only if she shows that work for which she is reasonably qualified:
   a. Does not require these conditions; and
   b. There is a reasonable possibility of her obtaining work with those restrictions.
F. Disability
1. A claimant with a disability may not be able to work full-time because of that disability. So long as the claimant is not completely restricted from all work, the Department may find the claimant able to work.
2. If the claimant will be restricted in the claimant’s ability to work or availability for work because of a disability, the Department may consider the claimant able to work if the claimant is seeking work up to the limit of the claimant’s disability. Example: A claimant cannot work longer than four hours each day because of chronic pain. So long as that claimant is looking for and willing to work part time up to four hours per shift, the claimant is still able to work.
3. A claimant who is completely disabled and cannot work at all is ineligible.
4. A claimant shall substantiate the claimant’s disability by appropriate documentation such as doctor’s notes, military papers, or a judgment from a court.

Historical Note

R6-3-52236. Reserved through.
R6-3-52249. Reserved
R6-3-52250. Incarceration or other legal detention (Able and Available 250)

A. An individual who is prevented from accepting employment because of confinement in jail is unavailable for work. However, every form of legal detention does not result in complete withdrawal from the labor market.
B. In most instances, a person on probation is not unduly restricted. Neither is a person who is free on bond pending appearance in court. A person under a peace bond (a bond conditioned on performance or non-performance of certain acts) may or may not be available, depending upon how much his field of employment is restricted. Broadly speaking a person is available for work when his personal conditions and circumstances leave him free to accept and undertake some form of work for which he is qualified. The fact that employers may hesitate to employ a person with a police record is irrelevant, since the person’s availability is not dependent upon the willingness of employers to hire him.

Historical Note
Former rule number - Able and Available 250. Former rule repealed, new Section R6-3-52250 adopted effective January 24, 1977 (Supp. 77-1).
2. Whenever the possibility of obtaining work at his highest skill is remote and there is a reasonable expectation of his securing other suitable work for which he is qualified.

D. A claimant shall not be deemed unavailable because he restricts his search or willingness to accept work, to his highest skill if:
   1. He has good prospects of work at his highest skill; or
   2. Prospects of obtaining it are extremely limited due to excess job seekers for that type of work or other labor market conditions.

Historical Note
Former rule number - Able and Available 295. Former rule repealed, new Section R6-3-52295 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52296. Reserved through
R6-3-52304. Reserved

R6-3-52305. Military service (Able and Available 305)

A. A person who is subject to call for military service is not necessarily unduly restricted from accepting employment. This is true even though employers may be unwilling to hire such a worker.
   1. A claimant may have been officially notified that he will be placed on active duty or active duty for training on or before a definite date and is limited to acceptance of temporary work. A claimant who is so restricted must be willing to accept temporary work without additional personal restrictions. Frequently such temporary work will not utilize the claimant’s highest skill. Also the wage may not be equal to that which he earned in permanent employment. However, the claimant’s unwillingness to accept such work, if it is otherwise suitable, would render him unavailable.
   2. Active duty and active duty for training in the armed forces (other than weekend drills) is employment. Thus an individual on such duty is usually in employment within the meaning of A.R.S. § 23-621 of the Employment Security Law and if in employment the question of availability need not be considered. If, however for a particular week the earnings for such duty are less than the claimant’s weekly benefit amount, he may be unemployed and his availability should then be tested by the same criteria as any other claimant who is employed during a partial week.

Historical Note
Former rule number Able and Available 305. Former rule repealed, new Section R6-3-52305 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52306. Reserved through
R6-3-52319. Reserved

R6-3-52320. Notification of address (Able and Available 320)

A claimant is obligated to keep the local office through which he is filing informed of his current mailing address so that he may be offered referrals by mail. If he cannot be reached by direct mail, he is not available for work for any week in which he fails to give the local office an address at which he can be reached by direct mail. In no event, however, should a claimant be held unavailable if his change of address is reported on the next regular report day. The above principle also applies to a claimant who is on layoff subject to recall under a contract of employment which specifies that he is to keep the employer informed of the address at which he can be reached for recall.
Historical Note
Former rule number Able and Available 320. Former rule repealed, new Section R6-3-52320 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52321. Reserved through R6-3-52369. Reserved

R6-3-52370. Public service (Able and Available 370)
A. General (Able and Available 370.05). Witnesses, plaintiffs, and defendants are not employed and their availability on the days of their attendance at court is questionable. Since an individual is compelled by law to comply with a subpoena and since absence from work caused by such compliance does not constitute a breach of the employment contract, such individual is considered available for work.
B. Jury duty (Able and Available 370.1)
1. An individual shall not be deemed unavailable for work on the basis of his being selected as a member of a jury panel or as a juror in a specific trial. However, he must make a reasonable search for employment during the period he is so engaged.
2. Compensation for jury service shall be treated as wages in determining the benefit amount to which a claimant is entitled. Such wages shall be reported as earned during the week in which the claimant performs service as a juror.
C. Public office (Able and Available 370.15)
1. Questions may arise as to whether persons engaged in certain types of public service are unavailable for work or are employed.
2. Public officers such as judges, justices of the peace, policemen, etc., usually are considered as unavailable for work. However, when it is found that a public officer’s duties require very little time and would not prevent his accepting suitable work for which he is qualified, he is considered to be available. For example, a justice of the peace in a rural community who is called upon only occasionally to perform marriage ceremonies, try cases, etc., may well be able to engage full time in his regular occupation.

Historical Note
Former rule number Able and Available 370. - 370.15. Former rule repealed, new Section R6-3-52370 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52371. Reserved through R6-3-52376. Reserved

R6-3-52370. Public service (Able and Available 370)
A. General (Able and Available 370.05). Witnesses, plaintiffs, and defendants are not employed and their availability on the days of their attendance at court is questionable. Since an individual is compelled by law to comply with a subpoena and since absence from work caused by such compliance does not constitute a breach of the employment contract, such individual is considered available for work.
B. Jury duty (Able and Available 370.1)
1. An individual shall not be deemed unavailable for work on the basis of his being selected as a member of a jury panel or as a juror in a specific trial. However, he must make a reasonable search for employment during the period he is so engaged.
2. Compensation for jury service shall be treated as wages in determining the benefit amount to which a claimant is entitled. Such wages shall be reported as earned during the week in which the claimant performs service as a juror.
C. Public office (Able and Available 370.15)
1. Questions may arise as to whether persons engaged in certain types of public service are unavailable for work or are employed.
2. Public officers such as judges, justices of the peace, policemen, etc., usually are considered as unavailable for work. However, when it is found that a public officer’s duties require very little time and would not prevent his accepting suitable work for which he is qualified, he is considered to be available. For example, a justice of the peace in a rural community who is called upon only occasionally to perform marriage ceremonies, try cases, etc., may well be able to engage full time in his regular occupation.

Historical Note
Former rule number Able and Available 370. - 370.15. Former rule repealed, new Section R6-3-52370 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52376. Reserved through R6-3-52414. Reserved

R6-3-52415. Self-employment or other work (Able and Available 415)
A. General (Able and Available 415.05)
1. The eligibility of self-employed individuals will initially be decided on the basis of their availability for work rather than on the basis of whether they are “employed” or “unemployed.” The extent to which a claimant is prevented by the duties of his self-employment from accepting full-time suitable work is the criterion for establishing his availability.
2. The investment which the claimant has made in his enterprise, the existence of contractual obligations, the disposability of the business, and the nature and extent of the work which the claimant performs in his enterprise are all pertinent factors in determining his availability.
3. When the claimant is engaged in stop gap self-employment in an occupation other than his customary occupation, and his duties are incidental to the enterprise and can be delegated, or when there is no lease or contractual

in his claim for benefits are contradictory to the statements made to the group or health insurance plan for the purpose of securing benefits. If the claimant’s contentions or statements are contradictory, the truthfulness of the claimant’s statements must be weighed in the light of all the facts.

B. Disability compensation (Able and Available 375.1)
1. Receipt of compensation for disability raises a presumption that the claimant is not able to work, but it is not in itself conclusive evidence of inability.
2. If the disability prevents work in his former occupation and there is no evidence that he is qualified for other work, he may be considered unable to work.

Evidence of the claimant’s physical capacities must be obtained as a determination cannot be properly made solely on the basis of the receipt of workmen’s disability compensation.

C. Pension (Able and Available 375.3)
1. A claimant’s retirement or receipt of a pension creates a presumption that either the claimant has withdrawn from the labor market or his retirement is involuntary because of his inability to continue work. Positive evidence that he has re-entered the labor market will be required to overcome the presumption of ineligibility after retirement.
2. The terms and conditions in the plan or policy under which the claimant has or was retired must be ascertained. If a condition for receipt of a pension requires withdrawal from all work, the claimant would be required to show what he has done to rescind or forego his rights to the pension.
3. If the terms of the retirement agreement or plan merely preclude the continuation of employment with a given employer but makes no restriction on employment in other localities and with other employers, the presumption that the claimant has withdrawn from the labor market may be rebutted by:
   a. Employment after retirement,
   b. Registration for work and certification of availability,
   c. Efforts to find work.

Historical Note
Former rule number - Able and Available 375. - 375.3. Former rule repealed, new Section R6-3-52415 adopted effective January 24, 1977 (Supp. 77-1).
obligation, and the investment is small and the assets fluid, he may be available for work. However, when the investment in the enterprise is large or the income from the enterprise is substantial, a statement by the claimant that he is willing to give up the business is open to question.

4. If a claimant’s activities are so limited that he can spend full time away from his enterprise during working hours, he is available for work. The fact that a claimant previously has worked full time under similar conditions is evidence of his availability.

B. Agriculture (Able and Available 415.1)

1. In determining the availability of self-employed farmers or ranchers, some of whom are available for work in spite of the fact that they have an investment and perform services on the farm or ranch, several factors must be considered such as:

   a. The amount of time spent to complete their agricultural duties.
   b. The amount of livestock.
   c. The cost of hiring someone else to perform these duties as compared to the amount the claimant would be able to earn in his regular occupation.
   d. The particular season during which the claim for benefits is filed.

Historical Note
Former rule number - Able and Available 415. - 415.1.
Former rule repealed, new Section R6-3-52415 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52449. Reserved

R6-3-52450. Time (Able and Available 450)

A. A claimant who although willing to work full time, but who restricts himself to specific hours may be unavailable for work. The criterion is whether the restriction is such that it results in too narrow a market for his services in the locality in which he will work. When a claimant is unwilling to accept work requiring certain hours and the work is unsuitable for the claimant or he has good cause for its refusal, rejection of an offer of such work does not affect his availability.

B. To be considered available for work, a claimant must be willing to accept suitable work during hours which afford him reasonable possibilities of obtaining work in the locality.

C. When a claimant is unwilling to work during the hours prevailing for his kind of work, it is sometimes difficult to know whether the claimant is accessible to a substantial amount of work. As in other borderline cases, we look to the objective signs of the claimant’s willingness to work. Factors to be considered are the claimant’s work history, and whether his restriction to certain hours resulted from domestic necessities, or reasons of health, etc. The time restriction, which are within the worker’s control, more easily show an unwillingness to work.

D. A claimant who excludes employment requiring night hours is unavailable only when such hours are customary in his occupation or industry and there is not a substantial labor market during other hours.

E. A claimant who restricts himself to night work because of personal reasons which are not compelling is unavailable for work, unless a substantial labor market remains for him.

Historical Note
Former rule number Able and Available 450. Former rule repealed, new Section R6-3-52450 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52451. Reserved through

R6-3-52476. Reserved through

R6-3-52499. Reserved

R6-3-52500. Wages (Able and Available 500)

A. A claimant should understand the import of any statement he makes regarding acceptable wages, and be aware of the prevailing rate. When it has been determined that a claimant has restricted the wages acceptable to him, an evaluation of the claimant’s wage requirement is necessary to determine whether he is employable at the specified wage. The claimant’s work history showing higher earnings and his possession of unusual abilities might result in employment at wages in excess of the prevailing rate. A claimant should be given a reasonable time in which to seek employment yielding comparable earnings, especially when the higher earnings appear due to superior ability. However, in time, when his continued unemployment clearly demonstrates that he must accept the prevailing rate if he is to obtain work in the particular locality, his refusal to accept the prevailing rate would render him unavailable for work.

B. In the absence of special circumstances, work at wages prevailing for his occupation in the community may be considered suitable for the claimant. Whether refusal of such work would render him unavailable depends upon whether such refusal results in his being inaccessible to a substantial number of work opportunities which the community affords. The fact that his restriction excludes some opportunities for suitable work is not conclusive that he is unavailable for work. If work in the particular locality in a particular occupation is quite standardized as to terms of employment and the vast majority of the local establishments provide rather uniform rates of pay for work in the claimant’s occupation, a claimant’s insistence upon higher wages for such work may result in his having only
the slightest chance of becoming employed. Such a claimant would not be available for work.

C. In restricting acceptable wages to his former rate of pay, the claimant’s availability is not impaired if there are reasonable prospects of reemployment at that figure in the near future.

D. A claimant who insists on union wages in a community where the union of which he is a member has agreements covering a substantial percentage of the jobs in the locality is not unduly restricting his availability. However, in a community where the union scale covers a very small percentage of jobs, such a restriction may render a claimant unavailable for work.

E. Claimants sometimes profess willingness to accept the prevailing wage scale on condition that they are guaranteed a higher wage by reason of overtime; a 48 rather than a 40-hour week; bonuses of one kind or another; or on condition they are guaranteed immediate promotion to a higher scale. Unless there is a substantial percentage of jobs in the locality subject to those conditions, the claimant is unavailable for work. (For a discussion of the method of determining prevailing wages, refer to R6-3-53500(B) of these rules.)

Historical Note
Former rule number Able and Available 500. Former rule repealed, new Section R6-3-52500 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-52501. Reserved through R6-3-52509. Reserved

R6-3-52510. Work, nature of (Able and Available 510)
Customary (Able and Available 510.1). A claimant who is unable to accept work in his usual occupation is able to work only if he shows that he is reasonably fitted for other work which he is capable of performing on a full-time basis, that such work exists in the community in which he resides, and he is willing to accept such work under the conditions and rate of pay that prevail for similar work in the community.

Historical Note
Former rule number Able and Available 510.–510.1. Former rule repealed, new Section R6-3-52510 adopted effective January 24, 1977 (Supp. 77-1).

ARTICLE 53. REFUSAL OF WORK BENEFIT POLICY

R6-3-5301. Reserved
R6-3-5302. Reserved
R6-3-5303. Reserved
R6-3-5304. Reserved

R6-3-5305. General; Definitions
A. As used in A.R.S. § 23-776(A), “when so directed by the employment office or the department” means that an employment office, as defined in A.R.S. § 23-616, or another placement service within the Department, has provided a referral to a job opening.
B. Except as provided in subsection (C)(2) and R6-3-53335, the offer of work shall be an offer from a new employer.
C. The Department shall not disqualify a claimant for a refusal of work even though the offered work was suitable if either condition listed in this subsection exists.
1. The claimant had good cause for the refusal. In this subsection, good cause means personal circumstances beyond the claimant’s reasonable control and includes the following:
   a. The claimant had a reasonable prospect of other work,
   b. The claimant was ill, or
   c. The claimant lacked transportation or child care.
2. A continuing employer-employee relationship exists between the claimant and an employer who maintains a temporary or on-call roster of workers, and the work offered by this employer is for a period of 2 days or less. The Department shall determine the claimant’s eligibility for benefits for the week in which the work was offered in accordance with R6-3-5205(7). Examples of employment in which a continuing employer-employee relationship exists are substitute teachers or workers registered with a temporary services agency.

D. In subsection (C)(1)(a), a reasonable prospect of other work includes:
   1. A definite offer and acceptance of a job to begin at a definite time,
   2. A definite promise of a job although the starting date is an estimate by the employer, or
   3. The knowledge of a Department representative that jobs will soon be available in the claimant’s occupation.

Historical Note
Former rule number - Refusal of Work 5. Former rule repealed, new Section R6-3-5305 adopted effective January 24, 1977 (Supp. 77-1). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5306. Reserved through R6-3-5339. Reserved
R6-3-5340. Repealed

R6-3-5341. Reserved through R6-3-53149. Reserved
R6-3-53150. Distance to work (Refusal of Work 150)

Commuting distance
1. Offered work which is beyond reasonable commuting distance generally would not be suitable work unless the distance is customary for the claimant or most workers residing in the same locality as the claimant.
2. Offered work which would require a claimant to move to a new locality beyond reasonable commuting distance generally would not be suitable work. Factors to be considered in determining exceptions include:
   a. Financial detriment to relocation,
   b. Family restrictions to relocation,
   c. Duration of claimant’s unemployment,
   d. Expected duration and wage of offered job,
   e. Customs of claimant’s customary occupation, and
   f. Prospects of work in customary occupation within reasonable commuting distance.
3. “Beyond reasonable commuting distance” is generally:
   a. More than 20 miles from the claimant’s residence to place of employment, or
   b. More than one hour elapsed commuting time one way, or
   c. Commuting expense equal to 15% or more of the claimant’s prospective gross wage. (The Department accepts the mileage allowance paid state of Arizona employees for use of their private vehicles for offi-
B. Use of highest skill (Refusal of Work 195.2)

1. A disqualification must be assessed when a claimant refuses a referral to employment or an offer of work because it would not utilize his highest skill unless it is shown that his action is reasonable and prudent.

2. The following factors must be considered in determining the reasonableness of the claimant’s refusal:
   a. Length of unemployment.
   b. Prospects of his obtaining employment in his highest skill.
   c. Whether acceptance of lesser skilled work would adversely affect his obtaining work in his highest skill.

3. When the claimant’s length of unemployment has been short and he has good prospects of obtaining work in his highest skill at an early date, work in a substantially lesser skill would not be suitable. However, if employment in a claimant’s highest skill is extremely limited due to economic factors, technological changes, or other labor market conditions, the claimant may be disqualified if he refuses work which is otherwise suitable.

4. For guidelines as to the duration of the period during which a claimant may insist on work in his highest skill see R6-3-53295 of these rules.

Historical Note
Former rule number Refusal of Work 195. - 195.2. Former rule repealed, new Section R6-3-53195 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53265. Interview and acceptance (Refusal of Work 265)
Failure to accept or secure job offered (Refusal of Work 265.25). A claimant, after accepting a referral, may indicate by his actions that he did not accept it in good faith. He may, for example, without good cause fail to apply for the job, or his attitude and statements to the employer may imply that he is not applying for the job in good faith. Such indications, however, should be clear and definite before the claimant is considered to have refused an offer or referral. Before a disqualification is assessed under such circumstances, it should be clear that the job is suitable for the claimant.

Historical Note
Former rule number Refusal of Work 265. - 265.25. Former rule repealed, new Section R6-3-53265 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53266. Reserved
R6-3-53294. Reserved
R6-3-53295. Length of unemployment

A. In determining whether work is suitable, consideration must be given to the length of the claimant’s unemployment. A claimant should be allowed a reasonable adjustment period in which to find work in his customary or primary occupation.

The length of the adjustment period is flexible and should be determined on the basis of all the circumstances of the case. The adjustment period begins with the first week of the claimant’s unemployment or return to the labor market, whichever is later. While casual or odd jobs of less than one week’s duration do not interrupt the adjustment period, they may serve as
an indication of the claimant’s prospects of work in his primary skill.

B. The following are adjustment period limits in which a claimant may refuse without disqualification a referral to or offer of work solely because it does not utilize his primary skill or a skill of comparable level.

<table>
<thead>
<tr>
<th>Adjustment Period</th>
<th>Skill Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 weeks</td>
<td>Unskilled</td>
</tr>
<tr>
<td>7 weeks</td>
<td>Semi-skilled</td>
</tr>
<tr>
<td>10 weeks</td>
<td>Skilled</td>
</tr>
</tbody>
</table>

C. When there is no substantial labor market in the claimant’s primary occupation, he will be expected to accept other suitable work for which he is qualified regardless of the length of his unemployment.

Historical Note
Former rule number Refusal of Work 295. Former rule repealed, new Section R6-3-53295 adopted effective January 24, 1977 (Supp. 77-1). Amended effective April 6, 1982 (Supp. 82-2).

R6-3-53296. Reserved through R6-3-53329. Reserved

R6-3-53330. Offer of work (Refusal of Work 330)

A. General (Refusal of Work 330.05). Before a claimant may be disqualified for refusing an offer of work, it must be established that:
1. The job was open,
2. The work was suitable,
3. The offer was outright and unequivocal,
4. The offer was genuine,
5. The claimant received the offer, and
6. The claimant received sufficient information concerning the prospective employment.

B. Time (Refusal of Work 330.3). The time (or date) when an offer of work is made is significant in determining the applicability of A.R.S. § 23-776. When an individual refuses to accept a referral to, or an offer of suitable work subsequent or concurrent to his last employment, the application of this policy must be considered even though the refusal occurs before he files a claim.

Historical Note
Former rule number - Refusal of Work 330. - 330.3. Former rule repealed, new Section R6-3-53330 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53331. Reserved
R6-3-53332. Reserved
R6-3-53333. Reserved
R6-3-53334. Reserved
R6-3-53335. Offered work previously left or refused (Refusal of Work 335)

A. Generally, no work shall be deemed suitable if a claimant has previously been disqualified in connection with his separation from such employment or has been previously disqualified for refusing a job offer for such position. However, if he is offered reemployment under substantially different working conditions, or if the circumstances which caused him to separate from the job no longer exist, the work may be considered suitable.

B. When a worker is offered reemployment in a job which he left for compelling personal reasons, or from which he was separated for non-disqualifying reasons, the circumstances sur-}

R6-3-53336. Reserved through R6-3-53364. Reserved

R6-3-53365. Prospect of other work (Refusal of Work 365)

A. A claimant who has reasonable prospects of employment in the near future may refuse other less suitable work with good cause. In general, the more definite the prospect, the more reasonable is the decision to wait for the more acceptable job.

B. Prospect of obtaining future work may include:
1. A definite offer and acceptance of a job to begin at a definite time;
2. A definite promise of a job although the starting date is an estimate by the employer;
3. An indefinite statement by the employer that he may have work for the claimant;
4. Statement by Job Service personnel; or
5. General knowledge that jobs will soon be available in a particular industry.

Historical Note
Former rule number - Refusal of Work 365. Former rule repealed, new Section R6-3-53365 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53366. Reserved through R6-3-53379. Reserved

R6-3-53380. Polygraph examination requirement

A claimant may not be denied unemployment insurance benefits for refusing a referral to or an offer of new work if, as a condition of being employed, he must agree to submit to a polygraph examination, either as a pre-employment requirement or at any time during the course of his employment.

Historical Note
Adopted effective October 14, 1981 (Supp. 81-5).

R6-3-53381. Reserved through R6-3-53449. Reserved

R6-3-53450. Time -- hours (Refusal of Work 450 - 450.15)

A. Prevailing standard, comparison with (Refusal of Work 450.15). Section 23-776(C) of the Employment Security Law provides in part:

"... Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to an otherwise eligible individual for refusing to accept new work under any of the following conditions: "... 2. If the ... hours of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality: ..."

1. In order to conform with this provision of the Law consideration must be given to prevailing hours in every refusal of work issue. The term “hours” pertains to the number of hours required. The term “substantially less favorable” means less favorable in an economic sense. Thus, prospective employment is not unsuitable merely because it requires work, at hours that are unusual, inco-
venient or socially less desirable. The latter factors should however, be considered to determine whether there is good cause for refusal.

2. The relation between the standard or maximum work week permissible under Arizona or federal laws should be considered. If the regular hours required are in excess of these standards the work is unsuitable. The prevailing work week for similar work in the locality may however, be less than the legal maximum.

3. All available evidence should be considered in determining the prevailing hours for similar work. The experience of the Job Service, data from state and federal agencies, experience of unions, and evidence from workers and employers will all be of value. The number of hours worked by the largest number of workers in similar work should be used in arriving at the prevailing hours of work per day or week.

4. Comparison of hours worked in one job with hours in similar jobs should be based on only the normal work day. If overtime is usual and customary for the majority of workers performing similar work in the locality so that the final earnings are materially affected, the amount of overtime probably required of an offered job will need to be compared with that prevailing for other jobs. If it can be established at the time of the offer that the hours of work will be substantially less than those worked in similar jobs so that the earnings will be substantially reduced, the work would be substantially less favorable to the claimant.

5. The key words and phrases used in this rule are defined in R6-3-53530(B) of these rules.

B. Temporary (Refusal of Work 450.55)

1. Temporary work is not rendered unsuitable because of its duration. The fact that the prospective employment is temporary may give good cause for its refusal if:
   a. Acceptance of temporary work precludes the claimant from returning to work with his regular employer; or
   b. Acceptance would restrict the claimant from obtaining permanent work which he has good prospects of obtaining; or
   c. Acceptance would involve expenditures for equipment, union dues or etc., disproportionate to the remuneration to be obtained.

Historical Note
Former rule number - Refusal of Work 450. Former rule repealed, new Section R6-3-53480 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53476. Reserved
R6-3-53477. Reserved
R6-3-53478. Reserved
R6-3-53479. Reserved
R6-3-53480. Vacant due to labor dispute (Refusal of Work 480)

A. Benefits cannot be denied an otherwise eligible claimant for refusing to accept new work if the position offered is vacant due directly to a strike, lock out, or other labor dispute.

B. A labor dispute is defined in R6-3-56125(A) of these rules. The vacancy may be defined as any unfilled position which is open because it was held by a worker who is participating in the dispute or by a worker whose work is so integrated with that of the workers participating in the dispute that he cannot continue his work as long as the participants in the dispute are not working. Other vacancies may be created when workers are not permitted to work by those participating in the dispute or when there is a reorganization of jobs or creation of new jobs in the establishment involved in the dispute.

Historical Note
Former rule number - Refusal of Work 480. Former rule repealed, new Section R6-3-53480 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53481. Reserved through R6-3-53499. Reserved
R6-3-53500. Wages (Refusal of Work 500)

A. Prior earnings, comparison with (Refusal of Work 500.35)
   1. Whether a claimant has good cause for refusing an offer of work in his customary occupation based solely on the grounds that the wages offered are less than those earned previously depends on:
      a. Prospect of securing the wages he specifies.
      b. Length of unemployment.
      c. Condition of the labor market in his locality at that time.

2. Prior earnings are those received most recently especially, when the claimant has been receiving those earnings for a substantial period. If the worker’s most recent earnings cover a brief period, such earnings need not be considered prior earnings unless they represent his present earning ability.

B. Prevailing rate (Refusal of Work 500.7)
   1. No work shall be deemed suitable and benefits shall not be denied to an otherwise eligible individual for refusing to accept new work if the wages of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

2. The key words and phrases are:
   a. “Similar work.” Is work closely related to the job being considered and generally recognized as of the same type. Actual comparison of jobs must be made on the basis of the similarity of the work done without regard to title; that is, the similarity of the opera-
tions performed, the skill, ability, knowledge required, and the responsibilities involved. Other factors such as hours of employment, permanency of the work, unionization, vacation, sick, and retirement benefits are conditions of work and should be considered only after the question of what is similar work is decided.

b. “Locality.” Conditions offered are to be compared with the conditions of similar work in the locality where the work is to be done. In establishing the competitive labor market locality for an occupation, the dominant considerations are the location of the establishments employing similar services; the area from which workers are normally drawn to supply the needs of these establishments; the commuting practices and ease of transportation in the locality; and the customary migration pattern of the workers in the occupation.

c. “Wages.” The customary practice of the trade in the area should be used in determining what constitutes wages. The comparison of wage rates alone, however, is not always sufficient to determine if the wages offered a claimant is substantially less favorable than those prevailing for similar work in the locality. Earnings are frequently affected not only by the wage rate and hours of work, but also by the method of payment, the overtime practices, and various extra bonuses and premiums. Only by taking all of the factors which would affect the claimant’s earnings, and those of most workers in similar employment in the locality into consideration can it be determined whether the wages offered are less favorable than those prevailing.

d. “Prevailing.” The prevailing wage means the most outstanding or commonly paid rate for the largest number of workers enjoyed in similar work in a locality. The model rate has generally been recognized as that prevailing where less than a majority, but as many as 40% of the workers in similar work are paid at the same rate. Therefore, when there is a single rate at which at least 40% of the workers in similar work are employed, that rate is prevailing. In the event there is no 40% mode, the prevailing rate may be determined by using the average or median wage as the standard for comparison, based on the best information available. The prevailing starting rate should be obtained in the same manner as the prevailing rate. The mode, must of necessity, be used in determining the prevailing conditions of work when fringe benefits are involved, since fringe benefits cannot be measured in numbers and cannot be averaged.

e. “Substantially less favorable.” The meaning of the phrase “substantially less favorable to the individual” cannot be determined in terms of any fixed percent age, amount, or degree of difference. Both the actual conditions of the work in question and the extent of the difference, as well as its effect on the worker must be considered. The basis for comparison in each case insofar as they can be determined is the conditions under which the greatest number of workers in the particular occupation are employed in the locality. If the conditions of the offered work and those prevailing are known, it is usually easy to determine whether the difference is of a material or substantial nature or is of no real consequence. However, in borderline cases, where it is not clear whether the difference is material, the claimant should not be subject to a disqualification for refusing work unless it is reasonably certain that the conditions on the job are not substantially less favorable than those prevailing for similar work in the locality.

Historical Note
Former rule number - Refusal of Work 500. - 500.7. Former rule repealed, new Section R6-3-53500 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53501. Reserved through R6-3-53509. Reserved

R6-3-53510. Work, nature of (Refusal of Work 510)

A. Customary (Refusal of Work 510.1)
1. Occupation refers to the type of work a claimant was performing and not the industry in which he worked.
2. Customary occupation may be defined as follows:
   a. The occupation in which an individual has developed his highest skill either through experience, training, or education; or
   b. The occupation in which he has developed a skill through progressive steps of advancement, even though he has worked in such occupation for a relatively short period of time; or
   c. The occupation in which he was engaged the longest period of time, when his work history indicates experience in a number of occupations involving related skills; or
   d. The only occupation in which the claimant has engaged.
3. If during the adjustment period (Refer to R6-3-53295) a claimant has a good prospect of obtaining work in his customary occupation, he would have good cause for refusing other work. Conversely, if it is apparent there is little opportunity of obtaining work in his customary occupation he would not have good cause for refusing suitable work outside his customary occupation.

B. Light or heavy work (Refusal of Work 510.35). To be suitable, the offered work must be within the claimant’s physical limitation.

Historical Note
Former rule number - Refusal of Work 510. - 510.35. Former rule repealed, new Section R6-3-53510 adopted effective January 24, 1977 (Supp. 77-1).

R6-3-53511. Reserved
R6-3-53512. Reserved
R6-3-53513. Reserved
R6-3-53514. Reserved

R6-3-53515. Working conditions (Refusal of Work 515)

A. General (Refusal of Work 515.05)
1. A worker may reasonably expect working conditions which do not involve undue risk to his health, safety or morals. Although these factors are separate and distinct, a number of considerations apply to all three.
2. Protective standards required by law and governmental regulations must be considered. Work which violates any of these standards is unsuitable.
3. Account should be taken of whether the conditions to which the claimant objects are found commonly in similar work in the community, and whether the claimant is and has been accustomed to such conditions of work.
4. Some risks such as those to morals, may be connected indirectly with the work itself.

B. Environment (Refusal of Work 515.35). Environmental factors could provide a claimant with good cause for refusing an offer of work. Work requiring travel in, or through an unsavory section of a city, for example, could provide a claimant with good cause for refusal, depending on the degree of risk involved.

C. Morals (Refusal of Work 515.5)
   1. Work that would adversely affect the morals of a claimant may be unsuitable. For example:
      a. Employment by an illegal establishment.
      b. Employment by a business with a poor reputation, if it is shown that the claimant’s moral standards or reputation could be injured.
      c. Work that would expose the claimant to considerable temptation (i.e., an alcoholic who is offered employment in a bar).
   2. The risks include those indirectly connected with the work itself, thus:
      a. Work by a waitress in a cocktail bar may be unsuitable because of the risks created by the type of patron.

D. Prevailing for similar work in locality (Refusal of Work 515.55)
   1. No work shall be deemed suitable and benefits shall not be denied to any otherwise eligible individual for refusing to accept new work if the conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
   2. Working conditions comprise all phases of the employee’s environment such as light, temperature, moisture, ventilation, sanitation, equipment, materials, production arrangements, location, traveling arrangements, and conduct of fellow workers and superiors. These conditions must be weighed against those prevailing for similar work in the locality. Union contracts, state laws, and the prevailing local practice of the industry provide standards which may be used in determining the quality of working conditions.
   3. A claimant may refuse an offer of work with good cause if conditions are not substandard, but create an undue hardship on the individual worker.
   4. Key words and phrases, and sources of information applicable to this section are included in R6-3-53500(B) of these rules.

E. Safety (Refusal of Work 515.65)
   1. Suitability of the job, may be judged by whether the work would be unduly dangerous to the ordinary worker and whether work safeguards meet the standards of the industry.
   2. A claimant’s personal characteristics, physical limitations, and lack of previous experience are contributing factors which should be examined.

Historical Note
Former rule number -- Miscellaneous 40. Former rule repealed, new Section R6-3-5440 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-5441. Reserved
R6-3-5459. Reserved

R6-3-5460. Benefit computation factors (Miscellaneous 60)

Disqualification period (Miscellaneous 60.2)
   1. Disqualification begins with the first day of the calendar week during which the claimant left work voluntarily without good cause in connection with the employment or was discharged for misconduct.
   2. The date the claimant quit work is the day he severed his employment. The date of discharge is the day the employer terminated his employment.
   3. When an employee’s separation occurs when he is absent from work, his date of termination is:
      a. The date one party notifies the other that there will be no return to work.
      b. The first working day following the expiration date of the leave of absence if the employee fails to return at the end of a leave of absence.
      c. The date the employer took action to remove the employee’s name from the payroll records unless the employee was earlier notified by the employer that his employment was terminated.
      d. The first working day following the expiration of the leave, if no work is available when the employee returns from the leave.
      e. The date on which the employee reapplies to the employer for work if it is prior to the end of a specific leave of absence period and no work is available.
      f. The date on which the employee files a claim for unemployment insurance if on a leave of absence and the employee has not contacted the employer to see if work is available.

Historical Note
Former rule number -- Miscellaneous 60. - 60.2. Former rule repealed, new Section R6-3-5460 adopted effective January 24, 1977 (Supp. 77-1). Amended effective December 17, 1981 (Supp. 81-6).

R6-3-5461. Reserved
R6-3-5469. Reserved
R6-3-5470. Repealed

Historical Note

R6-3-5471. Reserved
R6-3-5472. Reserved
R6-3-5473. Reserved
R6-3-5474. Reserved
R6-3-5475. Claims and Registration
A. Definitions. In this Article:
1. “Department” means the Arizona Department of Economic Security and any other entity that has an agreement with the Department to provide unemployment insurance and reemployment services.

2. “Itinerant service” means unemployment insurance claims service on a regularly scheduled but less than full-time basis to a locality not within a reasonable commuting distance of an established, full-time claims office.

3. “Personal Identification Number” means a four-digit number selected and entered by the claimant into the unemployment insurance telephone claims filing system.

B. Initial claims. A person claiming unemployment insurance benefits shall:

1. File an initial claim with the Department:
   a. In writing, using an application provided by the Department at an office that accepts unemployment insurance claims. A claimant may also request and submit an application by mail;
   b. By telephone, using a toll-free number provided by the Department via the Department’s web site, local telephone directories, and informational flyers; or
   c. By Internet, using the service maintained for that purpose on the Department’s web site.

2. The Department may limit the available methods of filing according to budgetary constraints or program needs. The Department shall provide information on how to file an initial claim on its web site, in its employment offices, and in employment offices operated by other public agencies throughout the state.

3. Include the following information on the initial claim:
   a. The claimant’s personal identifying information, including name, aliases, birth date, address, telephone number, occupation, Social Security number, and citizenship status;
   b. The claimant’s employment history, including information on the claimant’s last employer, the claimant’s last date of work, and the reason for the last work was part time;
   c. A statement that the claimant is totally or partially unemployed, and information on the claimant’s potential for employment, including:
      i. A description of the circumstances under which the claimant is willing to accept employment, and
      ii. The claimant’s restrictions to accepting employment;
   d. A statement of other benefits the claimant has obtained or is seeking, including workers’ compensation, Social Security, retirement benefits, unemployment benefits from another state, and employment benefits such as accrued vacation pay;
   e. An acknowledgment that the claimant may be subject to penalty for provision of false statements or information; and
   f. The claimant’s signature or personal identification number.

C. Registration; exemptions. A claimant who files a claim satisfies the registration for work requirements of A.R.S. § 23-771(A)(1). The Department shall not require further registration efforts by a claimant who:

1. Is unemployed due to a labor dispute at the establishment of the claimant’s employer but intends to return to work for the employer when the dispute ends;

2. Is temporarily laid off from employment for a known duration of not more than 30 days and has been notified of the date to return to work;

3. Is residing in a geographic area in which the Department does not provide placement services;

4. Is registered for work with a labor union through which workers in the claimant’s occupation normally obtain work;

5. Is enrolled in a training course that meets the requirements of A.R.S. § 23-771.01 and R6-3-1809; or

6. Is laid off from employment because of the seasonal nature of the claimant’s occupation, and the Department has determined that no current placement opportunities exist for the claimant. When the season for the claimant’s occupation resumes, the claimant shall register with the Department’s employment service.

D. Effective date of claim. Except as otherwise provided in this Section, an initial claim for benefits is effective on the first day of the calendar week in which the claimant files a claim.

1. An initial claim for benefits filed at a biweekly itinerant service point is effective on the first day of the prior calendar week if the claimant’s unemployment began in that week and the claimant reported to file the claim at the itinerant service point on the next regularly scheduled service date.

2. An initial claim filed by mail is effective on the first day of the calendar week in which the claimant requests the claim forms, if the claimant returns the completed forms within seven days of the date that the Department mailed or provided the forms to the claimant. In all other cases where the claimant files by mail, the effective date is the first day of the calendar week that the claimant mails the completed forms to the Department. The mailing date is the postmark date.

E. Earlier effective dates. The Department may give the claim an effective date earlier than the dates described in subsection (D) if:

1. The claimant shows that the Department gave the claimant incorrect information that caused the claimant to delay filing the claim;

2. The claimant was unable to timely file a claim because the Department did not provide accessible claim services;

3. The claimant filed a timely claim against another state and:
   a. The claim was later cancelled or denied; or
   b. The claimant did not qualify for benefits in the other state;

F. Cancellation of claims. At the request of a claimant, the Department may cancel a claim that has established a benefit year if:

1. The claimant:
   a. Has filed a combined wage claim; or
   b. Has sufficient wage credits in another state to qualify for a claim; and
   c. Requests cancellation within 15 days of the most recently issued monetary determination; and
   d. Repays, or agrees to repay, any benefits received from the Arizona claim;

2. The claimant is ineligible for benefits because the claimant earned wages in the base period from an employer who contributed to or maintained the claimant’s pension plan, and the wages will not be in the base period of a subsequent claim;

3. The claimant:
   a. Initiates a claim during the final week of a benefit calendar quarter;
I. Adjudication and eligibility interviews.

1. The Department may require a claimant to participate in:
   a. Determination fact-finding proceeding, if an issue arises regarding eligibility; or
   b. Periodic eligibility review, if a claimant has claimed benefits for at least two weeks.

2. The Department shall give the claimant not less than five calendar days prior written notice if it schedules a proceeding or review.

3. Except as otherwise provided in this subsection, a claimant who fails to report in person or be available via telephone, on a scheduled proceeding or interview date is ineligible for benefits for the week in which the appointment was scheduled, until the claimant reports to the Department.

   a. The Department shall not hold the claimant ineligible if:
      i. The claimant reports within three work days of the scheduled interview or the end of the same calendar week, whichever first occurs; or
      ii. The claimant has good cause for the failure to report.

   b. As used in this subsection, good cause includes the following circumstances:
      i. The claimant was ill,
      ii. The claimant lacked transportation to the appointment,
      iii. The claimant had a job interview or work that precluded the claimant from keeping the appointment, or
      iv. Other similar circumstances beyond the reasonable control of the claimant.

J. Reemployment services.

1. The Department may require a claimant to participate in a reemployment service program if the Department determines that the claimant:
   a. Is likely to exhaust regular unemployment compensation benefits; and
   b. Needs job search assistance services to make a successful transition to new employment.

2. If a claimant who is required to participate in reemployment services fails to report to a reemployment service provider, or to fulfill the requirements of the claimant’s reemployment service plan, the claimant is ineligible for benefits for the week during which the act of non-participation occurred, unless the claimant establishes good cause for non-participation. Good cause includes the circumstances listed in subsection (I)(3)(b).

Historical Note
Former rule number -- Miscellaneous 75. - 75.6. Former rule repealed, new Section R6-3-5475 adopted effective January 24, 1977 (Supp. 77-1). Section repealed, new Section adopted effective December 20, 1995 (Supp. 95-4). Amended by final rulemaking at 6 A.A.R. 3648, effective August 28, 2000 (Supp. 00-3). Amended by emergency rulemaking at 12 A.A.R. 3808, effective September 8, 2006 for 180 days (Supp. 06-3). Emergency renewed at 13 A.A.R. 1139, effective March 6, 2007 for 180 days (Supp. 07-1). Emergency expired. Section amended by final rulemaking at 14 A.A.R. 1747, effective June 14, 2008 (Supp. 08-2).
1. Initiates a benefit year;
2. After a period of intervening employment during the benefit year, files a request to reopen the claim; or
3. During a continuous period of filing, is employed and later separates from the employment.

B. In this Section, “last employment” means the claimant’s most recent work:
1. Lasting 2 consecutive work days or more during which the claimant worked the normal, customary full-time hours;
2. Lasting 2 days or more in the same calendar week during which the claimant worked the normal, customary full-time hours;
3. Occurring during a calendar week in which the claimant earned wages equal to or exceeding the claimant’s weekly benefit amount; or
4. Regardless of whether the claimant performed services or met the requirements of subsection (B)(1) through (3), which the claimant voluntarily left or from which the claimant was discharged.

Historical Note

R6-3-5496. Reserved
R6-3-5497. Reserved
R6-3-5498. Reserved
R6-3-5499. Reserved

R6-3-54100. Extended benefits
A. Work search requirements. Terms used in A.R.S. § 23-634.01 are explained as follows:
1. “Tangible evidence” is a written record of the work-seeking activities of the week, including the employer name and address, the date and method of contact, the individual contacted, the type of work sought, and the outcome of the contact.
2. “A systematic and sustained effort” means the development and employment of a method or plan for seeking work, which is maintained each week. It must represent the course of action a reasonable and prudent person would employ.
   a. For each week of extended benefits claimed, efforts to find employment must be made on more than one day of the week.
   b. Registration with Job Service and/or membership in and registration with a union that serves as a hiring agent do not, by themselves, constitute a systematic and sustained effort to find work. This applies even if the union serves as the hiring agent for most prospective employers in the area. The claimant must, on his own initiative, make an active and independent effort to seek work. The work need not be in claimant’s usual occupation, but must be work for which the claimant is qualified by experience or training.
   c. With the exception of jury duty as described in (2)(d) below, an extended benefits claimant cannot establish good cause for failure to maintain a systematic and sustained search for work. The statutory disqualification applies if a claimant does not seek work due to illness, death in family, personal circumstances, or any other reason and claims extended benefits for the week(s). However, an extended benefit claimant may be found eligible under the one work day removal from the active labor force provisions of R6-3-5205(A)(6), (7), and (8) if the overall pattern for the week meets the requirements of a systematic and sustained effort to find work.
   d. A claimant shall be excepted from the requirement of conducting a systematic and sustained work search if prevented from doing so on the basis of his being selected as a member of a jury panel or as a juror in a specific trial.

B. Refusal of suitable work
1. An extended benefits claimant’s prospects for obtaining work must be classified either “good” or “not good” before the first extended benefit payment is made. The claimant must be informed of this classification.
   a. Prospects are “good” -- claimant has a definite prospect of work or a definite date to return to work within six weeks.
   b. Prospects are “not good” -- there is no definite prospect of the claimant returning to work within the next six weeks.
2. For claimants classified as prospects are “good”, the regular refusal of work provisions of A.R.S. § 23-77(A) and the Refusal of Work sections of these Benefit Policy rules apply.
3. For claimants classified prospects are “not good” the provisions of A.R.S. § 23-77(A)(1)(b) (including disqualification) do not apply. The failure to accept a referral to or an offer of work for a claimant in this classification must be adjudicated under A.R.S. § 23-634.01. The work shall be considered suitable if the claimant is capable of performing it without regard to use of claimant’s highest skill and the following conditions are present:
   a. The gross average weekly wage is equal to or exceeds the claimant’s weekly benefit amount plus any applicable supplemental unemployment benefits;
   b. The wages are equal to or exceed the minimum wage;
   c. The offer has been listed with the Department of Economic Security, or the employer has provided the offer of work to the claimant in writing;
   d. The claimant will not be required to join a company union or to resign from or refrain from joining a bona fide labor organization;
   e. The position is not vacant due directly to a strike, lockout, or other labor dispute; or
   f. The wages, hours or other conditions of the work offered are not substantially less favorable to the individual than those prevailing for similar work in the community.
4. Notwithstanding the provisions of R6-3-53335, there is no limitation to the number of times a claimant classified prospects are “not good” can be disqualified for refusal of
the same job provided the offered job is not unsuitable under B.3. above.

C. Filing extended benefits. A.R.S. § 23-634(B) limits the payment of extended benefits to two weeks to an individual filing under the interstate benefit payment plan unless an extended benefit period is in effect in the state of filing.

1. In applying this statute, the state of filing is the determining factor. In some instances, the claimant may be residing in a state which is in an extended benefit period but may be filing for convenience in a neighboring state not in an extended benefit period. The claimant is not eligible for more than two weeks of extended benefits. This applies even though the actual state of residence may be Arizona.

This statute does not apply to an individual who is temporarily absent from the area of the regular reporting office and files transient or visiting (courtesy) claims. He is considered as filing from his regular local office until an interstate claim is initiated.

2. A claimant who has received two weeks of extended benefits while filing in an agent state not in an extended benefit period may not collect an additional two weeks of benefits by filing in another state not in an extended benefit period. The claimant may, however, receive benefits until the extended benefit award is exhausted if filing in an agent state which is in or enters an extended benefit period.

3. If the claimant is filing from a state in an extended benefit period and this period ends, the claimant is entitled to two further weeks of extended benefits, provided there is a sufficient balance in the extended benefit award and the claimant has not collected benefits for the additional two weeks.

**Historical Note**

Adopted effective March 17, 1982 (Supp. 82-2). Amended effective December 27, 1985 (Supp. 85-6).

R6-3-54101. Reserved through R6-3-54339. Reserved

R6-3-54340. Overpayments (Miscellaneous 340)

Administrative penalty -- fraud or misrepresentation (Miscellaneous 340.05)

1. Section 23-778 of the Employment Security Law of Arizona provides:

   “Any person who, within the 24 calendar months immediately preceding a week in which he files a valid claim for benefits, has made a false statement or representation of a material fact, knowing it to be false, or knowingly failed to disclose a material fact with intent to obtain benefits under this chapter, shall be disqualified for the week for which the claim was filed and for not more than 51 weeks immediately following such week as determined by the Commission according to the circumstances in each case.”

2. A claimant shall be disqualified under A.R.S. § 23-778, for the periods shown in paragraph (3) below, if he willfully and knowingly with intent to obtain benefits makes a false statement or representation or conceals a fact, and the true fact concealed by the false statement or nondisclosure is material

3. Periods of disqualification are applicable as follows:

   a. Four weeks disqualification for each week of unreported earnings, up to a maximum of 52 weeks.

   b. Ten weeks disqualification for false statements on separation, eligibility, refusal of work and other issues.

4. The effective date of the administrative penalty is the beginning date of the first otherwise valid waiting week or payable claim filed after the date of the determination which is the basis for establishing that the claimant made a false statement.

5. The terms used in the above quoted section of the Law mean:

   a. False. A statement or representation is false if it is contrary to fact.

   b. Knowingly

      i. A false statement or representation is made knowingly if the person making it is aware that it is untrue or if he has no reasonable basis for believing that it is true.

      ii. A claimant negligently fails to disclose a fact if he deliberately withholds information which he knows should be disclosed to the Agency.

   c. Material fact

      i. A fact is material if in some way it affects the eventual outcome of a transaction. Thus, a fact which, if known, would result in a determination adverse to the claimant, is a material fact.

      ii. A fact is not material if the failure to disclose it or the intentional misstatement of it would not cause injury. Thus, a fact which, if known, would cause no denial of benefits to the claimant is not material.

   d. With intent to obtain benefits

      i. This phrase refers to the claimant’s purpose in knowingly making a false statement or representation or in knowingly failing to disclose a material fact. The fact that concealment of a material fact by willful misstatement or nondisclosure occurs in the course of claiming benefits suggests that the claimant’s intent was to obtain benefits. In the absence of facts to indicate otherwise it may be assumed such was his purpose.

      ii. If facts are discovered which indicate a different intent, the conclusions as to the claimant’s intent must be based on consideration of all the facts and not merely on an assumption.

6. A claimant who inadvertently makes a mistake or omission, or who does not understand his responsibility or the questions asked him, and on the basis of information previously given him, cannot reasonably be expected to understand his responsibility, shall not be disqualified under A.R.S. § 23-778. If at any time during the investigation, it becomes apparent that one of the conditions required by the law, does not exist, the adjudicator must decline application of the administrative penalty.

7. This rule rescinds Unemployment Insurance regulation R6-3-1808 (former 30-7).

**Historical Note**

Former rule number -- Miscellaneous 340. - 340.05. Former rule repealed, new Section R6-3-54340 adopted effective January 24, 1977 (Supp. 77-1). Amended effective October 20, 1978 (Supp. 78-5).

R6-3-54341. Reserved through R6-3-54406. Reserved

R6-3-54407. Repealed
ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT
BENEFIT POLICY

R6-3-5501. Reserved through R6-3-55414. Reserved

R6-3-55415. Self-employment or other work (Total and Partial Unemployment 415)

Salesman, commission (T.P.U. 415.3)

1. The primary issue created when a claimant accepts sales work on a straight commission basis is that of his employment status. It must be determined whether or not he is considered unemployed and potentially eligible for benefits. The eligibility of a commission salesman must be determined from the standpoint of the particular job as well as the intent of the claimant in engaging in selling activities.

2. If a claimant’s training, experience, or work history qualify him as a salesman, he may be considered employed and ineligible for benefits if he engages in selling activities. Each such case must be judged on the basis of the facts.

3. A claimant who has lost his customary work and engages in commission sales work, only as a stop-gap measure until work more suited to his training and experience becomes available, is not ineligible solely on the basis of engaging in commission selling.

4. A claimant performing services as a commission sales man, who receives commission payments in an amount less than his weekly benefit amount, may be considered unemployed if:
   a. The number of hours spent on the job is restricted to less than full time by his employer; or
   b. It is neither customary nor practical in the community to devote full time to the selling activities; or
   c. Regardless of the number of hours devoted to the activity, the selling is stop-gap, odd job work outside the customary occupation for which he is qualified and his acceptance of the work will not preclude his obtaining employment more suitable to his experience and training.

5. If a claimant engaged in commission selling is determined to be unemployed he must also meet the test of availability. Refer to R6-3-52160(A) of these rules.

6. Commission payments should be allocated, as other wages, to the week in which the services were performed. However, certain circumstances sometimes arise which make it impossible for the claimant to determine the amount of wages earned during a given week or whether they will be paid. In such cases the claimant may report commissions as earnings for the week in which they are payable.

Historical Note
Former rule number -- Total and Partial Unemployment 415. - 415.3. Former rule repealed, new Section R6-3-55415 adopted effective January 24, 1977 (Supp. 77-1). Amended effective November 28, 1977 (Supp. 77-6). Amended effective May 8, 1979 (Supp. 79-3). Amended paragraph (4), subparagraph (c) effective November 24, 1982 (Supp. 82-6).
ARTICLE 56. LABOR DISPUTE BENEFIT POLICY

R6-3-5601. Definitions and Explanation of Terms

The following definitions and explanation of terms apply to A.R.S. § 23-777 and Article 56 of this Chapter:

1. “Class” means a number of grades of workers, joined together for a common purpose.
2. “Directly interested in,” when used in reference to a labor dispute, means an employee is a member of a bargaining unit in which the terms or conditions of the employee's work will be directly affected by the outcome of a dispute.
   a. An employee may be directly interested in the labor dispute even though the employee is not a member of a striking union.
   b. An employee may be directly interested in a dispute even though the employee offered to continue working, or voted against or otherwise opposed the labor dispute.
   c. An employee is not directly interested in a dispute if the employee was not in the bargaining unit involved in the labor dispute but may benefit from the labor dispute because the employer’s practice is to bring the employment status of all the employees into line with a settlement reached with any particular group of employees.
3. “Establishment” means more than a factory or other business premises and may include combinations or portions of factories or other premises. An establishment is each separate project of an employing unit if the project is a separate activity for the purpose of employment.
4. “Financing,” when used in reference to a labor dispute, means that an employee is contributing money to enable workers to strike. Mere payment of union dues is not financing a labor dispute. If all or a portion of the employee's union dues are used to pay strike benefits, or to, in some other way, support the employee's union or another union involved in a labor dispute at the establishment at which the employee is or was last employed, the employee is financing a labor dispute.
5. “Grade” means a particular classification within an occupation, such as apprentice or journeyman.
6. “Labor dispute” means any controversy between employees and their employer over terms, tenure, or conditions of employment, or the association or representation of employees in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment. A labor dispute may exist without a union or a collective bargaining agreement. A strike or a lockout is a form of labor dispute.
7. “Lockout” means that an employer is withholding employment from a group of employees to obtain the employees’ acceptance of the employer’s terms. A lockout does not require the inclusion of all employees in a particular grade or class. A lockout exists when all the following conditions are present:
   a. The employer demands some concession from the employees,
   b. The employer withholds employment in order to gain the concession, and
   c. The employer intends to resume operations with the same employees when the concession is gained.
8. “Member of a bargaining unit” means any employee or group of employees, whether or not the employees belong to a union or other trade organization, who are members of a grade or class of employees represented by a bargaining unit that engages in bargaining on wages or other conditions of work.
9. “Participating in,” when used in reference to a labor dispute at an establishment at which an employee is or was last employed, means that the employee has taken definite action such as stopping work, walking out, striking, picketing, or otherwise lending tangible aid to the worker group directly involved. Membership in a labor organization or union involved in a labor dispute is not participating in the dispute in the absence of other actions.
   a. An employee participates in a dispute if the employee refuses to cross a picket line at an establishment at which the employee is or was last employed, regardless of whether the employee is a member of the picketing union, if:
      i. The employee’s job was open and work was available so the employee could have worked had the employee crossed the picket line; and
      ii. The employee’s refusal to cross was voluntary. The employee’s refusal is not voluntary if the employee risked physical violence by crossing the picket line.
   b. If the reason for the employee's failure to cross a picket line is respect for the strikers’ cause, the employee is participating in the dispute.
10. “Strike” means that employees have stopped working because the employees have not reached an agreement with their employer on terms or conditions for continued employment, or the employer has refused the employees' demands for changes in the terms or conditions of employment. A strike exists when all the following conditions are present:
    a. The employees have demanded an agreement with the employer or some concession from the employer,
    b. The employees stop working in order to win the concession, and
    c. The employees intend to return to work when the agreement with the employer is reached or the concession is won.

Historical Note

Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5602. Labor Dispute Notice

A. Notice by Employer. An employer involved in a labor dispute, strike, or lockout shall, upon request by the Department, provide the following information:

1. The address of each location affected by the dispute, the date the dispute began, and whether strikers have formed a picket line at each location;
2. The name, address, and business agent of any labor organization involved in the dispute, and the date a contract or agreement with the organization expired;
3. The issues involved in the dispute and the grade or class of employees who:
   a. Have left work because of the dispute;
   b. Are not a part of the dispute but are unemployed as a result of the dispute; and
   c. Are continuing to work; and
4. The name, social security number, and type of work performed by each employee who is unemployed due to the dispute.
B. Notice by Labor Organization. A labor organization involved in the dispute shall, upon request by the Department, provide the following information:
1. A description of the class of workers represented by the labor organization;
2. A summary of the matters in dispute;
3. Whether the labor organization has established a picket line;
4. Whether the members are required to do picket duty; and
5. Whether the members are paid while on strike.

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5603. Eligibility During a Labor Dispute
A. When a worker’s unemployment results from action taken in anticipation of the labor dispute but occurring before the dispute starts, the worker’s unemployment is not due to the labor dispute. The start of a labor dispute does not change the reason for a worker’s unemployment if the unemployment preceded the dispute.

B. When a labor dispute begins while a worker is on an approved absence from work, and the worker does not return to work at the end of the absence because of the labor dispute, the worker’s unemployment is due to the labor dispute. An example of an approved absence is vacation, sick leave, or other similar reasons.

C. When a worker who is a member of a grade or class of workers participating in, financing or directly interested in a labor dispute did not go out on strike with the other members, but subsequently became unemployed because the employer limits or stops work as the result of the strike, the worker is unemployed due to a labor dispute pursuant to A.R.S. § 23-777.

D. When an employer can no longer provide work to a worker who is not participating in, financing or directly interested in a labor dispute because of the absence of other workers who are on strike, the worker is unemployed due to a lack of work as a result of the labor dispute. The Department shall not charge the employer for any benefits paid to the worker while the worker’s unemployment is a result of the labor dispute.

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5604. Termination of the Labor Dispute Disqualification
A. Discharge During Dispute
1. When, during an ongoing labor dispute, the employer discharges a worker who is unemployed due to a labor dispute, the Department shall not end the labor dispute disqualification until the employer establishes that the employer took positive and affirmative action to sever the employer-employee relationship, or the worker establishes that the worker:
   a. Has been permanently replaced,
   b. Abandoned the strike or dispute, and
   c. Unconditionally offered to return to work.

2. Positive and affirmative action by the employer to sever the employer-employee relationship includes:
   a. Resumption of operations,
   b. Permanent replacement of the discharged worker,
   c. Discontinuance of company benefits,
   d. Transfer of the employer’s location, or
   e. Sale of the business.

3. Notwithstanding subsection (A)(1), the Department shall end the labor dispute disqualification and shall determine the worker’s eligibility for benefits in accordance with the provisions of A.R.S. § 23-775(2) and Article 51 of this Chapter when the employer severs the employer-employee relationship because the worker:
   a. Participates in a strike in violation of a no-strike clause in a collective bargaining agreement; or
   b. Commits violence or unlawful conduct during picketing activities on, adjacent to, or directed at the employer’s premises, property, operations, or personnel.

B. Quit During Dispute. The Department shall end the labor dispute disqualification if the Department determines the worker quit employment with a labor-dispute employer and does not intend to return to work at the end of the dispute.

C. New Employment During the Dispute. The Department shall end a labor dispute disqualification when the worker involved in an ongoing dispute has had new employment that began after the start of the labor dispute and the worker establishes the following:
1. The worker accepted the employment in good faith. Good faith means that the worker, in accepting the new work, intended to continue in the job and not return to the former employer at the end of the labor dispute.
2. The worker was employed by the new employer for at least 8 weeks, and in each week the worker earned an amount equal to or exceeding the worker’s weekly benefit amount. One or more periods of employment, not necessarily consecutive, with 1 or more employers meets the duration test if the total duration is at least 8 weeks.

D. Termination of Dispute. A labor dispute no longer exists at the time the disputants agree it has ended and are willing to resume operations and return to work.
1. If there is no agreement as to the date a dispute has ended, the Department shall establish an ending date from the dates of the following events:
   a. The return to normal business operations,
   b. The end of bargaining meetings, and
   c. The striking unions’ notice of a desire to return to work.
2. When a labor dispute ends, the worker is no longer directly interested in, financing, or participating in a labor dispute. The labor-dispute disqualification ends with the last week in which the labor-dispute disqualification is applicable for any portion of a day within the employer’s regular work week.

E. Employer’s Chargeability. The Department shall determine chargeability for the claimant’s base-period employers during and upon termination of the dispute as prescribed in R6-3-1708(D).

Historical Note
Adopted effective July 22, 1997 (Supp. 97-3).

R6-3-5605. Repealed

Historical Note
Former rule number -- Labor Dispute 5. Former rule repealed, new Section R6-3-5605 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-5606. Reserved through
R6-3-5634. Reserved

R6-3-5635. Repealed

Historical Note
Former rule number -- Labor Dispute 35. - 35.15. Former rule repealed, new Section R6-3-5635 adopted effective

R6-3-5636. Reserved through R6-3-56125. Repealed

Historical Note
Former rule number - Labor Dispute 125. - 125.6. Former rule repealed, new Section R6-3-56125 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56126. Reserved through R6-3-56127. Reserved R6-3-56128. Reserved R6-3-56129. Reserved

R6-3-56130. Repealed

Historical Note
Former rule number - Labor Dispute 130. Former rule repealed, new Section R6-3-56130 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56131. Reserved through R6-3-56174. Reserved

R6-3-56175. Repealed

Historical Note
Former rule number - Labor Dispute 175. Former rule repealed, new Section R6-3-56175 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56176. Reserved through R6-3-56204. Reserved

R6-3-56205. Repealed

Historical Note
Former rule number - Labor Dispute 205. - 205.2. Former rule repealed, new Section R6-3-56205 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56206. Reserved through R6-3-56219. Reserved

R6.3-56220. Repealed

Historical Note
Former rule number - Labor Dispute 220. - 220.1. Former rule repealed, new Section R6-3-56220 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6-3-56221. Reserved through R6-3-56406. Reserved

R6-3-56407. Repealed

Historical Note
Former rule number - Labor Dispute 407. - 407.05. Former rule repealed, new Section R6-3-56407 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

R6.3-56408. Reserved through R6-3-56444. Reserved

R6-3-56445. Repealed

Historical Note

R6-3-56446. Reserved through R6-3-56464. Reserved

R6-3-56465. Repealed

Historical Note

R6-3-56466. Reserved through R6-3-56467. Reserved

R6-3-56468. Reserved through R6-3-56469. Reserved

R6-3-56470. Repealed

ARTICLE 57. RESERVED

ARTICLE 58. RESERVED

ARTICLE 59. RESERVED

ARTICLE 60. REPEALED

R6-3-6001. Repealed

Historical Note
Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6002. Repealed

Historical Note
Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6003. Repealed

Historical Note
Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

R6-3-6004. Repealed

Historical Note
Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).
Historical Note
Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

Historical Note
Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).