

amendment in this section shall operate in the same manner and have the same effect as if it had been part of the Railroad Unemployment Insurance Act [this chapter] when that Act was enacted on June 25, 1938: *Provided, however*, That no interest or penalties shall accrue or be deemed to have accrued for the failure to make returns under, or pay contributions levied by, section 8 of said Railroad Unemployment Insurance Act [section 358 of this title] with respect to the compensation of employees of any local lodge or division of a railway-labor-organization employer earned prior to July 1, 1940, and with respect to the compensation of employees of any general committee of a railway-labor-organization employer earned prior to the enactment of this amendment if, with respect to any such local lodge or division (1) the headquarters of such a local lodge or division was not located in the United States or (2) all, or substantially all, the individuals constituting the membership of such a local lodge or division were employees of an employer not conducting the principal part of its business in the United States; and if, with respect to any such general committee (1) the individuals represented by such a general committee were employees of an employer not conducting the principal part of its business in the United States, or (2) the service to such a general committee was rendered outside the United States, or (3) the office or headquarters of the individual rendering service to such a general committee was not located in the United States and if such returns are made and such contributions are paid by such a local lodge or division or by such a general committee within the time allowed for making returns and paying contributions with respect to the first calendar quarter beginning after the enactment of this amendment."

#### EFFECTIVE DATE OF 1940 AMENDMENT

Section 1 of act Oct. 10, 1940, provided: "That the provisions of this act [amending this section, sections 228a, 228i, 352 to 355, 356, 361, and 362 of this title, and section 1532 of former Title 26, Internal Revenue Code of 1939, and enacting provisions set out as notes under this section and section 262 of this title] shall take effect on November 1, 1940, except that sections 2, 11, 25, 26, and 27 [amending sections 228a, 228i, 351, and 352 of this title and section 1532 of former Title 26 and enacting provisions set out as a note under section 262 of this title] shall be effective as of July 1, 1940, and sections 19 and 20 [amending section 355 of this title] shall become effective upon the approval of this act: *Provided, however*, That—

"(a) A half-month which has begun prior to November 1, 1940, in accordance with the Railroad Unemployment Insurance Act [this chapter] and regulations thereunder, and which includes such date, shall continue, and benefits with respect thereto shall be computed and paid as if this act had not been enacted;

"(b) All benefit years current on October 31, 1940, shall terminate (1) on October 31, 1940, or (2) on the last day of a half-month which includes October 31, 1940 and November 1, 1940, whichever is later, and, for the purposes of section 2(c) of the Railroad Unemployment Insurance Act [section 352(c) of this title], as amended by this act, all benefits paid for unemployment in half-months begun subsequent to June 30, 1940, and prior to November 1, 1940, shall be deemed to have been paid for unemployment within the benefit year ending June 30, 1941;

"(c) Benefits for unemployment in the first registration period, beginning after October 31, 1940, of an employee who has, subsequent to June 30, 1940, completed a waiting period under section 3(b) of the Railroad Unemployment Insurance Act [section 353(b) of this title], shall be determined and computed as though such registration period were a subsequent registration period in the same benefit year."

#### EXCLUSION FROM WAGES AND COMPENSATION OF REFUNDS REQUIRED FROM EMPLOYERS TO COMPENSATE FOR DUPLICATION OF MEDICARE BENEFITS BY HEALTH CARE BENEFITS PROVIDED BY EMPLOYERS

For purposes of this chapter, the term "compensation" shall not include the amount of any refund required under section 421 of Pub. L. 100-360 [42 U.S.C. 1395b note], see section 10202 of Pub. L. 101-239, set out as a note under section 1395b of Title 42, The Public Health and Welfare.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 352, 353, 354, 358, 362 of this title; title 26 sections 3306, 3322.

### § 352. Benefits

#### (a) Days for which benefits payable; determination of amount

##### (1)(A) PAYMENT OF UNEMPLOYMENT BENEFITS.—

(i) **GENERALLY.**—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of unemployment in excess of 4 during any registration period within a period of continuing unemployment.

(ii) **WAITING PERIOD FOR FIRST REGISTRATION PERIOD.**—Benefits shall be payable to any qualified employee for each day of unemployment in excess of 7 during that employee's first registration period in a period of continuing unemployment if such period of continuing unemployment is the employee's initial period of continuing unemployment commencing in the benefit year.

(iii) **STRIKES.**—

(I) **INITIAL 14-DAY WAITING PERIOD.**—If the Board finds that a qualified employee has a period of continuing unemployment that includes days of unemployment due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which such employee was last employed, no benefits shall be payable for such employee's first 14 days of unemployment due to such stoppage of work.

(II) **SUBSEQUENT DAYS OF UNEMPLOYMENT.**—For subsequent days of unemployment due to the same stoppage of work, benefits shall be payable as provided in clause (i) of this subparagraph.

(III) **SUBSEQUENT PERIODS OF CONTINUING UNEMPLOYMENT.**—If such period of continuing unemployment ends by reason of clause (v) but the stoppage of work continues, the waiting period established in clause (ii) shall apply to the employee's first registration period in a new period of continuing unemployment based upon the same stoppage of work.

(iv) **DEFINITION OF PERIOD OF CONTINUING UNEMPLOYMENT.**—Except as limited by clause (v), for the purposes of this subparagraph, the term "period of continuing unemployment" means—

(I) a single registration period that includes more than 4 days of unemployment;

(II) a series of consecutive registration periods, each of which includes more than 4 days of unemployment; or

(III) a series of successive registration periods, each of which includes more than 4

days of unemployment, if each succeeding registration period begins within 15 days after the last day of the immediately preceding registration period.

(v) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing unemployment ends when an employee exhausts rights to unemployment benefits under subsection (c) of this section.

(vi) LIMIT ON AMOUNT OF BENEFITS.—No benefits shall be payable to an otherwise eligible employee for any day of unemployment in a registration period where the total amount of the remuneration (as defined in section 351(j) of this title) payable or accruing to him for days within such registration period exceeds the amount of the base year monthly compensation base. For purposes of the preceding sentence, an employee's remuneration shall be deemed to include the gross amount of any remuneration that would have become payable to that employee but did not become payable because that employee was not ready or willing to perform suitable work available to that employee on any day within such registration period.

(B) PAYMENT OF SICKNESS BENEFITS.—

(i) GENERALLY.—Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of sickness after the 4th consecutive day of sickness in a period of continuing sickness but excluding 4 days of sickness in any registration period in such period of continuing sickness.

(ii) WAITING PERIOD FOR FIRST REGISTRATION PERIOD.—Benefits shall be payable to any qualified employee for each day of sickness in excess of 7 during that employee's first registration period in a period of continuing sickness if such period of continuing sickness is the employee's initial period of continuing sickness commencing in the benefit year. For the purposes of this clause, the first registration period in a period of continuing sickness is that registration period that first begins with 4 consecutive days of sickness and includes more than 4 days of sickness.

(iii) DEFINITION OF PERIOD OF CONTINUING SICKNESS.—For the purposes of this subparagraph, a period of continuing sickness means—

(I) a period of consecutive days of sickness, whether from 1 or more causes; or

(II) a period of successive days of sickness due to a single cause without interruption of more than 90 consecutive days which are not days of sickness.

(iv) SPECIAL RULE REGARDING END OF PERIOD.—For purposes of applying clause (ii), a period of continuing sickness ends when an employee exhausts rights to sickness benefits under subsection (c) of this section.

(2) The daily benefit rate with respect to any such employee for such day of unemployment or sickness shall be in an amount equal to 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year, but not less than \$12.70: *Provided, however,* That for reg-

istration periods beginning after June 30, 1975, but before July 1, 1976, such amount shall not exceed \$24 per day of such unemployment or sickness, that for registration periods beginning after June 30, 1976, but before July 1, 1988, such amount shall not exceed \$25 per day of such unemployment or sickness, that for registration periods beginning after June 30, 1988, but before July 1, 1989, such amount shall not exceed \$30 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1989, such amount shall not exceed the maximum daily benefit rate provided in paragraph (3) of this subsection. The daily rate of compensation referred to in this paragraph shall be determined by the Board on the basis of information furnished to the Board by the employee, his employer, or both.

(3) The maximum daily benefit rate computed by the Board under section 362(r)(2) of this title shall be the product of the monthly compensation base, as computed under section 351(i)(2) of this title for the base year immediately preceding the beginning of the benefit year, multiplied by 5 percent. If the maximum daily benefit rate so computed is not a multiple of \$1, it shall be rounded down to the nearest multiple of \$1.

(4) In computing benefits to be paid, days of unemployment shall not be combined with days of sickness in the same registration period.

**(b) Time of payments**

The benefits provided for in this section shall be paid to an employee at such reasonable intervals as the Board may prescribe.

**(c) Maximum number of days for benefits**

**(1) Normal benefits**

**(A) Generally**

The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be 130, and the maximum number of days of sickness within a benefit year for which benefits may be paid to an employee shall be 130.

**(B) Limitation**

The total amount of benefits that may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year; and the total amount of benefits that may be paid to an employee for days of sickness within a benefit year shall in no case exceed the employee's compensation in the base year, except that notwithstanding section 351(i) of this title, in determining the employee's compensation in the base year for the purpose of this sentence, any money remuneration paid to the employee for services rendered as an employee shall be taken into account that is not in excess of an amount that bears the same ratio to \$775 as the monthly compensation base for that year as computed under section 351(i) of this title bears to \$600.

**(2) Extended benefits**

**(A) Generally**

With respect to an employee who has 10 or more years of service as defined in section

231(f) of this title, who did not voluntarily retire and (in a case involving exhaustion of rights to normal benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under this paragraph, and extended unemployment benefits or extended sickness benefits (depending on the type of normal benefit rights exhausted) may be paid for not more than 65 days of unemployment or 65 days of sickness within such extended benefit period.

**(B) Beginning date**

An employee's extended benefit period shall begin on the employee's first day of unemployment or first day of sickness, as the case may be, following the day on which the employee exhausts the employee's then current rights to normal benefits for days of unemployment or days of sickness and shall continue for 7 consecutive 14-day periods, each of which shall constitute a registration period, but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 353 of this title on the basis of compensation earned after the first of such consecutive 14-day periods has begun.

**(C) Termination when employee reaches age of 65**

Notwithstanding any other provision of this paragraph, an extended benefit period for sickness benefits shall terminate on the day next preceding the date on which the employee attains age 65, except that it may continue for the purpose of paying benefits for days of unemployment.

**(3) Accelerated benefits**

**(A) General rule**

With respect to an employee who has 10 or more years of service as defined in section 231(f) of this title, who did not voluntarily retire, and (in a case involving unemployment benefits) did not voluntarily leave work without good cause, who has 14 or more consecutive days of unemployment, or 14 or more consecutive days of sickness, and who is not a qualified employee with respect to the general benefit year current when such unemployment or sickness commences but is or becomes a qualified employee for the next succeeding general benefit year, such succeeding general benefit year shall, in that employee's case, begin on the first day of the month in which such unemployment or sickness commences.

**(B) Exception**

In the case of a succeeding benefit year beginning in accordance with subparagraph (A) by reason of sickness, such sentence shall

not operate to permit the payment of benefits in the period provided for in such sentence for any day of sickness beginning with the date on which the employee attains age 65, and continuing through the day preceding the first day of the next succeeding general benefit year.

**(C) Determination of age**

For the purposes of this subsection, the Board may rely on evidence of age available in its records and files at the time determinations of age are made.

**(d) Overpayment of benefits; recovery; liability of officers**

If the Board finds that at any time more than the correct amount of benefits has been paid to any individual under this chapter or a payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940), recovery by adjustments in subsequent payments to which such individual is entitled under this chapter or any other Act administered by the Board may, except as otherwise provided in this subsection, be made under regulations prescribed by the Board. If such individual dies before recovery is completed, recovery may be made by set-off or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this chapter or any other Act administered by the Board, to the estate, designee, next of kin, legal representative, or surviving spouse of such individual, with respect to the employment of such individual.

Adjustments under this subsection may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case, recovery shall be deemed to have been completed upon such recertification.

There shall be no recovery in any case in which more than the correct amount of benefits has been paid to an individual or payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940) who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of this chapter or would be against equity or good conscience.

No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under the third paragraph of this subsection or has been begun but cannot be completed under the first paragraph of this subsection.

**(e) Assignment, taxation, garnishment, attachment, etc., of benefits**

Notwithstanding any other law of the United States, or of any State, Territory, or the District of Columbia, no benefits shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any cir-

cumstances whatsoever, nor shall the payment thereof be anticipated.

**(f) Effect of payment of benefits for remunerable period; payment of surplus remuneration to Board**

If (i) benefits are paid to any employee with respect to unemployment or sickness in any registration period, and it is later determined that remuneration is payable to such employee with respect to any period which includes days in such registration period which had been determined to be days of unemployment or sickness, and (ii) the person or company from which such remuneration is payable has, before payment thereof, notice of the payment of benefits upon the basis of days of unemployment or sickness included in such period, the remuneration so payable shall not be reduced by reason of such benefits but the remuneration so payable, to the extent to which benefits were paid upon the basis of days which had been determined to be days of unemployment or sickness and which are included in the period for which such remuneration is payable, shall be held to be a special fund in trust for the Board. The amount of such special fund shall be paid to the Board and in the collection thereof the Board shall have the same authority, and the same penalties shall apply, as are provided in section 358 of this title with respect to contributions. The proceeds of such special fund shall be credited to the account. Such benefits, to the extent that they are represented in such a special fund which has been collected by the Board, shall be disregarded for the purposes of subsection (c) of this section.

**(g) Payment of accrued benefits upon death**

Benefits accrued to an individual but not yet paid at death shall, upon certification by the Board, be paid, without necessity of filing further claims therefor, to the same individual or individuals to whom any accrued annuities under section 231e(a)(1) of this title are paid. In the event that no such accrued annuities are paid, and if application for such accrued benefits is filed prior to the expiration of two years after the death of the individual to whom such benefits accrued, such accrued benefits shall be paid, upon certification by the Board, to the individual or individuals who would be entitled thereto under section 231e(a)(1) of this title if such accrued benefits were accrued annuities. If there is no individual to whom all or any part of such accrued benefits can be paid in accordance with the foregoing provisions, such benefits or part thereof shall escheat to the credit of the account.

(June 25, 1938, ch. 680, § 2, 52 Stat. 1096; June 20, 1939, ch. 227, §§ 7-9, 21, 53 Stat. 845, 848; Oct. 10, 1940, ch. 842, §§ 9-12, 54 Stat. 1095, 1096; July 31, 1946, ch. 709, §§ 305-307, 60 Stat. 736, 737; May 15, 1952, ch. 290, § 1, 66 Stat. 73; Aug. 31, 1954, ch. 1164, pt. III, § 304, 68 Stat. 1041; Aug. 12, 1955, ch. 869, § 4, 69 Stat. 716; Pub. L. 86-28, pt. III, §§ 302, 303(a), May 19, 1959, 73 Stat. 30; Pub. L. 89-700, title II, § 202, Oct. 30, 1966, 80 Stat. 1087; Pub. L. 90-257, title II, § 202, Feb. 15, 1968, 82 Stat. 23; Pub. L. 93-445, title IV, § 401, Oct. 16, 1974, 88 Stat. 1359; Pub. L. 94-92, title I, § 1(c)-(e), Aug. 9, 1975, 89 Stat. 461, 462; Pub. L. 98-76, title IV, § 412(a),

Aug. 12, 1983, 97 Stat. 436; Pub. L. 100-647, title VII, §§ 7101(c), 7201(a), Nov. 10, 1988, 102 Stat. 3758, 3774; Pub. L. 104-88, title III, § 324(3), Dec. 29, 1995, 109 Stat. 950; Pub. L. 104-251, §§ 2-5(b), Oct. 9, 1996, 110 Stat. 3161-3165.)

AMENDMENTS

1996—Subsec. (a)(1)(A). Pub. L. 104-251, § 2, inserted heading and amended text generally. Prior to amendment, text read as follows: “(A)(i) Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of unemployment in excess of 4 during any registration period.”

“(ii) No benefits shall be payable for days of unemployment during the first registration period within a benefit year in which the employee has more than 4 days of unemployment.”

“(iii) In any case in which the Board finds that an employee’s unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which such employee was last employed, no benefits shall be payable for the first 14 days of unemployment due to such stoppage of work. However, for subsequent days of unemployment due to such stoppage of work, benefits shall be payable to days in excess of 4 during any registration period.”

Subsec. (a)(1)(B). Pub. L. 104-251, § 3, inserted heading and amended text generally. Prior to amendment, text read as follows:

“(B)(i) Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of sickness after the 4th consecutive day of sickness in a period of continuing sickness but excluding 4 days of sickness in any registration period.”

“(ii) No benefits shall be payable for days of sickness in the first registration period within a benefit year in which the employee has both 4 consecutive days of sickness and more than 4 days of sickness.”

“(iii) For the purposes of this subparagraph, a period of continuing sickness means (I) a period of consecutive days of sickness, whether from one or more causes, or (II) a period of successive days of sickness due to a single cause without interruption of more than 90 consecutive days which are not days of sickness.”

Subsec. (a)(3). Pub. L. 104-251, § 4, amended par. (3) generally. Prior to amendment, par. (3) provided the formula under which the Board was required to compute the maximum daily benefit rate under section 362(r)(2) of this title which could not be less than \$30.

Subsec. (c). Pub. L. 104-251, § 5(a), inserted heading and amended text generally, designating existing provisions relating to normal benefits, extended benefits, and accelerated benefits as pars. (1) to (3), respectively, making technical changes in pars. (1) and (3), and in par. (2), deleting provisions which authorized extended benefits for certain employees with less than ten years of service as defined in section 231(f) of this title.

Subsec. (h). Pub. L. 104-251, § 5(b), struck out subsec. (h), which provided for determining extended benefit period for employees with less than 10 years of service under former subsec. (c).

1995—Subsec. (h)(3). Pub. L. 104-88 substituted “Surface Transportation Board, adjusted, as determined by the Railroad Retirement Board” for “Interstate Commerce Commission, adjusted, as determined by the Board”.

1988—Subsec. (a)(1). Pub. L. 100-647, § 7201(a)(1), (2), inserted “(1)” after “(a)” and substituted subpars. (A) and (B) for “Benefits shall be payable to any qualified employee for each day of unemployment in excess of four during any registration period: *Provided, however,* That in any case in which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, no benefits shall be payable for the first fourteen days of unemployment due to such stoppage of work. Benefits shall be payable to any qualified employee for each day of sickness after

the fourth consecutive day of sickness in a period of continuing sickness, but excluding four days of sickness in any registration period. A period of continuing sickness means (i) a period of consecutive days of sickness, whether from one or more causes, or (ii) a period of successive days of sickness due to a single cause without interruption of more than ninety consecutive days which are not days of sickness."

Subsec. (a)(2). Pub. L. 100-647, §7201(a)(3)-(6), inserted "(2)" before "The daily benefit", substituted "sickness, that for" for "sickness and that for", inserted "but before July 1, 1988," after "June 30, 1976," and inserted ", that for registration periods beginning after June 30, 1988, but before July 1, 1989, such amount shall not exceed \$30 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1989, such amount shall not exceed the maximum daily benefit rate provided in paragraph (3) of this subsection." after "unemployment or sickness".

Subsec. (a)(3). Pub. L. 100-647, §7201(a)(7), added par. (3).

Subsec. (a)(4). Pub. L. 100-647, §7201(a)(8), inserted "(4)" before "In computing benefits".

Subsec. (c). Pub. L. 100-647, §7101(c), substituted "shall be taken into account that is not in excess of \$775 in any month before 1989 and, in any month in a base year after 1988, is not in excess of an amount that bears the same ratio to \$775 as the monthly compensation base for that year as computed under section 351(i) of this title bears to \$600" for "not in excess of \$775 in any month shall be taken into account".

1983—Subsec. (a). Pub. L. 98-76 substituted "That in any case in which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, no benefits shall be payable for the first fourteen days of unemployment due to such stoppage of work" for "That notwithstanding the provisions of section 351(h) of this title, in any case in which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, other than a strike subject to the disqualification in section 354(a-2)(iii) of this title, none of the first seven days of unemployment due to such stoppage of work shall be included in any registration period; and subject to the registration provisions of section 351(h) of this title, so many of the ensuing seven consecutive calendar days during which his unemployment continues to be caused by such stoppage of work shall constitute a registration period, during which benefits shall be payable for each day of unemployment".

1975—Subsec. (a), first par. Pub. L. 94-92, §1(c)(1), inserted proviso and definition of registration period, provided for payment of sickness benefits after four rather than after seven days of sickness, and inserted definition of period of continuing sickness.

Subsec. (a), second par. Pub. L. 94-92, §1(c)(2), substituted provisions for a daily rate of unemployment and sickness benefits, for registration periods beginning after June 30, 1975, but before July 1, 1976, equal to the smaller of \$24 or 60 percent of the employee's last daily rate of pay in the base period (but not less than \$12.70), and for registration periods beginning after June 30, 1976, a daily rate of \$25 for prior provision for such benefits set out in a table with ten levels of base year compensation and corresponding daily benefit rates starting at \$8.00, payable to those with the minimum qualifying base year compensation, and rising to a maximum of \$12.70, which is reached by those who received base year compensation totalling \$4,000 or more and prescribing a minimum daily benefit not less than the smaller of the table maximum (\$12.70) or 60 percent of the employee's last daily rate of pay in the base period.

Subsec. (c). Pub. L. 94-92, §1(d), inserted exception provision in first proviso and proviso respecting an employee with less than ten years of service.

Subsec. (h). Pub. L. 94-92, §1(e), added subsec. (h).

1974—Subsec. (c). Pub. L. 93-445, §401(a), substituted "ten or more years of service as defined in section 231(f)

of this title" for "ten or more years of service as defined in section 228a(f) of this title" and struck out "and section 360(h) of this title" after "For purposes of this subsection".

Subsec. (g). Pub. L. 93-445, §401(b), substituted "section 231e(a)(1) of this title" for "section 228c(f)(1) of this title" in two places.

1968—Subsec. (a). Pub. L. 90-257, §202(a), struck out all references to the payment of maternity benefits, amended table of benefit rates by striking out the line for persons in the compensation range of \$750 to \$999.99 and by increasing the rates of benefits for the remaining categories from \$5.50 to \$8.00, \$6.00 to \$8.50, \$6.50 to \$9.00, \$7.00 to \$9.50, \$7.50 to \$10.00, \$8.00 to \$10.50, \$8.50 to \$11.00, \$9.00 to \$11.50, \$9.50 to \$12.00, and \$10.20 to \$12.70 respectively, and raised from \$10.20 to \$12.70 the maximum rate applicable if the formula of 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year is used.

Subsec. (c). Pub. L. 90-257, §202(b), removed all references to payment of maternity benefits, made provision for extended sickness benefits similar to extended unemployment benefits, added to existing provisions for the early beginning of a general benefit year (or accelerated benefit year) in certain cases involving days of unemployment similar provisions for a similar early beginning of a general benefit year in certain cases involving days of sickness, and inserted provisions dealing with the effect of the attainment of age 65 on an employee's receipt of extended sickness benefits and on his receipt of sickness benefits in an accelerated benefit year and relating to the evidence of age on which the Board may rely for purposes of determining the attainment of age 65.

1966—Subsec. (a). Pub. L. 89-700, §202(a), struck out daily benefit rate of \$4.50 for the compensation range of \$500 to \$699.99 from the table, and substituted "750" for "700" in Column I.

Subsec. (g). Pub. L. 89-700, §202(b), amended subsec. (g) generally, and among other changes, provided that if there is no individual to whom accrued benefits can be paid, such benefits or parts thereof shall escheat to the credit of the account.

1959—Subsec. (a). Pub. L. 86-28, §302, substituted "for each day of unemployment in excess of four during any registration period, and" for "for each day of unemployment in excess of seven during the first registration period, within a benefit year, in which he will have had seven or more days of unemployment, and for each day of unemployment in excess of four during any subsequent registration period in the same benefit year, and", "60 per centum" for "50 per centum", and "not to exceed \$10.20" for "not to exceed \$8.50", and increased the daily benefit rates.

Subsec. (c). Pub. L. 86-28, §303(a), provided for an extended benefit period with respect to employees who have ten or more years of service, who did not voluntarily leave work without good cause or voluntarily retire, and who have exhausted their rights to normal benefits for days of unemployment in a benefit year.

1955—Subsec. (e). Act Aug. 12, 1955, specified that exemption applies to the laws of the several States, the District of Columbia, and the Territories.

1954—Subsec. (a). Act Aug. 31, 1954, §304(a), changed the table of daily benefit rates and qualifying amounts of earnings in the base year so that such rates and amounts will begin with \$3.50 and \$4.00, respectively, to a maximum of \$8.50 for \$4,000 and over, and inserted proviso immediately after the table.

Subsec. (c). Act Aug. 31, 1954, §304(b), inserted proviso at end.

1952—Subsec. (a). Act May 15, 1952, substituted a new table of daily benefit rates.

1946—Subsec. (a). Act July 31, 1946, §305, changed first and second pars. to include benefits for days of sickness, changed reference to total amount of compensation payable to him in second par. to total compensation, added new benefit rates to table for compensation of \$2,000 to \$2,499.99 and \$2,500 and over, and added last

two pars. relating to maternity benefits and to computation of benefits.

Subsec. (c). Act July 31, 1946, §306, increased maximum days of unemployment to 130 and established same maximum for days of sickness.

Subsec. (f). Act July 31, 1946, §307, inserted references to sickness.

1940—Subsec. (a). Act Oct. 10, 1940, §9, designated existing provisions as cl. (i), substituted registration period for half-month as determining factor, added cl. (ii), and increased total compensation amounts set out in Column I and daily benefit amounts set out in Column II.

Subsec. (c). Act Oct. 10, 1940, §10, substituted provisions relating to maximum number of days of unemployment within a benefit year, for provisions relating to maximum benefits payable to an employee within his benefit year.

Subsec. (d). Act Oct. 10, 1940, §11, substituted provisions relating to adjustments for erroneous payments and procedure for recovery of such payments, for provisions making applicable section 228i of this title for adjustments and recovery of erroneous payments.

Subsec. (f). Act Oct. 10, 1940, §12, in cl. (i) substituted provisions relating to registration periods for provisions relating to benefits paid with respect to any period, and in text following cl. (ii) inserted condition relating to benefits which were paid upon the basis of days determined to be days of unemployment and included in the period for which remuneration is payable.

1939—Subsec. (a). Act June 20, 1939, §7, struck out exception relating to part-time workers.

Subsec. (d). Act June 20, 1939, §§8, 9, redesignated subsec. (e) as (d). Former subsec. (d), which authorized Board to prescribe regulations for determining amount of daily benefits and maximum benefits during any benefit year, was struck out.

Subsec. (e). Act June 20, 1939, §9, redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsecs. (f), (g). Act June 20, 1939, §9, redesignated subsec (g) as (f) and struck out reference to subsec. (a). Former subsec. (f) redesignated (e).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 6 of Pub. L. 104-251 provided that: "The amendments made by this Act [amending this section and repealing section 368 of this title] shall take effect on the date of the enactment of this Act [Oct. 9, 1996]."

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 7201(b) of Pub. L. 100-647 provided that:  
 "(1) Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988].

"(2) The amendments made by paragraph (2) of subsection (a) shall apply with respect to registration periods beginning after June 30, 1988."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 412(b) of Pub. L. 98-76 provided that: "The amendment made by this section [amending this section] shall apply with respect to days of unemployment in registration periods beginning after December 31, 1983."

#### EFFECTIVE DATE OF 1975 AMENDMENT; REDUCTION OF BENEFITS IN VIEW OF COVERAGE UNDER NONGOVERNMENTAL PLAN; FILING CLAIMS FOR PAYMENTS TO INSURERS AND EMPLOYERS

Amendment by section 1(c), (d)(1) of Pub. L. 94-92 effective with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 1975, reduction of benefits in view of coverage under

nongovernmental plan, and filing of claims for payments to insurers and employers; and amendment by section 1(d)(2), (e) of Pub. L. 94-92 effective with respect to days of unemployment in registration periods beginning after June 30, 1975, see section 2 of Pub. L. 94-92, set out as an Effective Date of 1975 Amendment note under section 351 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Section 208 of Pub. L. 90-257 provided that: "The amendments made by sections 201(a)(1), 201(b), 202(a)(1), 202(a)(2), 202(b)(1), 206 and 207 [amending this section and sections 351, 362, and 363 of this title] shall be effective as of July 1, 1968. The amendments made by sections 201(a)(2) and 203 [amending sections 351 and 353 of this title] shall be effective with respect to base years beginning in calendar years after December 31, 1966, except that with respect to the base year in calendar year 1967 the amendments made by section 203 [amending section 353 of this title] shall not be applicable to an employee whose compensation with respect to that base year was not less than \$750 but less than \$1,000; further, as to such an employee, the amendments made by section 202(a)(3) [amending this section] shall not be applicable with respect to days of unemployment and days of sickness in registration periods in the benefit year beginning July 1, 1968. The amendments made by section 202(a)(3) [amending this section] shall otherwise be effective with respect to days of unemployment and days of sickness in registration periods beginning on or after July 1, 1968. The amendments made by sections 202(b)(2)(i) through (vi) [amending this section] shall be effective to provide the beginning of extended benefit periods on or after July 1, 1968. The amendments made by section 202(b)(2)(vii) through (ix) [amending this section] shall be effective to provide for the early beginning of a benefit year on or after July 1, 1967. The amendment made by section 204(a) [amending section 354 of this title] shall be effective with respect to calendar days in benefit years beginning after June 30, 1968, and the amendment made by section 204(b) [amending section 354 of this title] shall be effective with respect to voluntary leaving of work (within the meaning of section 4(a-2)(i) of the Railroad Unemployment Insurance Act [section 354(a-2)(i) of this title]) after the enactment date of this Act [Feb. 15, 1968]."

#### EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-28 effective with respect to benefits accruing in general benefit years which begin after the benefit year ending June 30, 1958, and in extended benefit periods which begin after Dec. 31, 1957, see section 309 of Pub. L. 86-28, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1955 AMENDMENT

Section 4 of act Aug. 12, 1955, provided that the amendment made by that section is effective as of the date of its "original enactment" [June 25, 1938].

#### EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 31, 1954, effective July 1, 1954, see section 401 of act Aug. 31, 1954, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1952 AMENDMENT

Section 3 of act May 15, 1952, provided that: "The amendments made by this Act [amending this section and section 353 of this title] shall be effective with respect to benefit years beginning on and after July 1, 1952."

#### EFFECTIVE DATE OF 1946 AMENDMENT

Amendment by section 306 of act July 31, 1946, effective July 1, 1946, see section 402 of that Act.

Section 403 of act July 31, 1946, provided that: "Sections 301, 302, 303, 304, 305 (except for the revision of the table which shall become effective on the date of enactment of this Act [July 31, 1946]), 307, 308, 309, and 310 [amending sections 351 to 354 of this title] shall become effective on July 1, 1947."

#### EFFECTIVE DATE OF 1940 AMENDMENT

For effective date of amendment by act Oct. 10, 1940, see section 1 of act Oct. 10, 1940, set out as a note under section 351 of this title.

#### EXTENDED RAILROAD UNEMPLOYMENT INSURANCE BENEFITS DURING PERIODS OF HIGH NATIONAL UNEMPLOYMENT

Pub. L. 102-164, title V, §501, Nov. 15, 1991, 105 Stat. 1064, as amended by Pub. L. 102-182, §3(a)(6), (7), Dec. 4, 1991, 105 Stat. 1234; Pub. L. 102-244, §5, Feb. 7, 1992, 106 Stat. 5; Pub. L. 102-318, title I, §105, July 3, 1992, 106 Stat. 293; Pub. L. 103-6, §3(a), (b), Mar. 4, 1993, 107 Stat. 33; Pub. L. 103-152, §§8, 9(b), Nov. 24, 1993, 107 Stat. 1519, provided that:

"(a) IN GENERAL.—For purposes of section 2(h) of the Railroad Unemployment Insurance Act (45 U.S.C. 352(h)(2)), a 'period of high unemployment' includes any month during the period November 1991 through February 1994.

#### "(b) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no employee shall have an extended benefit period under the second proviso of section 2(c) of the Railroad Unemployment Insurance Act beginning before November 17, 1991, or after February 5, 1994.

"(2) TRANSITION.—If an employee has established an extended benefit period under the second proviso of section 2(c) of the Railroad Unemployment Insurance Act and the last day of such extended benefit period, as established, is after February 5, 1994, such employee shall continue to be entitled to extended unemployment benefits for days of unemployment in registration periods included in such extended benefit period, provided that such employee meets the eligibility requirements of this section and the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.].

"(3) REACHBACK PROVISIONS.—If an employee has exhausted that employee's rights to normal unemployment benefits under section 2(c) of the Railroad Unemployment Insurance Act [45 U.S.C. 352(c)] after February 28, 1991, but before November 17, 1991, such employee shall, for the purposes of the application of this section, be deemed to have exhausted such rights after November 17, 1991.

"(c) LIMITATION ON PAYMENT.—Extended benefits under this section shall be payable for a maximum of 65 days of unemployment, including any extended benefits payable by reason of the application of the reachback provisions.

#### "(d) ENLARGEMENT OF BENEFITS.—

"(1) GENERALLY.—During the period that begins on the date of the enactment of this subsection [Feb. 7, 1992]—

"(A) subsection (c) of this section shall be applied by substituting '130' for '65';

"(B) section 2(c) of the Railroad Unemployment Insurance Act [45 U.S.C. 352(c)] shall be applied—

"(i) by substituting '13 (but not more than 130 days)' for '7 (but not more than 65 days)' in the table; and

"(ii) by substituting 'but not by more than 130 days' for 'but not by more than sixty-five days' in the second proviso; and

"(C) section 2(h)(1) of the Railroad Unemployment Insurance Act [45 U.S.C. 352(h)(1)] shall be applied by substituting '13' for 'seven'.

#### "(2) PHASE-OUT.—

"(A) BENEFITS ON OR AFTER JUNE 14, 1992.—Effective on and after June 14, 1992, paragraph (1) of this section shall be applied by substituting '100' for '130' each place it appears, and by substituting '10' for '13' each place it appears.

#### "(B) REDUCTIONS UNDER EMERGENCY COMPENSATION EXTENSION PROVISIONS.—

"(i) Effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(iii) [section 102(b)(2)(A)(iii) of Pub. L. 102-164, 26 U.S.C. 3304 note], subparagraph (A) of this paragraph and subparagraphs (B) and (C) of paragraph (1) shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '50' for '130'.

"(ii) Effective after October 2, 1993, subparagraph (A) of this paragraph and subparagraphs (B) and (C) of paragraph (1) shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '35' for '130'.

"(C) LIMITATIONS ON REDUCTIONS.—Notwithstanding subparagraphs (A) and (B), in the case of an individual who is receiving extended benefits under section 2(c) of the Railroad Unemployment Insurance Act [45 U.S.C. 352(c)] for persons with 10 or more but less than 15 years of service, or extended benefits by reason of this section, for any day during a week which precedes a period for which a reduction under this paragraph takes effect, such reduction shall not apply for purposes of determining the amount of benefits payable to such individual for any day thereafter for which the individual meets the eligibility requirements of this section and the Railroad Unemployment Insurance Act [45 U.S.C. 351 et seq.].

"(e) TERMINATION OF BENEFITS.—In the case of an individual who is receiving extended benefits by reason of this section on February 5, 1994, such benefits shall not continue to be payable to such individual after April 30, 1994."

[Section 3(c) of Pub. L. 103-6 provided that: "The amendments made by this section [amending section 501 of Pub. L. 102-164, set out above] shall apply to weeks beginning after March 6, 1993."]

[Amendments made by Pub. L. 102-182 to section 501 of Pub. L. 102-164, set out above, applicable as if included in the provisions of and the amendments made by Pub. L. 102-164, see section 3(b) of Pub. L. 102-182, set out as a note under section 3304 of Title 26, Internal Revenue Code.]

#### GAO STUDY OF FRAUD AND PAYMENT ERRORS

Section 7107 of Pub. L. 100-647 provided that: "The Comptroller General shall study the frequency of fraud and payment errors in the railroad unemployment compensation program. Not later than 1 year after the date of the enactment of this Act [Nov. 10, 1988], the Comptroller General shall report to Congress the results of such study. Such report shall include—

"(1) estimates of rates and amounts of annual losses due to fraud and overpayment;

"(2) comparisons of such rates with the rates of losses in other Federal programs which experience such losses;

"(3) recommendations for legislative measures that could be taken to reduce the losses in the railroad unemployment compensation program arising from fraud and payment errors; and

"(4) such other matters relating to such fraud and payment errors as the Comptroller General determines are appropriate."

#### BENEFITS FOR CERTAIN EMPLOYEES WHO EXHAUSTED RIGHTS TO BENEFITS BEFORE APRIL 1, 1959

Section 303(b) of Pub. L. 86-28 provided that: "An employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1937 [section 228a(f) of this title], and who has after June 30, 1957, and before April 1, 1959, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his rights to unemployment benefits, shall be paid unemployment benefits for days of unemployment, not exceeding sixty-five, which occur in registration periods beginning on or after June 19, 1958,

and before July 1, 1959, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act [this chapter], except that an employee who has filed, and established, a first claim for benefits under the Temporary Unemployment Compensation Act of 1958 [42 U.S.C. 1400 et seq.] may not thereafter establish a claim under this subsection, and an employee who has registered for, and established a claim for benefits under this subsection may not thereafter establish a claim under the Temporary Unemployment Compensation Act of 1958. Except to the extent inconsistent with this subsection, the provisions of the Railroad Unemployment Insurance Act [this chapter] shall be applicable in the administration of this subsection."

INTERCHANGE OF INFORMATION BETWEEN SECRETARY OF LABOR AND RAILROAD RETIREMENT BOARD

Section 303(c) of Pub. L. 86-28 provided that: "The Secretary of Labor, upon request shall furnish the Board information deemed necessary by the Board for the administration of the provisions of subsection (b) hereof [set out above], and the Board, upon request, shall furnish the Secretary of Labor information deemed necessary by the Secretary for the administration of the Temporary Unemployment Compensation Act of 1958 [section 1400 et seq. of Title 42, The Public Health and Welfare]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 351, 355, 360, 362 of this title; title 26 sections 105, 3231.

**§ 353. Qualifying condition**

An employee shall be a "qualified employee" if the Board finds that his compensation with respect to the base year will have been not less than 2.5 times the monthly compensation base for months in such base year as computed under section 351(i) of this title, and, if such employee has had no compensation prior to such year, that he will have had compensation with respect to each of not less than five months in such year.

(June 25, 1938, ch. 680, § 3, 52 Stat. 1097; June 20, 1939, ch. 227, § 10, 53 Stat. 845; Oct. 10, 1940, ch. 842, § 13, 54 Stat. 1097; July 31, 1946, ch. 709, § 308, 60 Stat. 737; May 15, 1952, ch. 290, § 2, 66 Stat. 73; Aug. 31, 1954, ch. 1164, pt. III, § 303, 68 Stat. 1041; Pub. L. 86-28, pt. III, § 304, May 19, 1959, 73 Stat. 31; Pub. L. 88-133, title III, § 301(a), Oct. 5, 1963, 77 Stat. 222; Pub. L. 90-257, title II, § 203, Feb. 15, 1968, 82 Stat. 24; Pub. L. 94-92, title I, § 1(f), Aug. 9, 1975, 89 Stat. 463; Pub. L. 98-76, title IV, § 411(a)(2), Aug. 12, 1983, 97 Stat. 436; Pub. L. 100-647, title VII, § 7202(a), Nov. 10, 1988, 102 Stat. 3776.)

AMENDMENTS

1988—Pub. L. 100-647 inserted "with respect to the base year" after "his compensation" and substituted "2.5 times the monthly compensation base for months in such base year as computed under section 351(i) of this title" for "\$1,500 with respect to the base year".

1983—Pub. L. 98-76 substituted "\$1,500" for "\$1,000".

1975—Pub. L. 94-92 substituted "five" for "seven" months.

1968—Pub. L. 90-257 substituted "\$1,000" for "\$750".

1963—Pub. L. 88-133 increased from \$500 to \$750 the amount of compensation in a base year required to qualify for benefits and provided that if employee has had no compensation prior to such year he will have had compensation with respect to each of not less than 7 months in such year.

1959—Pub. L. 86-28 substituted "\$500" for "\$400".

1954—Act Aug. 31, 1954, substituted "\$400" for "\$300".

1952—Act May 15, 1952, substituted "\$300" for "\$150" to conform to the new table of daily benefit rates as set out in section 352 of this title.

1946—Act July 31, 1946, changed section to relate to compensation paid instead of compensation earned during a year.

1940—Act Oct. 10, 1940, reorganized structure by striking out designations for subsecs. "(a)" and "(b)" and, as so restructured, provisions of former subsec. (a) became entire section and defined "qualified employee" and provisions of former subsec. (b), which related to the employee's waiting period, were omitted.

1939—Subsec. (b). Act June 20, 1939, substituted provisions relating to half-months as the waiting period, for provisions relating to fifteen consecutive days of unemployment or two half months.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 7202(b) of Pub. L. 100-647 provided that: "The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1988]."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-76 applicable to compensation paid for services rendered after Dec. 31, 1983, see section 411(b) of Pub. L. 98-76, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-92 effective for services rendered after Dec. 31, 1973, see section 2 of Pub. L. 94-92, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-257 effective with respect to base years beginning in calendar years after December 31, 1966, except that with respect to the base year in calendar year 1967 such amendments not to be applicable to an employee whose compensation with respect to that base year was not less than \$750 but was less than \$1,000, see section 208 of Pub. L. 90-257, set out as a note under section 352 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Section 301(b) of Pub. L. 88-133 provided that: "The amendment made by subsection (a) [amending this section] shall be fully effective with respect to base years after 1963. With respect to the base year 1963, they shall be applicable only to an employee concerning whom the Railroad Retirement Board finds that his compensation in that portion of the calendar year 1963 preceding the first day of the calendar month next following the month of enactment of this Act [October 1963] will have been less than \$500."

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-28 effective with respect to base years after the base year ending Dec. 31, 1957, see section 309 of Pub. L. 86-28, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 31, 1954, effective July 1, 1954, see section 401 of act Aug. 31, 1954, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment by act May 15, 1952, effective with respect to benefit years beginning on and after July 1, 1952, see section 3 of act May 15, 1952, set out as a note under section 352 of this title.

EFFECTIVE DATE OF 1946 AMENDMENT

Amendment by act July 31, 1946, effective July 1, 1947, see section 403 of act July 31, 1946, set out as a note under section 352 of this title.