

**TITLE 6. ECONOMIC SECURITY****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 [R6-3-101, R6-3-102, and R6-3-104 previously repealed.]

## Section

R6-3-101.	Repealed
R6-3-102.	Repealed
R6-3-103.	Recodified
R6-3-104.	Repealed

**ARTICLE 2. RECODIFIED**

Article 2, consisting of Sections R6-3-201 through R6-3-2-207, 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 [Sections R6-3-208, R6-3-210, and R6-3-213 previously repealed.]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 R6-13-311, 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 [Sections R6-3-308, R6-3-312, R6-3-317, R6-3-324, and R6-3-325 previously repealed.]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 REPEALED**

Article 4 repealed as follows: R6-3-416, R6-3-417, and R6-3-419 repealed effective March 26, 1976; R6-3-434 and R6-3-435 repealed effective October 13, 1977; R6-3-410 repealed effective June 15, 1978; and R6-3-401 through R6-3-409, R6-3-411 through R6-3-415, R6-3-418, and R6-3-420 through R6-3-433 repealed effective November 9, 1995.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 REPEALED**

Article 5, consisting of Sections R6-3-501 through R6-3-510 and R6-3-512 through R6-3-517, repealed effective November 9, 1995 (Supp. 96-1).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 [Sections R6-3-605 through R6-3-615 previously repealed.]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Former Article 7 consisting of Sections R6-3-701 through R6-3-705, R6-3-707 through R6-3-716 and R6-3-720 repealed effective January 10, 1985.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 8. RECODIFIED**

Article 8, consisting of Sections R6-3-801 through R6-3-809, recodified to A.A.C. R6-13-801 through R6-13-809 effective February 13, 1996 (Supp. 96-1).

Article 8, consisting of Sections R6-3-801 through R6-3-809, adopted effective October 27, 1993 (Supp. 93-4).

Article 8, consisting of Sections R6-3-801 through R6-3-806, repealed effective October 27, 1993 (Supp. 93-4).

**ARTICLE 9. RECODIFIED**

Article 9, consisting of Sections R6-3-901 through R6-3-922, recodified to A.A.C. R6-13-901 through R6-13-922 effective February 13, 1996 (Supp. 96-1).

**ARTICLE 10. REPEALED**

Article 10, consisting of Sections R6-3-1001 through R6-3-1015, repealed effective November 9, 1995 (Supp. 95-4).

Article 10, consisting of Sections R6-3-1001 through R6-3-1015, adopted effective March 26, 1976.

Former Article 10, consisting of Sections R6-3-1001 through R6-3-1021, repealed effective March 26, 1976.

**ARTICLE 11. REPEALED**

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

**ARTICLE 12. RECODIFIED**

Article 12, consisting of Sections R6-3-1201 through R6-3-1204 and R6-3-1206 through R6-3-1213, recodified to A.A.C. R6-13-1201 through R6-13-1204 and R6-13-1206 through R6-13-1213 effective February 13, 1996 (Supp. 96-1). [R6-3-1205 previously repealed.]

**ARTICLE 13. DEFINITIONS**

## Section

R6-3-1301. Definitions

**ARTICLE 14. ADMINISTRATION AND ENFORCEMENT**

## Section

R6-3-1401.	Policy of Nondiscrimination
R6-3-1402.	Repealed
R6-3-1403.	Disclosure of Information and Confidentiality
R6-3-1404.	Date of Submission and Extension of Time for Payments, Appeals, Notices, Etc.
R6-3-1405.	Shared Work
R6-3-1406.	Employer Elections to Cover Multi-State Workers
R6-3-1407.	Interested Party
R6-3-1408.	Seasonal Employment Status: Qualified Transient Lodging Employment

**ARTICLE 15. DECISIONS, HEARINGS, AND ORDERS**

## Section

R6-3-1501.	Renumbered
R6-3-1502.	Appeals Process, General
R6-3-1503.	Proceedings Before an Appeal Tribunal
R6-3-1504.	Review of Appeal Tribunal Decisions
R6-3-1505.	Appeals Board Proceedings
R6-3-1506.	Contribution Cases
R6-3-1507.	Appeals from Labor Dispute Determinations

**ARTICLE 16. FUNDS**

## Section

R6-3-1601. Transfers and warrants

**ARTICLE 17. CONTRIBUTIONS**

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

**ARTICLE 18. BENEFITS**

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

**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 (Sup. 96-1). [Sections R6-3-1912 through R6-3-1916 previously repealed.]

Article 19, consisting of Sections R6-3-1901 through R6-3-1911, adopted effective May 24, 1979.

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 R6-3-2018, recodified to A.A.C. R6-14-201 through R6-14-218 effective

February 13, 1996 (Supp. 96-1). [R6-3-2019 and R6-3-2020 previously repealed.]

Article 20, consisting of Sections R6-3-2001 through R6-3-2018, adopted effective May 24, 1979.

Former Article 20, consisting of Sections R6-3-2001 through R6-3-2020, repealed effective May 24, 1979.

**ARTICLE 21. RECODIFIED**

Article 21, consisting of Sections R6-3-2101 through R6-3-2120 and R6-14-2122 through R6-3-2127 recodified to A.A.C. R6-14-301 through R6-14-320 and R6-14-322 through R6-14-328, effective February 13, 1996 (Supp. 96-1). [R6-3-2121 and R6-3-2128 through R6-3-2140 previously repealed.]

Article 21 consisting of Sections R6-3-2101 through R6-3-2128 adopted effective May 24, 1979.

Former Article 21 consisting of Sections R6-3-2101 through R6-3-2140 repealed effective May 24, 1979.

**ARTICLE 22. RECODIFIED**

Article 22, consisting of Sections R6-3-2201 and R6-3-2203, recodified to A.A.C. R6-14-401 and R6-14-402 effective February 13, 1996 (Supp. 96-1). [R6-3-2202 and R6-3-2204 through R6-3-2225 previously repealed.]

Article 22 consisting of Sections R6-3-2201 through R6-3-2203 adopted effective May 24, 1979.

Former Article 22 consisting of Sections R6-3-2201 through R6-3-2225 repealed effective May 24, 1979.

**ARTICLE 23. RECODIFIED**

Article 23, consisting of Sections R6-3-2301 through R6-3-2307, recodified to A.A.C. R6-14-501 through R6-14-507 effective February 13, 1996 (Supp. 96-1). [R6-3-2308 through R6-3-2320 previously repealed.]

**ARTICLE 24. RECODIFIED**

Article 24, consisting of Sections R6-3-2401, R6-3-2402, R6-3-2404 through R6-3-2408, and R6-3-2410, recodified to A.A.C. R6-14-601, R6-14-602, R6-14-604 through R6-14-608, and R6-14-610 effective February 13, 1996 (Supp. 96-1). [R6-3-2403 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 R6-3-2403 repealed effective May 24, 1979.

**ARTICLE 25. REPEALED**

Article 25, consisting of Sections R6-3-2501 through R6-3-2507, repealed effective September 12, 1997 (Supp. 97-3).

Article 25 consisting of Sections R6-3-2501 through R6-3-2507 adopted as an emergency effective March 5, 1984, expired. New Article 25 consisting of Sections R6-3-2501 through R6-3-2507 adopted as a permanent Article effective June 29, 1984 (Supp. 84-3).

Former Article 25 consisting of Sections R6-3-2501 through R6-3-2515 repealed effective May 24, 1979 (Supp. 84-2).

**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.

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**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**

## Section

R6-3-5001. Reserved

R6-3-5002. Reserved

R6-3-5003. Reserved

R6-3-5004. Reserved

R6-3-5005. General Provisions

R6-3-5006. Reserved

through

R6-3-5039. Reserved

R6-3-5040. Attendance at School or Training Course

R6-3-5041. Reserved

through

R6-3-5049. Reserved

R6-3-5050. Repealed

R6-3-5051. Reserved  
through

R6-3-50134. Reserved

R6-3-50135. Quit or Discharge

R6-3-50136. Reserved

R6-3-50137. Reserved

R6-3-50138. Disciplinary action (V L 138)

R6-3-50139. Reserved

through

R6-3-50149. Reserved

R6-3-50150. Distance to Work

R6-3-50151. Reserved

R6-3-50152. Reserved

R6-3-50153. Reserved

R6-3-50154. Reserved

R6-3-50155. Domestic Circumstances

R6-3-50156. Reserved

through

R6-3-50189. Reserved

R6-3-50190. Evidence (V L 190)

R6-3-50191. Reserved

through

R6-3-50209. Reserved

R6-3-50210. Good cause (V L 210)

R6-3-50211. Reserved

through

R6-3-50234. Reserved

R6-3-50235. Health or physical condition (V L 235)

R6-3-50236. Reserved

through

R6-3-50304. Reserved

R6-3-50305. Repealed

R6-3-50306. Reserved

through

R6-3-50314. Reserved

R6-3-50315. New work (V L 315)

R6-3-50316. Reserved

through

R6-3-50344. Reserved

R6-3-50345. Retirement

R6-3-50346. Reserved

through

R6-3-50359. Reserved

R6-3-50360. Personal affairs (V L 360)

R6-3-50361. Reserved

R6-3-50362. Reserved

R6-3-50363. Reserved

R6-3-50364. Reserved

R6-3-50365. Prospect of other work (V L 365)

R6-3-50366. Reserved

through

R6-3-50379. Reserved

R6-3-50380. Repealed

R6-3-50381. Reserved

R6-3-50382. Reserved

R6-3-50383. Reserved

R6-3-50384. Reserved

R6-3-50385. Repealed

R6-3-50386. Reserved

through

R6-3-50439. Reserved

R6-3-50440. Repealed

R6-3-50441. Reserved

through

R6-3-50449. Reserved

R6-3-50450. Time (V L 450)





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)  
 R6-3-53336. Reserved through  
 R6-3-53364. Reserved  
 R6-3-53365. Prospect of other work (Refusal of Work 365)  
 R6-3-53366. Reserved through  
 R6-3-53379. Reserved  
 R6-3-53380. Polygraph examination requirement  
 R6-3-53381. Reserved through  
 R6-3-53449. Reserved  
 R6-3-53450. Time -- hours (Refusal of Work 450 - 450.15)  
 R6-3-53451. Reserved through  
 R6-3-53474. Reserved  
 R6-3-53475. Union relations (Refusal of Work 475)  
 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)  
 R6-3-53481. Reserved through  
 R6-3-53499. Reserved  
 R6-3-53500. Wages (Refusal of Work 500)  
 R6-3-53501. Reserved through  
 R6-3-53509. Reserved  
 R6-3-53510. Work, nature of (Refusal of Work 510)  
 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)

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

Section

R6-3-5401. Reserved through  
 R6-3-5439. Reserved  
 R6-3-5440. Repealed  
 R6-3-5441. Reserved through  
 R6-3-5459. Reserved  
 R6-3-5460. Benefit computation factors (Miscellaneous 60)  
 R6-3-5461. Reserved through  
 R6-3-5469. Reserved  
 R6-3-5470. Repealed  
 R6-3-5471. Reserved  
 R6-3-5472. Reserved  
 R6-3-5473. Reserved  
 R6-3-5474. Reserved  
 R6-3-5475. Claims and Registration  
 R6-3-5476. Reserved through  
 R6-3-5494. Reserved  
 R6-3-5495. Disqualification; Definition of Last Employment  
 R6-3-5496. Reserved  
 R6-3-5497. Reserved

R6-3-5498. Reserved  
 R6-3-5499. Reserved  
 R6-3-54100. Extended benefits  
 R6-3-54101. Reserved through  
 R6-3-54339. Reserved  
 R6-3-54340. Overpayments (Miscellaneous 340)  
 R6-3-54341. Reserved through  
 R6-3-54406. Reserved  
 R6-3-54407. Repealed

**ARTICLE 55. TOTAL AND PARTIAL UNEMPLOYMENT BENEFIT POLICY**

Section

R6-3-5501. Reserved through  
 R6-3-55414. Reserved  
 R6-3-55415. Self-employment or other work (Total and Partial Unemployment 415)  
 R6-3-55416. Reserved through  
 R6-3-55459. Reserved  
 R6-3-55460. Type of compensation (Total and Partial Unemployment 460)

**ARTICLE 56. LABOR DISPUTE BENEFIT POLICY**

Section

R6-3-5601. Definitions and Explanation of Terms  
 R6-3-5602. Labor Dispute Notice  
 R6-3-5603. Eligibility During a Labor Dispute  
 R6-3-5604. Termination of the Labor Dispute Disqualification  
 R6-3-5605. Repealed  
 R6-3-5606. Reserved through  
 R6-3-5634. Reserved  
 R6-3-5635. Repealed  
 R6-3-5636. Reserved through  
 R6-3-56124. Reserved  
 R6-3-56125. Repealed  
 R6-3-56126. Reserved  
 R6-3-56127. Reserved  
 R6-3-56128. Reserved  
 R6-3-56129. Reserved  
 R6-3-56130. Repealed  
 R6-3-56131. Reserved through  
 R6-3-56174. Reserved  
 R6-3-56175. Repealed  
 R6-3-56176. Reserved through  
 R6-3-56204. Reserved  
 R6-3-56205. Repealed  
 R6-3-56206. Reserved through  
 R6-3-56219. Reserved  
 R6-3-56220. Repealed  
 R6-3-56221. Reserved through  
 R6-3-56406. Reserved  
 R6-3-56407. Repealed  
 R6-3-56408. Reserved through  
 R6-3-56444. Reserved  
 R6-3-56445. Repealed

R6-3-56446. Reserved  
through  
R6-3-56464. Reserved  
R6-3-56465. Repealed  
R6-3-56466. Reserved  
R6-3-56467. Reserved  
R6-3-56468. Reserved  
R6-3-56469. Reserved  
R6-3-56470. Repealed

**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).

All forms referred to in this Chapter can be obtained from the Department of Economic Security.

**ARTICLE 1. RECODIFIED****R6-3-101. Repealed****Historical Note**

Former Section R6-3-101 repealed, new Section R6-3-101 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 3, 1983 (Supp. 83-6).

**R6-3-102. Repealed****Historical Note**

Former Section R6-3-102 repealed, new Section R6-3-102 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 3, 1983 (Supp. 83-6).

**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).

**R6-3-104. Repealed****Historical Note**

Former Section R6-3-104 repealed, new Section R6-3-104 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 3, 1983 (Supp. 83-6).

**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****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).

**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).

**R6-3-205. Recodified****Historical Note**

Former Rule R3-204; Former Section R6-3-205 repealed, new Section R6-3-205 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-205 recodified to A.A.C. R6-13-205 effective February 13, 1996 (Supp. 96-1).

**R6-3-206. Recodified****Historical Note**

Former Rule 3-205; Former Section R6-3-206 repealed, new Section R6-3-206 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977

(Supp. 77-5). R6-3-206 recodified to A.A.C. R6-13-206 effective February 13, 1996 (Supp. 96-1).

**R6-3-207. Recodified**

**Historical Note**

Former Rule 3-206; Former Section R6-3-207 repealed, new Section R6-3-207 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Amended 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 effective April 23, 1980 (Supp. 80-2). R6-3-207 recodified to A.A.C. R6-13-207 effective February 13, 1996 (Supp. 96-1).

**R6-3-208. Repealed**

**Historical Note**

Former Rule 3-207, 3-207.2; Repealed effective March 26, 1976 (Supp. 76-2).

**R6-3-209. Recodified**

**Historical Note**

Former Rule 3-208; Former Section R6-3-209 repealed, new Section R6-3-209 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-209 recodified to A.A.C. R6-13-209 effective February 13, 1996 (Supp. 96-1).

**R6-3-210. Repealed**

**Historical Note**

Former Rule 3-209; Repealed effective March 26, 1976 (Supp. 76-2).

**R6-3-211. Recodified**

**Historical Note**

Former Rule 3-210; Former Section R6-3-211 repealed, new Section R6-3-211 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-211 recodified to A.A.C. R6-13-211 effective February 13, 1996 (Supp. 96-1).

**R6-3-212. Recodified**

**Historical Note**

Former Rule 3-211; Former Section R6-3-212 repealed, new Section R6-3-212 adopted effective March 26, 1976 (Supp. 76-2). R6-3-212 recodified to A.A.C. R6-13-212 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 R6-3-215 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). 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**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-302 recodified to A.A.C. R6-13-302 effective February 13, 1996 (Supp. 96-1).

**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**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). R6-3-305 recodified to A.A.C. R6-13-305 effective February 13, 1996 (Supp. 96-1).

**R6-3-306. Recodified**

**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). R6-3-306 recodified to A.A.C. R6-13-306 effective February 13, 1996 (Supp. 96-1).

**R6-3-307. Recodified**

**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective March 14, 1977; Amended as an emergency effective March 21, 1977 (Supp. 77-2).  
Amended effective June 17, 1977 (Supp. 77-3). Amended effective October 13, 1977 (Supp. 77-5). R6-3-307 recodified to A.A.C. R6-13-307 effective February 13, 1996 (Supp. 96-1).

**R6-3-308. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Repealed effective October 13, 1977 (Supp. 77-5).

**R6-3-309. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective October 13, 1977 (Supp. 77-5).  
Amended effective June 15, 1978 (Supp. 78-3). R6-3-309 recodified to A.A.C. R6-13-309 effective February 13, 1996 (Supp. 96-1).

**R6-3-310. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective October 13, 1977 (Supp. 77-5). R6-3-310 recodified to A.A.C. R6-13-310 effective February 13, 1996 (Supp. 96-1).

**R6-3-311. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective October 13, 1977 (Supp. 77-5). R6-3-311 recodified to A.A.C. R6-13-311 effective February 13, 1996 (Supp. 96-1).

**R6-3-312. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Repealed effective October 13, 1977 (Supp. 77-5).

**R6-3-313. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective March 14, 1977 (Supp. 77-2).  
Amended effective October 13, 1977 (Supp. 77-5).  
Amended effective June 15, 1978 (Supp. 78-3). R6-3-313 recodified to A.A.C. R6-13-313 effective February 13, 1996 (Supp. 96-1).

**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 adopted effective October 13, 1977 (Supp. 77-5).  
Amended effective June 15, 1978 (Supp. 78-3). Amended 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). Section repealed, new Section adopted effective November 17, 1993 (Supp. 93-4). R6-3-314 recodified to A.A.C. R6-13-314 effective February 13, 1996 (Supp. 96-1).

**R6-3-314.01. Recodified****Historical Note**

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

**R6-3-315. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective October 13, 1977 (Supp. 77-5). R6-3-315 recodified to A.A.C. R6-13-315 effective February 13, 1996 (Supp. 96-1).

**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 repealed, new 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**

(Supp. 77-4). Repealed effective November 9, 1995 (Supp. 95-4).

**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-325 renumbered 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, new Section R6-3-322 adopted effective March 14, 1977 (Supp. 77-5). Former Section R6-3-322 repealed effective October 13, 1977 (Supp. 77-5). New Section R6-3-322 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). R6-3-322 recodified to A.A.C. R6-13-322 effective February 13, 1996 (Supp. 96-1).

**R6-3-323. Reserved****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).

**R6-3-404. Repealed****Historical Note**

Former Rule 3-402; Former Section R6-3-404 repealed, new Section R6-3-404 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977

**R6-3-405. Repealed****Historical Note**

Former Rule 3-403; Former Section R6-3-405 repealed, new Section R6-3-405 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5) Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-406. Repealed****Historical Note**

Former Rule 3-404; Former Section R6-3-406 repealed, new Section R6-3-406 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-407. Repealed****Historical Note**

Former Rule 3-405; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-407 repealed, new Section R6-3-407 adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 14, 1977 (Supp. 77-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-408. Repealed****Historical Note**

Former Rule 3-406; Former Section R6-3-408 repealed, new Section R6-3-408 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-408 repealed, new Section R6-3-408 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-409. Repealed****Historical Note**

Former Rule 3-407; Former Section R6-3-409 repealed, new Section R6-3-409 adopted effective March 26, 1976 (Supp. 76-2). Amended effective March 21, 1977 (Supp. 77-2). Correction, amended effective March 21, 1977 (Supp. 77-2) should read amended as an emergency effective March 21, 1977 (Supp. 77-2); Amended effective June 17, 1977 (Supp. 77-3). Former Section R6-3-409 repealed, new Section R6-3-409 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-410. Repealed****Historical Note**

Former Rule 3-408; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-410 repealed, new Section R6-3-410 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective June 15, 1978 (Supp. 78-3).

**R6-3-411. Repealed****Historical Note**

Former Rule 3-409; Former Section R6-3-411 repealed effective March 26, 1976 (Supp. 76-2). Former Section

R6-3-322 renumbered and amended as Section R6-3-411 effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-412. Repealed****Historical Note**

Former Rule 3-410; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-412 repealed, new Section R6-3-412 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-412 repealed, new Section R6-3-412 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-413. Repealed****Historical Note**

Former Rule 3-411; Former Section R6-3-413 repealed, new Section R6-3-413 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-413 repealed, new Section R6-3-413 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-414. Repealed****Historical Note**

Former Rule 3-412; Amended effective October 23, 1975, AP Exhibit IV-B repealed effective October 23, 1975 (Supp. 75-1). Former Section R6-3-414 repealed, new Section R6-3-414 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-414 repealed, new Section R6-3-414 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-415. Repealed****Historical Note**

Former Rule 3-420; Former Section R6-3-415 repealed, new Section R6-3-415 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-415 repealed, new Section R6-3-415 adopted effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-416. Repealed****Historical Note**

Former Rule 3-421; Former Section R6-3-416 repealed effective March 26, 1976 (Supp. 76-2).

**R6-3-417. Repealed****Historical Note**

Former Rule 3-422; Former Section R6-3-417 repealed effective March 26, 1976 (Supp. 76-2).

**R6-3-418. Repealed****Historical Note**

Former Rule 3-423; Former Section R6-3-418 repealed, new Section R6-3-418 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**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-424. Repealed****Historical Note**

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).

**R6-3-425. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-426. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Amended effective June 15, 1978 (Supp. 78-3). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-427. Repealed****Historical Note**

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).

**R6-3-428. Repealed**

**Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective October 13, 1977 (Supp. 77-5).  
Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-429. 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**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective October 13, 1977 (Supp. 77-5).  
Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-432. 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**

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).

**R6-3-434. 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  
(Supp. 83-5). Emergency expired. Amended effective  
May 2, 1984 (Supp. 84-3). Repealed effective November  
9, 1995 (Supp. 95-4).

**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, pur-  
suant to A.R.S. § 41-1003, valid for only 90 days (Supp.

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79-5). Former Emergency Adoption now adopted and amended effective April 17, 1980 (Supp. 80-2). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-516. Repealed****Historical Note**

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

**R6-3-517. Repealed****Historical Note**

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

**ARTICLE 6. RECODIFIED****R6-3-601. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Section repealed, new Section adopted effective October 2, 1986 (Supp. 86-2). Amended effective May 2, 1990 (Supp. 90-2). R6-3-601 recodified to A.A.C. R6-13-601 effective February 13, 1996 (Supp. 96-1).

**R6-3-602. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Section repealed, new Section adopted effective October 2, 1986 (Supp. 86-2). Amended effective May 2, 1990 (Supp. 90-2). R6-3-602 recodified to A.A.C. R6-13-602 effective February 13, 1996 (Supp. 96-1).

**R6-3-603. Recodified****Historical Note**

Former Section R6-3-603 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Amended effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 2, 1986 (Supp. 86-2). Section R6-3-603 renumbered to R6-3-604, new Section R6-3-603 adopted effective May 2, 1990 (Supp. 90-2). R6-3-603 recodified to A.A.C. R6-13-603 effective February 13, 1996 (Supp. 96-1).

**R6-3-604. Recodified****Historical Note**

Former Section R6-3-604 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective October 2, 1986 (Supp. 86-5). New Section R6-3-604 renumbered from R6-3-603 effective May 2, 1990 (Supp. 90-2). R6-3-604 recodified to A.A.C. R6-13-604 effective February 13, 1996 (Supp. 96-1).

**R6-3-605. Repealed****Historical Note**

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

**R6-3-606. Repealed****Historical Note**

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

**R6-3-607. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective October 13, 1977 (Supp. 77-5).  
Repealed effective October 2, 1986 (Supp. 86-5).

**R6-3-608. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Amended effective October 13, 1977 (Supp. 77-5).  
Repealed effective October 2, 1986 (Supp. 86-5).

**R6-3-609. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Repealed effective October 13, 1977 (Supp. 77-5).

**R6-3-610. Repealed****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2).  
Repealed effective October 13, 1977 (Supp. 77-5).

**R6-3-611. Repealed****Historical Note**

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

**R6-3-612. Repealed****Historical Note**

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

**R6-3-613. Repealed****Historical Note**

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

**R6-3-614. Repealed****Historical Note**

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

**R6-3-615. Repealed****Historical Note**

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

**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).

**R6-3-802. Recodified****Historical Note**

Former Rule 3-801; Former Section R6-3-802 repealed, new Section R6-3-802 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-802 repealed, new Section R6-3-802 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-802 recodified to A.A.C. R6-13-802 effective February 13, 1996 (Supp. 96-1).

**R6-3-803. Recodified****Historical Note**

Former Rule 3-802; Former Section R6-3-803 repealed, new Section R6-3-803 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-803 repealed, new Section R6-3-803 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-803 recodified to A.A.C. R6-13-803 effective February 13, 1996 (Supp. 96-1).

**R6-3-804. Recodified****Historical Note**

Former Rule 3-803; Former Section R6-3-804 repealed, new Section R6-3-804 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-804 repealed, new Section R6-3-804 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-804 recodified to A.A.C. R6-13-804 effective February 13, 1996 (Supp. 96-1).

**R6-3-805. Recodified****Historical Note**

Former Rule 3-804; Former Section R6-3-805 repealed, new Section R6-3-805 adopted effective March 26, 1976 (Supp. 76-2). Former Section R6-3-805 repealed, new Section R6-3-805 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-805 recodified to A.A.C. R6-13-805 effective February 13, 1996 (Supp. 96-1).

**R6-3-806. Recodified****Historical Note**

Former Rule 3-805; Former Section R6-3-806 repealed, new Section R6-3-806 adopted effective March 26, 1976

(Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Former Section R6-3-806 repealed, new Section R6-3-806 adopted effective June 15, 1978 (Supp. 78-3). Section repealed, new Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-806 recodified to A.A.C. R6-13-806 effective February 13, 1996 (Supp. 96-1).

**R6-3-807. Recodified****Historical Note**

Former Rule 3-806; Former Section R6-3-807 repealed, new Section R6-3-807 adopted effective March 26, 1976 (Supp. 76-2). Amended effective October 13, 1977 (Supp. 77-5). Repealed effective June 15, 1978 (Supp. 78-3). New Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-807 recodified to A.A.C. R6-13-807 effective February 13, 1996 (Supp. 96-1).

**R6-3-808. Recodified****Historical Note**

Adopted effective March 26, 1976 (Supp. 76-2). Repealed effective June 15, 1978 (Supp. 78-3). New Section adopted effective October 27, 1993 (Supp. 93-4). R6-3-808 recodified to A.A.C. R6-13-808 effective February 13, 1996 (Supp. 96-1).

**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; Amended effective September 24, 1975 (Supp. 75-1). 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. R6-13-9216 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**

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

**Historical Note**

Former Rule 3-925; Former Section R6-3-921 repealed, new Section R6-3-921 adopted effective March 26, 1976 (Supp. 76-2). R6-3-921 recodified to A.A.C. R6-13-921 effective February 13, 1996 (Supp. 96-1).

**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).

**R6-3-1003. Repealed****Historical Note**

Former Rule 3-1102; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1003 repealed, new Section R6-3-1003 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-1004. Repealed****Historical Note**

Former Rule 3-1103; Amended effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1004 repealed, new Section R6-3-1004 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-1005. Repealed****Historical Note**

Former Rule 3-1104; Former Section R6-3-1005 repealed, new Section R6-3-1005 adopted effective November 26, 1974 (Supp. 75-1). Former Section R6-3-1005 repealed, new Section R6-3-1005 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-1006. Repealed****Historical Note**

Former Rule 3-1105; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1006 repealed, new Section R6-3-1006 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-1007. Repealed****Historical Note**

Former Rule 3-1106; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1007 repealed,

new Section R6-3-1007 adopted effective March 26, 1976 (Supp. 76-2).

**R6-3-1008. Repealed****Historical Note**

Former Rule 3-1107; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1008 repealed, new Section R6-3-1008 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-1009. Repealed****Historical Note**

Former Rule 3-1108; Amended effective September 24, 1975 (Supp. 75-1). Former Section R6-3-1009 repealed, new Section R6-3-1009 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

**R6-3-1010. Repealed****Historical Note**

Former Rule 3-1109; Former Section R6-3-1010 repealed, new Section R6-3-1010 adopted effective March 26, 1976 (Supp. 76-2). Repealed effective November 9, 1995 (Supp. 95-4).

**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, 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 A.A.C. R6-13-1210 effective February 13, 1996 (Supp. 96-1).

**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.
  2. "Agricultural employer" means an employer defined in A.R.S. § 23-631(B).
  3. "Appeal tribunal", as described in A.R.S. § 23-671, means a hearing officer as defined in A.R.S. § 23-609.01.
  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.
  12. "Daughter" means a birth, foster, step, or legally adopted female child.
  13. "Deputy" means a Department employee who performs claims-taking or adjudication duties in the unemployment insurance program.
  14. "Director" means the Director of the Department of Economic Security.
  15. "Domestic employer" means an employer defined in A.R.S. § 23-613(C).
  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 craftspersons, 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.
17. "Employment Security Law of Arizona" means A.R.S. Title 23, Chapter 4.
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.
20. "Federal Unemployment Tax Act" (FUTA) means 26 U.S.C.A. 3301 et seq.
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 Department is either crediting an employer's quarterly statement of account or issuing the employer a refund by warrant.
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

Former Rule 3-1319; Amended effective April 17, 1975 (Supp. 75-1). Amended effective January 18, 1978 (Supp. 78-1). Amended effective February 10, 1978 (Supp. 78-1). Amended effective March 28, 1978 (Supp. 78-2). 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 their account with the Department or the information was initially obtained from the 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 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

Adopted effective July 26, 1978 (Supp. 78-4). Amended effective December 20, 1995 (Supp. 95-4).

#### 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 by the Department.
3. Computation of time shall be made in accordance with 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: 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.

1. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.
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

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

Amended effective May 8, 1979 (Supp. 79-3).

### **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. The Department shall determine the suitability of the work offered as prescribed in A.R.S. § 23-776.

4. Previously assessed disqualification. Designation of an employee as a participant in an affected group does not terminate or suspend a previously assessed disqualification. For purposes of A.R.S. § 23-778, a weekly shared work claim is a valid claim for benefits.

5. Retirement pay. When retirement pay is deductible as prescribed in A.R.S. § 23-791, the Department shall deduct the weekly retirement amount from the computed shared work benefit amount.

6. Extended benefits. A shared work claimant is eligible to receive shared work benefits under the extended benefit program if the claimant meets the requirements of A.R.S. § 23-634.

7. Backdating. In the manner prescribed in R6-3-5475(E)(1), the Department shall backdate the effective date of a shared work initial claim for benefits to an earlier date if the claimant received misinformation about the filing of a claim from the shared work employer or the Department, except that the Department shall not backdate the effective date to a date prior to the effective date of the approved plan showing the claimant as a member of an affected group.

8. Dual claims. The Department shall not permit a claimant to receive regular benefits and shared work benefits concurrently.

9. Termination of shared work employment. A shared work claimant who terminates employment with, or is terminated by, the shared work employer is not eligible for shared work compensation for the calendar week in which the termination occurred. When a termination

occurs, the shared work employer shall enter the date of termination on the weekly certification.

10. Offset. The Department shall use shared work benefits to offset any indebtedness to the Department as provided for in A.R.S. § 23-787.

- D. Other Employment.** The Department shall not charge the account of a base-period employer who is not the shared work employer, but who continues to employ a shared work claimant, for benefits paid to the claimant, if the base period employer submits written information of the continued employment within 10 days of the date of the Department's notice that the claimant has 1st filed a claim for benefits.

#### Historical Note

Adopted effective December 2, 1983 (Supp. 83-6).

Amended effective July 22, 1997 (Supp. 97-3).

### **R6-3-1406. Employer Elections to Cover Multi-state Workers**

#### **A. 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 again notify the individual, forthwith, as to the state under whose unemployment compensation law the individual's services have been covered. If, at the time of termination, the individual is not located in the elected state, the electing unit shall notify the individual as to the procedure for filing interstate benefit claims.
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
    - c. Makes a bona fide offer of work to the claimant during a week for which the claimant files a claim for benefits, and sends the Department written notification of the offer within five business days of the date the employer makes the offer.
  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 without 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 interested 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 parties.
  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 individual or documents requested. The application shall be submitted to the Department at least 5 calendar days before the hearing to permit preparation and service of the subpoena 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. Challenges 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 sustained, 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 hearing officer shall be granted to any 1 party.
- I.** Representation of interested parties.
1. In proceedings before the Board or a hearing officer, parties 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 interferes 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 interested 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 stated in the record and shall be accompanied by findings of fact and conclusions of law.
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).

**R6-3-1503. Proceedings Before an Appeal Tribunal**

- A. Filing an appeal.** Any interested party to a determination of a Deputy may appeal to an Appeal Tribunal within the time limits listed in A.R.S. § 23-773(B). The appellant may file the appeal personally, or by mail, fax, telephone, or Internet.
  1. If the appellant files the appeal personally, by mail, or by fax the appellant or authorized agent shall sign the appeal and file through any public employment office in the United States or Canada, or directly with the Department of Economic Security.
  2. If the appellant files the appeal by telephone, the appellant shall use the telephone number listed on the determination.
  3. If the appellant files by Internet, the appellant shall use the Internet application maintained for that purpose on the Department's web site.
- B. Appeal Tribunal hearings**
  1. Manner of holding hearings. The Appeal Tribunal shall conduct all hearings in accordance with A.R.S. § 23-674, in a manner that shall ascertain the substantial rights of all the interested parties. The Appeal Tribunal shall require all testimony to be taken under oath or affirmation.
  2. Jurisdiction. The Appeal Tribunal's decision and authority is confined solely to issues arising under the Employment Security Law, A.R.S. Title 23, Chapter 4. In every case, the Appeal Tribunal shall render a decision on the

issues stated in the notice of hearing. The Appeal Tribunal may also hear and decide any issues not previously considered by the Deputy that arise during the hearing, provided all interested parties waive the right to notice on the issues. If any interested party is surprised by a new issue, and unprepared to proceed, the Appeal Tribunal may continue the hearing, or may remand the matter to the Deputy for consideration and action upon the issue.

3. Failure of a party to appear
  - a. If an interested party fails to appear at a scheduled hearing, the Appeal Tribunal may:
    - i. Adjourn the hearing to a later date; or
    - ii. Proceed to review the evidence of record and other admissible evidence as may be presented at the scheduled hearing, and make a disposition or decision on the merits of the case.
  - b. If the Appeal Tribunal issues a decision adverse to any interested party that failed to appear at a scheduled hearing, that party may file one written request for a hearing to determine whether good cause exists to reopen the hearing. The interested party shall file the request to reopen within 15 calendar days of the mailing date of the decision or disposition, and shall list the reasons for the failure to appear.
  - c. The Appeal Tribunal shall hold a hearing to determine whether there was good cause for the failure to appear, and in the discretion of the hearing officer, to review the merits of the case. Upon a finding of good cause for failure to appear at the scheduled hearing, the Appeal Tribunal shall vacate the disposition or decision on the merits and reschedule the case for hearing under R6-3-1502, unless the hearing 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 the

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 appellee 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 the 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 be furnished 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 be furnished 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**

Former Rule 10-3; Amended effective January 3, 1975 (Supp. 75-1). Amended effective December 17, 1975 (Supp. 75-2). Repealed effective August 3, 1978 (Supp. 78-4). New Section R6-3-1505 adopted as an emergency effective August 2, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-4). New Section R6-3-1505 adopted effective February 7, 1980 (Supp. 80-1). Amended effective July 22, 1997 (Supp. 97-3).

#### **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 a denial of application for reconsidered determination or a petition for reassessment may petition the Appeals Board for review. The petition shall be in writing and shall be signed by the appellant or the authorized agent. The petition shall be filed within 15 calendar days after the mailing of the 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);
    - d. Delinquency, deficiency, or jeopardy assessment (A.R.S. §§ 23-738, 23-738.01, and 23-739).
  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 Section R6-3-1506 repealed, new Section R6-3-1506 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 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
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 Account 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.
  - 6. General ledger.
  - 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 Department regulation where so provided, excluding special payments in a medium other than cash.
  - iii. Special payments which are not due on any pay day, including annual bonuses, gifts, and prizes. Value of special payments other than cash shall be determined as set forth in (ii) above.
- 3. In order for a determination of an employer's liability to be made, the employer's records are required to contain the information required in subparagraph (B)(1)(c) of this regulation. If the employer's records do not contain this information, it shall be presumed that all of the individuals performing services in the pay period performed services for some portion of the same day which is the day in which the largest number of individuals performed services in each week of the pay period.
- C. 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.
- D. 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.
- E. 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 40-1; Amended effective June 2, 1980 (Supp. 80-3). Amended effective November 18, 1981 (Supp. 81-6).

#### R6-3-1703. Employer reports

- A. General.** Each employing unit shall fully and clearly report to the Department any information required in a manner designated by the Department. Unless otherwise specified, the information shall be returned within 10 days after the date of mailing of a request required to be returned to the Department.
- B. Quarterly Contribution and Wage Reports**
1. Except as provided in paragraph (3) of this subsection, each employer as defined in A.R.S. § 23-613 shall file with the Department a completed Contribution and Wage Report within the time prescribed in A.C.R.R. R6-3-1704. The information required shall include, but is not limited to:
    - a. Total number of employees each month of the quarter on all types of payrolls for the payroll period which includes the 12th of each month in the quarter;
    - b. Total wages paid in the quarter;
    - c. Total wages paid in the quarter which are in excess of the first \$7,000 paid to each employee within any calendar year which begins after December 31, 1982; and for quarters prior to January 1, 1983, total wages paid in the quarter which are in excess of the first \$6,000 paid to each individual employee within the calendar year;
    - d. Total taxable wages paid in the quarter;
    - e. A listing of employees which includes each employee's name, social security number, and total gross wages paid that employee in the quarter.
  2. Failure to receive a quarterly Contribution and Wage Report form shall not relieve the employer of the responsibility for filing the report.
  3. Request for suspension of quarterly filing requirements. An 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. The request shall include the date on which the employer ceased paying wages. When the employer's request for suspension is approved, the employer will not be required to file quarterly Contribution and Wage Reports or pay contributions until the next regular reporting date after wages to employees are again paid, and the absence of such quarterly reports or contributions shall not make such employer delinquent upon the records of the Department.
- 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 placed 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).

#### 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 employing unit which is a covered employer subject to Title 23, Chapter 4, A.R.S., shall file with the Department quarterly reports on or before the due date; any employer failing to file a quarterly report when due is delinquent. Except as otherwise provided in this regulation, quarterly contribution and wage reports are due and contributions are due and payable on or before the last day of the month following the close of each calendar quarter in which the wages were paid, except that the contributions with respect to wages which are constructively paid shall be payable for the quarter in which such wages are constructively paid as provided by regulation R6-3-1705. Payments in lieu of contributions are due and payable on or before the last day of the second month following the close of each calendar quarter in which benefit claims are paid. Quarterly notification of the amount of payments in lieu of contributions due from an employer shall be 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 year on the same day 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). Former Section R6-3-1705 repealed, 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 claim-

ant'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 redetermine 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 potential charges resulting from benefit payments that could have been made if claims were filed. For purposes of establishing the rate for new accounts, the date upon which an employer's account becomes chargeable for benefit payments is either the first day of the second quarter following the end of the first quarter of wage payments after coverage began, or on the first day of the calendar quarter after the quarter in which the employer became liable under A.R.S. § 23-613, whichever is later.
- C. The amount of contributions used to compute an employer's reserve ratio includes all contributions paid on or before July 31 or the next business day if July 31 falls on a Saturday, Sunday, or a legal holiday. Contributions shall not include payments of interest or penalties, or payments of contributions paid on or before July 31 and subsequently refunded on or before October 31.
- D. The amount of benefit charges to compute an employer's reserve ratio includes the employer's share of the amount of all checks issued on or before June 30 for the payment of benefit claims determined chargeable against the employer's account. Credits resulting from erroneous payment of benefits shall be reflected in the quarter in which the error was established pursuant to A.C.R.R. R6-3-1708(B).
- E. Average annual payroll used to compute an employer's reserve ratio includes the average of the taxable wages reported on or before the following October 31, or estimates and assessments made for the required quarterly reports through the period ending June 30.
- F. Estimates of taxable payroll as provided in A.R.S. § 23-731 for any quarter in which a required report has not been filed shall be based on the best information available to the Department or the highest amount of taxable payroll reported on the last three quarterly reports submitted immediately preceding the delinquent quarter(s). However, when no reports have been filed or when the reports submitted reflect no wages paid, the estimate(s) shall be based on the average of taxable wages for all experience rated employers for the prior fiscal year.
- G. Notwithstanding subsections (A) and (B), an employer who succeeds to or acquires a business or a distinct and severable portion of a business between July 1 and December 31 of a calendar year, shall have the experience rating account of the predecessor used in computing its rate for the following calendar year if either the predecessor or successor informs the Department of the acquisition prior to the date its rate becomes final for the calendar year following the year of acquisition. If only a portion of the business was acquired, the provisions of

A.R.S. § 23-733(B) and A.C.R.R. R6-3-1713(D) must also be met.

#### Historical Note

Former Regulation 40-7; Former Section R6-3-1711 repealed, new Section R6-3-1711 adopted effective October 24, 1983 (Supp. 83-5). Correction, subsection (G), reference to A.C.R.R. R6-3-1713(B) should read A.C.R.R. R6-3-1713(D) (Supp. 84-2).

#### 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 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).

#### R6-3-1713. Business transfers

##### A. General

1. The manner in which an organization, trade or business is acquired or succeeded to is not determinative of successor status. A business may be acquired or succeeded to "in any manner" which includes, but is not limited to, acquisition by purchase, lease, repossession, bankruptcy proceedings, default, or through the transfer of a third party.
2. An "organization, trade or business" as used in A.R.S. §§ 23-613 and 23-733(A) through (D) is acquired if the factors of an employer's organization, trade or business succeeded to are sufficient to constitute an entire existing operating business unit as distinguished from the acquisition of merely dry assets from which a new business may be built. The question of whether an organization, trade or business is acquired is determined from all the factors 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

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- 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 severable 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 predecessor's experience rating account allocated to each at the date of transfer.
- 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 on 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(F) 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:  
the estimated required tax yield, less the unadjustable yield ÷ the estimated yield derived from unadjusted contribution rates, 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**

Former Regulation 40-12; Amended effective March 29, 1978 (Supp. 78-2). Amended effective November 15, 1978 (Supp. 78-6). Amended effective March 5, 1982 (Supp. 82-2). Amended effective December 23, 1985 (Supp. 85-6).

**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 reimbursed to the Department by the predecessor.
  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 deter-

mination 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.

#### Historical Note

Former Regulation 40-15; Amended effective January 10, 1977 (Supp. 77-1). Amended subsection (E) effective August 28, 1980 (Supp. 80-4). Typographical correction to change “on” to “or” as adopted by the Department (Supp. 94-4).

#### R6-3-1718. Employer Refunds

- A. When a contribution overpayment has been established within the statutory period provided by section 23-742, the Department may credit the employing unit's account or, in its discretion, refund the overpayment provided the employing unit has no report delinquency or balance due on its account.
- 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

Adopted effective October 20, 1978 (Supp. 78-5). Repealed effective December 2, 1983 (Supp. 83-6).

#### 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 not within the definition of consumer goods are incidental to the consumer goods and do not equal 50% or more of the total purchase price.
  3. Compensation received by direct sellers may be “over-rides” (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**

Adopted effective November 15, 1978 (Supp. 78-6).

Amended effective December 20, 1995 (Supp. 95-4).

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

- A. If an employer alleges a reconsider 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 sub-

section (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 capacity of a foreman for or representative of the employer.
    - 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 in 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 has the right 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 provides tools or supplies customarily furnished by workers in the trade.
  - l. Expense reimbursement. Payment by the employing unit of the worker's approved business and/or traveling expenses is a factor indicating control over the worker. Conversely, a lack of control is indicated when the worker is paid on a job basis and has to take care of all incidental expenses. Consideration must be given to the fact some independent professionals and consultants require payment of all expenses in addition to their fees.
- 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 predetermined 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 pay-

ments 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 situa-

tion, 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

Adopted effective September 23, 1980 (Supp. 80-5). Repealed effective December 20, 1995 (Supp. 95-4).

#### 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 calendar year in which the special payment(s) is made. Payment of an individual's business expenses is not considered a special compensation plan.
2. Special compensation payments do not include payments excluded from the definition of wages as defined in A.R.S. § 23-622(B).

#### 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 employing unit 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.

- Meals will be regarded as furnished 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.
- Lodging an employee is required to accept on the business premises of the employer as a condition of his employment will be regarded as furnished for the convenience of the employer when the employee is required to be available for duty at all times, or the employee could not perform the services required of him unless furnished such lodging. Lodging furnished an employee providing managerial, maintenance or security services in an apartment of similar residential complex will be regarded as furnished for the convenience of the employer.
- Meals or lodging furnished an employee will not be deemed furnished for the convenience of the employer if the employee has the option of receiving other compensation in lieu of meals or lodging or if the employer reduces

the cash wages of the employee or otherwise charges for the meals or lodging provided.

#### Historical Note

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

### ARTICLE 18. BENEFITS

#### R6-3-1801. Repealed

#### Historical Note

Former Regulation 10-2; Former Section R6-3-1801 repealed, new Section R6-3-1801 adopted effective December 17, 1981 (Supp. 81-6). Repealed effective December 2, 1983 (Supp. 83-6).

#### R6-3-1802. Repealed

#### Historical Note

Former Regulation 30-1; Amended effective March 11, 1977 (Supp. 77-2). Amended effective May 21, 1979 (Supp. 79-3). Amended effective March 5, 1981 (Supp. 81-2). Repealed effective December 20, 1995 (Supp. 95-4).

#### R6-3-1803. Benefit Notice and Determination

- A. When the claimant files a claim to establish a benefit year, the Department shall prepare a statement showing the claimant's weekly benefit amount, total benefits, base-period wages, and benefit year. Prior to the expiration of the benefit year, the claimant may protest the statement if the claimant has reason to believe base-period wages are omitted or incorrect. Upon receipt of a protest, the Department shall investigate and revise the statement or issue a determination, as prescribed in A.R.S. § 23-773, explaining why the original statement is correct.
- B. As prescribed in A.R.S. § 23-772, when an initial claim for benefits is filed, the Department shall promptly notify the 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**

Former Regulation 30-8; Amended effective January 3, 1975 (Supp. 75-1). Amended effective March 1, 1978 (Supp. 78-2). Amended effective July 27, 1981 (Supp. 81-4). Adopted as an emergency effective October 1, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Amended effective Jan 10, 1984 (Supp. 84-1). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

**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 emergency adoption now adopted and amended effective October 30, 1979 (Supp. 79-5).

**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). 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).

**R6-3-1910. 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).

**R6-3-1911. 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 R6-3-1911 repealed, new Section R6-3-1911 adopted effective May 24, 1979 (Supp. 79-3). R6-3-1911 recodified to A.A.C. R6-14-111 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, Amended effective

October 9, 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****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2009 repealed, new Section R6-3-2009 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2009 recodified to A.A.C. R6-14-209 effective February 13, 1996 (Supp. 96-1).

**R6-3-2010. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2010 repealed, new Section R6-3-2010 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2010 recodified to A.A.C. R6-14-210 effective February 13, 1996 (Supp. 96-1).

**R6-3-2011. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2011 repealed, new Section R6-3-2011 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2011 recodified to A.A.C. R6-14-211 effective February 13, 1996 (Supp. 96-1).

**R6-3-2012. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2012 repealed, new Section R6-3-2012 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2012

recodified to A.A.C. R6-14-212 effective February 13, 1996 (Supp. 96-1).

**R6-3-2013. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2013 repealed, new Section R6-3-2013 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2013 recodified to A.A.C. R6-14-213 effective February 13, 1996 (Supp. 96-1).

**R6-3-2014. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2014 repealed, new Section R6-3-2014 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2014 recodified to A.A.C. R6-14-214 effective February 13, 1996 (Supp. 96-1).

**R6-3-2015. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2015 repealed, new Section R6-3-2015 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2015 recodified to A.A.C. R6-14-215 effective February 13, 1996 (Supp. 96-1).

**R6-3-2016. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2016 repealed, new Section R6-3-2016 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2016 recodified to A.A.C. R6-14-216 effective February 13, 1996 (Supp. 96-1).

**R6-3-2017. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective March 2, 1976 (Supp. 76-2). Former Section R6-3-2017 repealed, new Section R6-3-2017 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2017 recodified to A.A.C. R6-14-217 effective February 13, 1996 (Supp. 96-1).

**R6-3-2018. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2018 repealed, new Section R6-3-2018 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2018 recodified to A.A.C. R6-14-218 effective February 13, 1996 (Supp. 96-1).

**R6-3-2019. 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).

**R6-3-2020. 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 21. RECODIFIED****R6-3-2101. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2101 repealed, new Section R6-3-2101 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2101 recodified to A.A.C. R6-14-301 effective February 13, 1996 (Supp. 96-1).

**R6-3-2102. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2102 repealed, new Section R6-3-2102 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2102 recodified to A.A.C. R6-14-302 effective February 13, 1996 (Supp. 96-1).

**R6-3-2103. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2103 repealed, new Section R6-3-2103 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2103 recodified to A.A.C. R6-14-303 effective February 13, 1996 (Supp. 96-1).

**R6-3-2104. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2104 repealed, new Section R6-3-2104 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2104 recodified to A.A.C. R6-14-304 effective February 13, 1996 (Supp. 96-1).

**R6-3-2105. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2105 repealed, new Section R6-3-2105 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2105 recodified to A.A.C. R6-14-305 effective February 13, 1996 (Supp. 96-1).

**R6-3-2106. 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 R6-3-2106 repealed, new Section R6-3-2106 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2106 recodified to A.A.C. R6-14-306 effective February 13, 1996 (Supp. 96-1).

**R6-3-2107. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2107 repealed, new Section R6-3-2107 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2107 recodified to A.A.C. R6-14-307 effective February 13, 1996 (Supp. 96-1).

**R6-3-2108. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2108 repealed, new Section R6-3-2108 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2108 recodified to A.A.C. R6-14-308 effective February 13, 1996 (Supp. 96-1).

**R6-3-2109. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2109 repealed, new Section R6-3-2109 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2109 recodified to A.A.C. R6-14-309 effective February 13, 1996 (Supp. 96-1).

**R6-3-2110. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2110 repealed, new Section R6-3-2110 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2110 recodified to A.A.C. R6-14-310 effective February 13, 1996 (Supp. 96-1).

**R6-3-2111. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2111 repealed, new Section R6-3-2111 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2111 recodified to A.A.C. R6-14-311 effective February 13, 1996 (Supp. 96-1).

**R6-3-2112. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2112 repealed, new Section R6-3-2112 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2112 recodified to A.A.C. R6-14-312 effective February 13, 1996 (Supp. 96-1).

**R6-3-2113. 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 R6-3-2113 repealed, new Section R6-3-2113 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2113 recodified to A.A.C. R6-14-313 effective February 13, 1996 (Supp. 96-1).

**R6-3-2114. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2114 repealed, new Section R6-3-2114 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2114 recodified to A.A.C. R6-14-314 effective February 13, 1996 (Supp. 96-1).

**R6-3-2115. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2115 repealed, new Section R6-3-2115 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2115 recodified to A.A.C. R6-14-315 effective February 13, 1996 (Supp. 96-1).

**R6-3-2116. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2116 repealed, new Section R6-3-2116 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2116 recodified to A.A.C. R6-14-316 effective February 13, 1996 (Supp. 96-1).

**R6-3-2117. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2117 repealed, new Section R6-3-2117 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2117 recodified to A.A.C. R6-14-317 effective February 13, 1996 (Supp. 96-1).

**R6-3-2118. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2118 repealed, new Section R6-3-2118 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2118 recodified to A.A.C. R6-14-318 effective February 13, 1996 (Supp. 96-1).

**R6-3-2119. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2119 repealed, new Section R6-3-2119 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2119 recodified to A.A.C. R6-14-319 effective February 13, 1996 (Supp. 96-1).

**R6-3-2120. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2120 repealed, new Section R6-3-2120 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2120 recodified to A.A.C. R6-14-320 effective February 13, 1996 (Supp. 96-1).

**R6-3-2121. Repealed****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). Repealed effective May 24, 1979 (Supp. 79-3). R6-3-2121 recodified to A.A.C. R6-14-321 effective February 13, 1996 (Supp. 96-1).

**R6-3-2122. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2122 repealed, new Section R6-3-2122 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2122 recodified to A.A.C. R6-14-322 effective February 13, 1996 (Supp. 96-1).

**R6-3-2123. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2123 repealed, new Section R6-3-2123 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2123 recodified to A.A.C. R6-14-323 effective February 13, 1996 (Supp. 96-1).

**R6-3-2124. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2124 repealed, new Section R6-3-2124 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2124 recodified to A.A.C. R6-14-324 effective February 13, 1996 (Supp. 96-1).

**R6-3-2125. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2125 repealed, new Section R6-3-2125 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2125 recodified to A.A.C. R6-14-325 effective February 13, 1996 (Supp. 96-1).

**R6-3-2126. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2126 repealed, new Section R6-3-2126 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2126 recodified to A.A.C. R6-14-326 effective February 13, 1996 (Supp. 96-1).

**R6-3-2127. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Amended effective March 2, 1976 (Supp. 76-2). Former Section R6-3-2127 repealed, new Section R6-3-2127 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2127 recodified to A.A.C. R6-14-327 effective February 13, 1996 (Supp. 96-1).

**R6-3-2128. 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).

**R6-3-2129. 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).

**R6-3-2130. 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).

**R6-3-2131. 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).

**R6-3-2132. 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).

**R6-3-2133. 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).

**R6-3-2134. 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).

**R6-3-2135. 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).

**R6-3-2136. 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).

**R6-3-2137. 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).

**R6-3-2138. 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).

**R6-3-2139. 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).

**R6-3-2140. 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 22. RECODIFIED****R6-3-2201. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2201 repealed, new Section R6-3-2201 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2201 recodified to A.A.C. R6-14-401 effective February 13, 1996 (Supp. 96-1).

**R6-3-2202. 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).

**R6-3-2203. Recodified****Historical Note**

Not in original publication, correction, Amended as an emergency effective June 16, 1975 (Supp. 75-1). Former Section R6-3-2203 repealed, new Section R6-3-2203 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2203 recodified to A.A.C. R6-14-402 effective February 13, 1996 (Supp. 96-1).

**R6-3-2204. 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).

**R6-3-2205. 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).

**R6-3-2206. 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).

**R6-3-2207. 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).

**R6-3-2208. 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).

**R6-3-2209. 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).

**R6-3-2210. 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).

**R6-3-2211. 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).

**R6-3-2212. 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).

**R6-3-2213. 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).

**R6-3-2214. 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).

**R6-3-2215. 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).

**R6-3-2216. 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).

**R6-3-2217. 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).

**R6-3-2218. 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).

**R6-3-2219. 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).

**R6-3-2220. 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).

**R6-3-2221. 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).

**R6-3-2222. 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).

**R6-3-2223. 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).

**R6-3-2224. 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).

**R6-3-2225. 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 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 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).

**R6-3-2314. 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).

**R6-3-2315. 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).

**R6-3-2316. 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).

**R6-3-2317. 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).

**R6-3-2318. 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).

**R6-3-2319. 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).

**R6-3-2320. 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).

**ARTICLE 24. RECODIFIED****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 renumbered as Section R6-3-2401 effective July 25, 1977 (Supp. 77-4). Former Section R6-3-2401 repealed, new Section R6-3-2401 adopted effective May 24, 1979 (Supp. 79-3). R6-3-2401 recodified to A.A.C. R6-14-601 effective February 3, 1996 (Supp. 96-1).

**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. R6-14-602 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).

**R6-3-2409. Reserved**

**R6-3-2410. Recodified**

**Historical Note**

Adopted effective May 24, 1979 (Supp. 79-3). R6-3-2410 recodified to A.A.C. R6-14-610 effective February 3, 1996 (Supp. 96-1).

**ARTICLE 25. REPEALED**

**R6-3-2501. 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 R6-3-2501 now adopted as a permanent rule effective June 29, 1984

(Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

**R6-3-2502. 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 R6-3-2502 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

**R6-3-2503. 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 R6-3-2503 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

**R6-3-2504. 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 R6-3-2504 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

**R6-3-2505. 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 R6-3-2505 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

**R6-3-2506. 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 R6-3-2506 now adopted as a permanent rule effective June 29, 1984 (Supp. 84-3). Repealed effective September 12, 1997 (Supp. 97-3).

**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 connec-

tion 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 to 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 even 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**
- Former Rule number -- Voluntary Leaving 135. - 135.5. Former Rule repealed, new Section R6-3-50135 adopted effective January 24, 1977 (Supp. 77-1). Amended effective January 23, 1979 (Supp. 79-1). Amended by adding subsection (H) effective July 27, 1983 (Supp. 83-4). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).
- 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 occur and then asks if there are workers who will volunteer for the layoff or volunteer to accept the employer's retirement plan.
  2. The separation is a voluntary leaving without good cause when a worker requests or volunteers for layoff status prior to any specific announcement by the employer 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 worker 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 a 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 R6-3-50515, 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.
  3. If the worker reported to the employer and was referred to a new assignment which the worker refused, the separation is either a voluntary leaving or a discharge and refusal of new employment as prescribed in R6-3-50315.
- B. If a worker separates from the employer before finishing a contracted assignment, the separation is either a quit or a discharge based on the reason for the noncompletion.

**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 138. 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.
3. If a worker whose residence or work location has not substantially changed quits work because the commuting distance is excessive, the worker leaves without good cause unless:
  - a. The travel time or expense was excessive, and the worker has reasonable prospects of other, more suitable work; or
  - b. The travel time or expense was unreasonable.
4. "Beyond reasonable commuting distance" is determined from all surrounding facts and circumstances but shall be presumed when the claimant:
  - a. Resides more than 30 miles from the claimant's place of employment; or
  - b. Has a 1-way commuting time of more than 1 1/2 hours between the claimant's residence and place of employment;
  - c. Has commuting expenses equal to 15% or more of a claimant's gross wage, unless such expenses are customary for the claimant or for workers residing in the same locality as the claimant.
5. The Department accepts the mileage allowance paid state of Arizona employees for use of their private vehicles for official travel as the standard for determining cost of travel to the claimant.

**Historical Note**

Former Rule number -- Voluntary Leaving 150. - 150.2. Former Rule repealed, new Section R6-3-50150 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 27, 1983 (Supp. 83-4). Amended effective December 20, 1995 (Supp. 95-4).

**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. Home, spouse, or parent in another locality.**

1. The Department shall consider a spouse or unemancipated minor who left work to join the other spouse or a parent who has moved to a new locality, from which it is impractical to commute, to have left work for a compelling personal reason not attributable to the employer, if the other spouse or parent moved:
  - a. For a compelling personal reason; or
  - b. To establish a domicile at the new locality for three or more months.
2. The Department shall consider a spouse or unemancipated minor who left work to accompany the other spouse or a parent who is a member of the armed services and who is transferred to another locality as a result of official orders to have left work for a compelling personal reason not attributable to the employer.
3. For the purpose of this Section, an "unemancipated minor" is a person who is less than 18 years of age, is single, and who lives in the same household as the parent except for temporary absences, such as school attendance, vacations, or hospitalization.

**D. Household duties. A worker who left work because working interferes with household duties left work without good cause in connection with the work, unless the household duties**

required of the worker are so compelling as to leave no reasonable alternative to leaving work.

**E. Housing.**

1. When a worker left work because of housing problems, the Department shall determine whether the worker left with or without good cause or for a compelling personal reason not attributable to the employer. The Department shall consider the following factors:
  - a. The availability of adequate housing within a reasonable distance of the work,
  - b. The cost of housing in relation to wages, and
  - c. Prospects of other work that would eliminate the housing problem.
2. A worker left with good cause in connection with the work if:
  - a. Adequate housing was promised by an employer and was not provided; or
  - b. The employer informed the worker that housing was available, but such housing was so primitive or substandard that it was a menace to the health of the worker or the worker's family.

**F. Illness or death of others.**

1. A worker who left work because of the death or illness of a member of the worker's immediate family or to provide care for a family member left work for a compelling personal reason not attributable to the employer if:
  - a. A leave of absence could not be obtained or would have been impracticable, and
  - b. No other reasonable alternative to leaving work existed.
2. A worker who left work to care for an ill relative left work with good cause in connection with the work:
  - a. If the worker's difficulty in caring for the ill relative was due to a change in working conditions, or
  - b. When the employer, without a valid reason, refused to grant a leave of absence for this purpose.
3. For the purposes of this Section, the following are members of a worker's immediate family:
  - a. Spouse;
  - b. Parent;
  - 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**

Former Rule number -- Voluntary Leaving 155. - 155.4. Former Rule repealed, new Section R6-3-50155 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 19, 1979 (Supp. 79-2). Amended subsection (G), paragraph (2) effective July 24, 1980 (Supp. 80-4). Amended (A)(2), (B), (C), and (E) effective September 2, 1981 (Supp. 81-5). Amended effective September 24, 1986 (Supp. 86-5). Amended by final rulemaking at 13 A.A.R. 87, effective December 20, 2006 (Supp. 06-4).

**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.
  - b. When a voluntary leaving has been established, the burden of proof rests on the claimant to show that it was for nondisqualifying reasons.
  - c. When a claimant states that he did not leave voluntarily, and the employer maintains he did, the burden of proof shifts to the employer to establish that there has been a quit.

**C. Weight and sufficiency (V L 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. The testimony of eyewitnesses must be given more weight than hearsay statements.

**Historical Note**

Former Rule number -- Voluntary Leaving 190. - 190.15.

Former Rule repealed, new Section R6-3-50190 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-50191. Reserved through****R6-3-50209. Reserved****R6-3-50210. Good cause (V L 210)**

**A.** The commonly accepted test of "good cause", when considering voluntary leaving, is "What would the reasonable worker have done under similar circumstances?" The following two points should be considered:

1. What were the claimant's reasons for leaving?
2. Do the reasons justify leaving?

**B.** A worker's voluntary separation is not disqualifying if it is consistent with well defined public policy. Examples of this type of cause for leaving are:

1. Legally substandard employment.
2. Work which meets legal standards, but involves undue risk to the worker's health or safety.

**C.** A reasonable worker will not quit impulsively. He will attempt to maintain the employment except when this is impossible or impractical. Good cause is generally not established unless the worker takes one or more of the following steps prior to quitting in an attempt to adjust the grievance:

1. Gives the work a fair trial.
2. Attempts to adjust unsatisfactory working conditions.
3. Requests a leave of absence when necessary to resolve some personal difficulty.

**D.** 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).

**R6-3-50211. Reserved through****R6-3-50234. Reserved****R6-3-50235. Health or physical condition (V L 235)**

**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?

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**

Former Rule number -- Voluntary Leaving 235. - 235.45. Former Rule repealed, new Section R6-3-50235 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended effective August 3, 1978 (Supp. 78-4). Amended subsection (B), paragraph (3), subparagraph (b) and repealed subsection (B), paragraph (6) effective July 24, 1980 (Supp. 80-4). Amended subsection (D) effective July 24, 1981 (Supp. 81-4).

- R6-3-50236. Reserved through**  
**R6-3-50304. Reserved**  
**R6-3-50305. Repealed**

**Historical Note**

Former Rule number -- Voluntary Leaving 305. Former Rule repealed, new Section R6-3-50305 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 5, 1982 (Supp. 82-2). Repealed effective July 22, 1997 (Supp. 97-3).

- R6-3-50306. Reserved through**  
**R6-3-50314. Reserved**

**R6-3-50315. New work (V L 315)**

When an employee resigns rather than accepts conditions of employment which are different from those under which he has been working, a decision must be made as to whether he has left work voluntarily or has refused an offer of new work.

1. If the changes in working conditions are not substantial, a voluntary leaving is found.
2. If the changes in working conditions are so substantial as to constitute a new job (i.e., they are not expressly or impliedly authorized in the original employment relationship); the separation shall be regarded as a "discharge" and a refusal of a new offer of work. In such cases the failure to accept work shall be held to have occurred on the first workday following the last day of work.
3. If it is determined that the worker separated due to a lay-off and refused an offer of new work, the employer is an interested party to the refusal of work determination since the refusal issue arises from the separation.

**Historical Note**

Former Rule number -- Voluntary Leaving 315. Former Rule repealed, new Section R6-3-50315 adopted effective January 24, 1977 (Supp. 77-1). Amended effective August 19, 1981 (Supp. 81-4).

**R6-3-50316. Reserved through****R6-3-50344. Reserved****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).

**R6-3-50361. Reserved****R6-3-50362. Reserved****R6-3-50363. Reserved****R6-3-50364. Reserved****R6-3-50365. Prospect of other work (V L 365)**

- A. General (V L 365.05)
  1. A worker who has no objection to the work he has been doing and quits because he has prospects of other work, 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 (V L 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 (V L 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 (V L 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**
- Former Rule number -- Voluntary Leaving 365. - 365.43.  
Former Rule repealed, new Section R6-3-50365 adopted effective January 24, 1977 (Supp. 77-1).
- R6-3-50366. Reserved through**  
**R6-3-50379. Reserved**  
**R6-3-50380. Repealed**
- Historical Note**
- Adopted effective October 2, 1981 (Supp. 81-5).  
Repealed effective December 9, 1982 (Supp. 82-6).
- R6-3-50381. Reserved through**  
**R6-3-50384. Reserved**  
**R6-3-50385. Repealed**
- Historical Note**
- Former Rule number -- Voluntary Leaving 385. Former Rule repealed, new Section R6-3-50385 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).
- R6-3-50386. Reserved through**  
**R6-3-50439. Reserved**  
**R6-3-50440. Repealed**
- Historical Note**
- Former Rule number - Voluntary Leaving 440. - 440.7.  
Former Rule repealed, new Section R6-3-50440 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 5, 1981 (Supp. 81-2). Repealed effective July 22, 1997 (Supp. 97-3).
- R6-3-50441. Reserved through**  
**R6-3-50449. Reserved**  
**R6-3-50450. Time (V L 450)**
- A.** General (V L 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 (V L 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. If 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 (V L 450.15)
1. General (V L 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 (V L 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 alternative to leaving, his leaving will be for a compelling personal reason.
    - b. When a worker is required by an employer to work irregular 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. Normally, leaving because of irregular hours that occur infrequently or for a short duration will result in a disqualification.
  3. Long or short hours (V L 450.153)
    - a. Leaving work because of extended hours provides good cause for quitting if they are of indefinite or lengthy duration and unduly interfere with the worker's private life.
    - 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 domestic life that he had no reasonable alternative to leaving, his leaving will be for a compelling personal reason.
    - b. A worker who leaves because of insistence on night work normally would be disqualified. If he can establish that he had no reasonable alternative to

night work, his leaving should be adjudicated under R6-3-5005. This type of restriction will usually also involve an availability issue.

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 disqualification 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:
    - a. He accepts employment with the understanding that he will be required to join a union and then refuses to comply with the agreement; or
    - b. He allows his membership in the union to lapse when his employment depended on his remaining in good standing in his union.
  2. The above policy applies even if the employer is the one who informed the claimant that he was no longer employed.
  3. Under present statutes, rule R6-3-50475(B) does not apply to Arizona, which has a "right-to-work" law.

#### Historical Note

Former Rule number - Voluntary Leaving 475. - 475.6. Former Rule repealed, new Section R6-3-50475 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-50476. Reserved through**

**R6-3-50494. Reserved**

**R6-3-50495. Repealed**

#### Historical Note

Former Rule number -- Voluntary Leaving 495. Former Rule repealed, new Section R6-3-50495 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

**R6-3-50496. Reserved**

**R6-3-50497. Reserved****R6-3-50498. Reserved****R6-3-50499. Reserved****R6-3-50500. Wages (V L 500)****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.

Agreement concerning wages (R6-3-50500(B))

Failure or refusal to pay (R6-3-50500(C))

Piece rate or commission basis (R6-3-50500(F))

Prevailing wage (R6-3-50500(G))

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 misinformed 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 leaving 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). 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:**

1. He had 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
- 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
  - 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:
- Devote necessary time and effort to his work; or
  - Follow reasonable instructions of his employer; or
  - 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:
- 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.
  - 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.
  - 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)**
- 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.
  - 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:
    - 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
    - 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**
- Former Rule number -- Voluntary Leaving 500. - 500.751. Former Rule repealed, new Section R6-3-50500 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1).
- 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)**
- 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.
  - 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.
  - When an employer imposes unreasonable demands or working conditions which force a worker to terminate his employment, the worker would leave with good cause.
  - 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)**
- 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.
  - 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:
    - The assignment is unreasonably difficult; or
    - 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 standard, 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 the duty by considering what is customary in the type of business in which the worker was employed.
- 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

Former Rule number Misconduct 5. - 5.1. Former Rule repealed, new Section R6-3-5105 adopted effective January 24, 1977 (Supp. 77-1). 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 emergency adoption now adopted effective October 30, 1979 (Supp. 79-5). Amended subsection (B)(1), (2), and (3) effective July 24, 1980 (Supp. 80-4). Amended subsection (A) effective February 24, 1982 (Supp. 82-1). Amended effective December 20, 1995 (Supp. 95-4). Amended by final rulemaking at 13 A.A.R. 87, effective December 20, 2006 (Supp. 06-4). Amended by final rulemaking at 17 A.A.R. 1090, effective May 3, 2011 (Supp. 11-2).

**R6-3-5106. Reserved through**

**R6-3-5114. Reserved**

**R6-3-5115. Absence (Misconduct 15)**

#### A. General (Misconduct 15.05)

1. Implicit in the work relationship is the duty of the employee to report for work and remain at work in accordance with the reasonable requirements of his employer. This duty is not absolute, but is qualified by circumstances relative to the situation of both employee and employer. In determining if a claimant's absence from work is a disregard of his employer's interest due regard must be accorded to the customs and conditions of work.
2. If it is customary for employees where the claimant worked to take a day off without pay, a claimant who does so and is discharged is not deemed to have been discharged for misconduct unless the circumstances indicate that he could reasonably have known that his employer would be injured by his absence.

3. When a claimant is discharged for not appearing at work on a day when he customarily does not work, his dismissal is generally for reasons other than misconduct.
  4. An exception to the general rules of absence is the discharge of a claimant because of an absence due to incarceration for a first offense. Refer to R6-3-5115(E), "Absence due to incarceration."
- #### B. Notice (Misconduct 15.1)
1. Generally, a claimant's failure to give proper notice of his absence from work in time to permit the employer to make such arrangements as he deems necessary to replace him is tantamount to misconduct connected with the work. However, inability to notify usually justifies a failure to give notice. If the claimant made all reasonable efforts to reach his employer, but could not, failure to give notice is not misconduct.
  2. The practices of the employing establishment should be considered in determining what constitutes adequate notice. Absences for causes beyond the claimant's control may be misconduct if the facts establish that notice could have been given and the employer was inconvenienced, not because of the absence, but because of the lack of notice. A claimant's absence from work for causes beyond his control with proper notice at the earliest opportunity is not misconduct. In certain instances notice of absence is unnecessary or waived such as:
    - a. When the employer has independent knowledge of the claimant's inability to be at work; or
    - b. When it has been established by custom that notice is unnecessary; or
    - c. When a claimant is the recipient of a severe shock such as the death of a member of his family.
  3. Discharge because of failure to provide notice of absence due to incarceration should be adjudicated in accordance with rule R6-3-5115(E).
- #### C. Permission (Misconduct 15.15)
1. It is reasonable for employer(s) to require that their employees request permission to be absent from work when such absence may be anticipated. A prudent worker will normally request permission and will not take time off when his request is refused.
  2. When a claimant is denied permission for an impending absence from work and is absent- despite the employer's refusal, the necessity for the absence and his employer's reason for not granting permission must be weighed. The claimant's separation from work under such circumstances would be considered misconduct connected with his work; unless
    - a. The employer has denied a legitimate leave request without valid reason; or
    - b. The claimant would suffer serious detriment if he did not take time off work; or
    - c. The claimant was absent for a compelling personal reason.
  3. Failure of a claimant to request permission for an anticipated absence does not of itself constitute misconduct. Such cases should be evaluated in accordance with R6-3-5115(B), "Notice" and R6-3-5115(D), "Reasons for absence."
- #### 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**

Former Rule number Misconduct 15. - 15.25. Former Rule repealed, new Section R6-3-5115 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended effective August 3, 1978 (Supp. 78-4). Amended subsection (E)(2) effective July 24, 1980 (Supp. 80-4).

**R6-3-5116. Reserved through**

**R6-3-5144. Reserved**

**R6-3-5145. Attitude toward employer (Misconduct 45)**

**A. General (Misconduct 45.05)**

1. In order for an act by a worker to be considered misconduct, it must be established that the results of the act had, or could have had, an adverse affect on the employer's interests.
2. When a rule or standard of conduct normally applied in all employment relationships is violated, misconduct can be presumed but not established in every case. This would include matters involving prompt and regular attendance, dishonesty, violation of law, etc.
3. To establish misconduct the act must have adversely affected the employer in his capacity as an employer and not as a private individual. Thus, if the worker is discharged because of an off-duty incident involving the employer and the interest of the employer adversely

affected is not related to his position as an employer the claimant is discharged for reasons other than misconduct.

4. In order for misconduct to be established the employer need not have actually suffered damage as a result of the worker's act, the potentiality for damage must also be considered. In many cases it may be established that his interests could have been adversely affected by the commission or omission of the act.
5. In cases where a disregard of an implied obligation results in dismissal the adjudicator should consider any warnings the worker may have received for the same or similar violations since they draw the worker's attention to that which is expected.

**B. Agitation or criticism (Misconduct 45.1)**

1. When a worker expresses dissatisfaction with his employer or stirs up resentment against his employer, the conditions under which the action occurs and the worker's reason for taking such action will determine whether misconduct connected with the work is established.
2. Individual or group expressions of dissatisfaction with wages or other working conditions, or attempts to organize other workers to express such dissatisfaction, are not misconduct when made in a manner that does not jeopardize the employer's business. Generally, when such actions are taken outside working hours and remain within the boundaries of reasonableness, misconduct will not be found.
3. When a worker creates or expresses dissatisfaction, discontent, or resentment toward his employer for purposes other than to remedy problems, or improve working conditions, there is a strong indication of misconduct.
4. Misconduct may be found in the actions of a worker whose unreasonable agitation or criticism stemmed from an intent to resolve grievances or to improve work conditions when such actions result in insubordination, material neglect of duties, etc.

**C. Competing with employer or aiding competitor (Misconduct 45.15)**

1. 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.
2. 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.
3. If an employer has an established rule which prohibits salesmen from carrying a competing line of merchandise, violation of such rule constitutes misconduct.

**D. Damage to equipment or materials (Misconduct 45.25)**

1. 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.
2. 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.

**E. Disloyalty (Misconduct 45.3)**

**F. Disloyalty to employer (Misconduct 45.31)**

1. Disloyalty is misconduct when manifested by acts or omissions by a worker which establish a breach or the obligations owed his employer.
  2. Conspiring with fellow employees or others to cause damage or loss or ignoring a duty to act to prohibit loss or damage to the employer is disloyalty and is disqualifying.
  3. Knowingly, 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.
- G.** 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.
- H.** Indifference (Misconduct 45.35)
1. 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.
  2. A worker who is discharged because he is not interested in or is considered not suited for promotion is not discharged for misconduct.
  3. 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.
- I.** Injury to employer through relations with patron (Misconduct 45.4)
1. 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.
  2. 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.** 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).
- R6-3-51136. Reserved**
- R6-3-51137. Reserved**
- R6-3-51138. Reserved**
- R6-3-51139. Reserved**
- R6-3-51140. Misappropriation of Funds; Falsification of Employment Records**
- A.** Cash shortage or misappropriation (Misconduct 140.15)
1. To determine whether a claimant's misappropriation of company funds is misconduct which will disqualify the claimant from receipt of unemployment benefits, the Department shall consider the employer's practices regarding the handling of funds and whether the claimant knew that the claimant was misappropriating funds.
  2. A claimant who is discharged for knowingly misappropriating company funds is discharged for misconduct connected with employment.
  3. A claimant who retains 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.
- B.** Falsification of records. A claimant who is discharged for falsification of an employment application or for falsification of a written document related to the claimant's obtaining or retaining employment is discharged for misconduct related to employment when the available evidence establishes that the falsification was or is:
1. Material to the claimant's ability to obtain, retain, or perform the job; and

2. Of such a nature as to adversely affect a material or substantial interest of the employer.

**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).

**R5-3-51141. Reserved through**

**R6-3-51189. Reserved**

**R6-3-51190. Evidence (Misconduct 190)**

**A. General (Misconduct 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, 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 physician's 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.
3. From the standpoint of logic, evidence which does not tend to establish a fact should not be considered in determining the truth of that fact.

**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 weight than hearsay 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 190. - 190.15. Former Rule repealed, new Section R6-3-51190 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-51191. Reserved through**

**R6-3-51234. Reserved**

**R6-3-51235. Health or physical condition (Misconduct 235)**

Pregnancy (Misconduct 235.4). A discharge for pregnancy is never disqualifying, but under certain conditions may be for compelling personal reasons not attributable to the employer. See R6-3-5105(B).

**Historical Note**

Former Rule number Misconduct 235. - 235.4. Former Rule repealed, new Section R6-3-51235 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended effective July 24, 1980 (Supp. 80-4). Typographical error corrected (Supp. 97-3).

**R6-3-51236. Reserved through**

**R6-3-51254. Reserved**

**R6-3-51255. Insubordination (Misconduct 255)**

**A. General (Misconduct 255.05)**

1. An employer has the right to expect that reasonable orders, given in a civil manner, will be followed and that a supervisor's authority will be respected and not undermined. There is no precise rule by which to judge when a dispute with a supervisor constitutes insubordination if insolence, profanity, or threats are not involved. The pertinent overall consideration is whether the worker acted reasonably in view of all the circumstances. Some examples of insubordination are:
  - a. Refusal to follow reasonable and proper instructions; or
  - b. Insolence in actions or language, profanity, or threats toward a supervisor without due provocation; or
  - c. Refusal to accept assignment to suitable work.
2. Incompatibility with a supervisor does not of itself constitute insubordination, neither does an employee's emphatic insistence on discussing the situation if he is acting in good faith. Misconduct may exist if the worker resorts to hot-tempered remarks, threats, or insolence, without due provocation.

**Historical Note**

Former Rule number Misconduct 255. - 255.05. Former Rule repealed, new Section R6-3-51255 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-51256. Reserved through****R6-3-51269. Reserved****R6-3-51270. 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.

**Historical Note**

Former Rule number Misconduct 270. Former Rule repealed, new Section R6-3-51270 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-51271. Reserved through****R6-3-51299. Reserved****R6-3-51300. Manner of performing work (Misconduct 300)**

- A. General (Misconduct 300.05)
  - 1. A worker has the implied duty of performing his work with ordinary care and diligence and of making reasonable efforts to live up to such standards of performance as are required by his employer. Misconduct generally arises when a worker knowingly fails to exercise ordinary care in the performance of his duties.
  - 2. "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 considerably from the care expected of a ditch digger. The accepted standard of performance establishes what is ordinary care.
  - 3. 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 negligence, 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 conscientious 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 discharge is not for misconduct.
- B. 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 misconduct. In determining the degree of negligence, the following 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 decisions which contributed to the accident.
- d. Possibility for the claimant to have avoided the accident.
- e. Extent to which other responsible persons contributed to the accident.

**Historical Note**

Former Rule number Misconduct 300. - 300.1. Former Rule repealed, new Section R6-3-51300 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-51301. Reserved through****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****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 beligerent 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 concern for punctuality may amount to misconduct. In the absence of pressing responsibilities, misconduct may be found in repetition 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 January 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 corporation, individual or association enter into any agreement, written or oral, which excludes any person from employment 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 connected 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 misconduct 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 uniformly enforced.
  2. Recognition must be accorded to the type of business in which the employer is engaged and other surrounding circumstances. The rule must be reasonable in light of pub-

lic policy and should not constitute an infringement upon the recognized rights and privileges of workers as individuals. 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 when it appears that the violation of the company rule did, or could have reasonably been expected to, adversely affect the employer's interests. See R6-3-51490 regarding violation of law in connection with motor vehicles.
- D.** Safety regulations (Misconduct 485.8). A worker who is discharged for violation of a safety rule almost always is determined to be discharged for misconduct connected with the work. It is only when a rule is petty, unknown to the workers, 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**

Former rule number Misconduct 485. - 485.8. Former rule repealed, new Section R6-3-51485 adopted effective January 24, 1977 (Supp. 77-1). Amended effective November 7, 1979 (Supp. 79-6).

**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

Former rule number Misconduct 490. - 490.05. Former rule repealed, new Section R6-3-51490 adopted effective January 24, 1977 (Supp. 77-1). Amended effective February 15, 1978 (Supp. 78-1). Amended effective October 22, 1981 (Supp. 81-5).

### ARTICLE 52. ABLE AND AVAILABLE BENEFIT POLICY

**R6-3-5201. Reserved**

**R6-3-5202. Reserved**

**R6-3-5203. Reserved**

**R6-3-5204. Reserved**

**R6-3-5205. General (Able and Available 5)**

A.R.S. § 23-771 of the Employment Security Law of Arizona provides in part: "An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that: . . . 3. He is able to work, and is available for work

1. In order to conform to and carry out the meaning and intent of A.R.S. § 23-771, the word "is" as used in paragraph (3) of that section should be construed to mean "was" with respect to the week in question.
2. Availability for work is defined as the readiness of a claimant to accept suitable work when offered. To fulfill this requirement all the following criteria must be met:
  - a. He must be accessible to a labor market
  - b. He must be ready to work on a full-time basis
  - c. His personal circumstances must leave him free to accept and undertake some form of full-time work
  - d. He must be actively seeking work or following a course of action reasonably designed to result in his prompt reemployment in full-time work.
3. The criterion is availability for work, rather than availability of work. The willingness or unwillingness of employers to hire is not relevant to the issue.
4. The term "work" means suitable work (work which is in a recognized occupation, for which the claimant is reasonably fitted and which he does not have good cause to refuse).
5. Availability for work is a relative term. The objective of availability is to determine if a claimant is genuinely and regularly attached to the labor market. Availability for work also is the relationship between the restrictions imposed upon a claimant and the job requirements of the work which he is qualified to perform. It implies that restrictions do not unduly lessen the possibilities of his accepting suitable work. Unreasonable restrictions which substantially limit employment opportunities result in

unavailability. (Whether the restrictions are unreasonable depends upon their source, as well as their effect upon the possibilities of employment.)

6. A claimant's eligibility is not impaired when he is physically unable to work, or engaged in activities which would prevent his 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 his opportunities for employment.
7. Only the working days in the claimant's customary occupation are to be considered in applying the one day's inability to work or unavailability for work. One working day is defined to mean a normal work shift. A normal shift for any claimant is what is normal in his occupation. If the claimant is not able or available for more than a full shift, he is ineligible for benefits. Whether a claimant's activities have reduced or jeopardized his employment opportunities must be determined objectively and in retrospect. For example, under any of the following situations, a claimant's activities on the day in question may have reduced or jeopardized his employment opportunities:
  - a. The claimant refused a job or referral;
  - b. The claimant failed to comply with his union registration or referral regulations;
  - c. The Job Service or the claimant's union tried to contact the claimant for possible referral, but was unable to do so;
  - d. An employer made an effort to contact the claimant for a job offer or interview, but was unable to do so.
8. In applying this policy, the nature of the 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).

**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; or
  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.
- 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.
- 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 subsection (A)(1) and (2) effective July 9, 1980 (Supp. 80-4). Section repealed; new Section adopted effective July 22, 1997 (Supp. 97-3).

**R6-3-5241. Reserved****R6-3-5242. Reserved****R6-3-5243. Reserved****R6-3-5244. Reserved****R6-3-5245. Disloyalty (Able and Available 45)**

Security clearance (Able and Available 45.32). Any person unable to obtain employment in his work classification because he has been denied access to classified security information shall be held unavailable for work unless it is determined he is available for other suitable work for which a security clearance is not required.

**Historical Note**

Former rule number - Able and Available 45. - 45.32. Former rule repealed, new Section R6-3-5245 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-5246. Reserved through****R6-3-5269. Reserved****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 will not be hired by certain employers because he is an alien, is available for work provided work not requiring citizenship exists in reasonable quantity in the area in which he resides, and he will accept such work.
- C. 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 through****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 through****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 through**

#### **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 existent 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 practicality 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, or
  - c. Commuting expense equal to 15% or more of a claimant's gross wage. (The Department accepts the mileage allowance paid state of Arizona employees for use of their private vehicles for official travel as the standard for determining cost of travel to the claimant.)

#### Historical Note

Former rule number - Able and Available 150. - 150.2. Former rule repealed, new Section R6-3-52150 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**

#### **R6-3-52179. 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).

#### **R6-3-52181. Reserved through**

#### **R6-3-52189. Reserved**

#### **R6-3-52190. Evidence (Able and Available 190)**

##### **A.** General (Able and Available 190.05)

1. The question of ability to work frequently arises in cases when the claimant's employment was terminated by an illness or operation, but the claimant alleges a sufficient recovery to be able to return to work in his usual occupation. Any presumption of inability arising from a recent illness or operation may be rebutted by evidence showing the actual return to work following the illness or operation without a relapse. Employment subsequent to an illness is sufficient evidence of ability to work, provided it is not terminated because the individual has returned to

- work prematurely or found on trial he would be unable to do that type of work any longer.
2. Availability for work is more subjective and intangible than ability however, there are certain objective factors that may be applied in determining availability.
- B. Burden of proof and presumptions (Able and Available 190.1)**
1. When the claimant's physician states that the claimant is unable to do any work, the claimant may be presumed unable to work. However, when the claimant subsequently secures employment which is terminated by a layoff or a voluntary quit, either of which attributable to the claimant's lack of physical capacity to perform the work, his subsequent employment will not be sufficient in itself to overcome the physician's statement that the claimant is unable to work. Additional evidence however, may be presented to show that he is able to work.
  2. A claimant may be presumed able to work when a physician certifies that the claimant can engage in full-time restricted work, provided the claimant is qualified to perform such work. A claimant may be presumed unable to work when a physician states he should not work for a specified period of time.
  3. A claimant who states that he is able and willing to accept a part-time job but is unable to accept a full-time job because of a physical disability may be presumed to be unable to work. A claimant who states that he is unable to work is considered unable to work.
  4. The best proof of ability is evidence that work has actually been done by the claimant despite his physical disability. In the absence of evidence that the claimant's condition has altered, this is proof of ability. For example, a totally blind claimant was determined able to work when he showed that he had worked for two years as a machine fitter in a workshop for the blind.
  5. A presumption of ability to work arises from the claimant's certification of ability and the statement of the reason for separation from his last employment for causes other than a disability. However, an availability issue may be raised at any time during the claims filing or work registration process. Among the factors which may raise such an issue are:
    - a. Allegations made by the employer or other interested persons.
    - b. The claimant's oral or written statements.
    - c. The adjudicator's observation of an obvious disability.
    - 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 requisites 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 (Able and Available 235)

##### A. General (Able and Available 235.05)

1. Ability to work, a requisite for eligibility for benefits, generally means the physical and mental capacity of an individual to work under circumstances that ordinarily exist. Thus, ability to work is defined as the possession of the physical and mental capabilities necessary to the performance of suitable work for which one is reasonably fitted. Conversely, inability to work refers to a lack of physical or mental ability to such a degree as to prevent the acceptance of work for which one is reasonably fitted which renders him unemployable.
2. The above definition does not restrict the term "work" to the usual occupation of the claimant. It includes any type of work for which the claimant is reasonably fitted and which he can perform under normal conditions of employment. He may be prevented entirely by his disability from pursuing his usual occupation and yet retain sufficient physical and mental ability to perform some gainful full-time work for which he is reasonably fitted. For the claimant to be considered able to work, it is not necessary that he compete successfully with able-bodied men or that he establish the willingness of employers to hire him. Therefore, a physical or mental disability, although lessening or even canceling a claimant's employment opportunities because of the unwillingness of employers to engage him, does not negate his ability to work. The question is whether the claimant is able to work and not whether he can obtain work.
3. "Ability to work" does not include a claimant's appearance or any other characteristic which might prejudice employers against employing him. However, the term "ability to work" does include the fact that the work for which the claimant is qualified must exist as a recognized part of the labor market and that the claimant must be capable of performing such work without endangering the lives and well-being of himself, his fellow workers, the public, or his employer.
4. Ordinarily, skilled workers who can no longer follow their trades are considered more able to work than unskilled workers since the former possess a number of skills which can be transferred to a larger number of related fields and usually can assume more positions of responsibility. Counseling services of the Job Service may succeed in revealing additional types of work for which the claimant is qualified.

##### B. Age (Able and Available 235.1)

1. Age, in itself, does not create a presumption that a claimant is unable to work. Additional factors, such as the

claimant's separation from employment because of inability to produce or his retirement, must be present in order to raise a question of inability. Similarly, a statement that a claimant was separated or retired because he was unable "to maintain his 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.

2. In either event it requires additional evidence of its import. If the claimant can show that he is able to perform other suitable work for which he is qualified and reasonably fitted, or that he could still meet the production standards of other employers, he would not be unable to work.

##### C. Communicable disease (Able and Available 235.15)

1. In determining whether a claimant who suffers from some physical impairment, is able to work, it is not only necessary to determine whether the claimant can physically perform the tasks for which he states he is available, but also, whether he can do so without substantially endangering the health and well-being of himself, his fellow workers, the public, or the employer.
2. A claimant who suffers from an infectious or communicable disease may be considered able to work if he is qualified for and willing to accept work in an occupation where the disease would not be a hazard. When the claimant is under medical treatment and his physician certifies that the disease is in a non-communicable state, the claimant is able to work in an occupation for which he is reasonably fitted. However, when the claimant's physician states that the claimant should not work because of the danger of infecting others, or when the law of the community prohibits his employment because of the disease, the claimant is unable to work until his physician certifies that he is able to work without endangering others.

##### D. Illness or injury (Able and Available 235.25)

1. An individual's ability to work may be restricted by illness or injury which results in temporary, partial, or total disability. Again it is stressed that a claimant's ability is judged solely on the basis of his capability to perform work for which he is qualified and not on the willingness of employers to hire him.
2. When a claimant is subject to periodic seizures or attacks (such as epileptic seizures) which render him unable to work during the seizure or attack, he may be presumed able to work if, during the intervals between seizures, he is able to perform work for which he is qualified and which does not involve unusual hazards.

##### E. Pregnancy (Able and Available 235.4)

1. Although pregnancy of itself may not render a woman unable to work, a claimant who is pregnant is presumed to be unable to work for a period of 8 weeks prior to the calculated date of delivery and for 6 weeks immediately following delivery. Such presumption may however be rebutted by medical evidence or other proof to the contrary.
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 qualified and ready to accept such work. However, if the claimant is not qualified to perform less strenuous work, or if her physician recommends that she should not work, she may be presumed unable to work.

3. A pregnant woman who voluntarily leaves suitable employment which she could have continued to perform and which did not adversely affect her health may be presumed unavailable for work. However, when a claimant was unable to work in the early months of pregnancy, but has now recovered sufficiently to be able to return to work, she may be presumed able to work, if her physician agrees that she is physically able to return to work.
4. When a pregnant woman restricts her availability to work which will not require her to stand, lift heavy objects, travel great distances, etc., she may be presumed able to work only if it is shown that work for which she is reasonably fitted does not require these conditions and when there is a reasonable possibility of her obtaining such work within the restrictions imposed.
5. If a claimant states that she is able to work only part time because of her pregnancy, she may be presumed unable to work.

#### Historical Note

Former rule number - Able and Available 235. - 235.4.  
Former rule repealed, new Section R6-3-52235 adopted effective January 24, 1977 (Supp. 77-1). Typographical error corrected (Supp. 97-3).

#### 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).

#### R6-3-52251. Reserved through

#### R6-3-52284. Reserved

#### R6-3-52285. Leave or absence or vacation (Able and Available 285)

- A. A claimant on leave of absence generally is unavailable for work. The availability of the claimant depends upon the following factors:
  1. The reason for the leave of absence; and
  2. Whether the leave of absence binds him from accepting employment during the duration of the leave; and
  3. Whether he has demonstrated that he is actively in the labor market; and
  4. Whether there is a financial necessity for the claimant being in the labor market.

- B. The nature of the leave is of primary importance. If examination of the written leave or interview of the claimant discloses that the claimant is receiving remuneration for the period of the leave, he must be deemed to be not unemployed. If the leave contains provisions prohibiting the claimant from accepting other employment, the claimant must show that he does not intend to comply with the provision of the leave and that he is actively in the labor market. If the claimant requested the leave to recuperate from an illness or because of domestic circumstances, the ability or availability of the claimant is questionable. When the claimant contends he is able and available despite his illness or despite the domestic circumstances, the case should be reviewed with reference to R6-3-52190(A) or R6-3-52155(A) of these rules. If the claimant has removed to this area because of the need for a change of climate and he is able to work, the nature of the leave of absence and his activities in attempting to secure work must be carefully reviewed.
- C. In order to demonstrate attachment to the labor market, the claimant must establish that he is making all reasonable efforts to obtain employment on his own behalf and that he is not restricting unduly the type and working conditions of the employment he will accept.
- D. The final factor for consideration, the financial necessity for the claimant's being in the labor market, always should be considered in determining the availability of a claimant on leave of absence. The financial status of the claimant should be examined. The need for an income to carry current expenses is a forceful argument of a claimant's real attitude toward a job and his efforts to seek employment.

#### Historical Note

Former rule number - Able and Available 285. Former rule repealed, new Section R6-3-52285 adopted effective January 24, 1977 (Supp. 77-1).

#### R6-3-52286. Reserved through

#### R6-3-52294. Reserved

#### R6-3-52295. Length of unemployment (Able and Available 295)

- A. In determining whether a claimant is available for work, consideration must be given to his length of unemployment. Although a claimant should be allowed a reasonable period of time in which to obtain suitable work at his highest skill, prolonged unwillingness to accept other work for which he is qualified may, in effect, render the claimant unavailable. Therefore, as the period of the claimant's unemployment lengths, he will be expected to lessen the restrictions he imposes as to the type of work he is seeking and is willing to accept.
- B. Generally, the reasonable period in which a claimant shall be allowed to restrict his availability to his highest skill without denial of benefits will be the periods specified in R6-3-53295. These periods are guides for availability purposes. In determining when a claimant should be required to widen his search for work, the adjudicator shall consider the claimant's personal circumstances and the prevailing labor market conditions.
- C. A claimant shall be deemed unavailable because he restricts his search or willingness to accept work to his highest skill;
  1. Beyond a reasonable period of adjustment; or
  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****R6-3-52372. Reserved****R6-3-52373. Reserved****R6-3-52374. Reserved****R6-3-52375. Receipt of other payments (Able and Available 375)**

A. General (Able and Available 375.05). Current receipt of group health insurance benefits for a concurrent period of recuperation creates a presumption that the claimant is unable to work. This presumption can be overcome if the claimant can establish that he is qualified and able to do work of a specific kind and his statement is supported by corroborating evidence. However, information on local labor market conditions available to the local office may create a presumption that the physical requirements for all work of the type for which he is qualified are too difficult to be met by the claimant. The terms of the group or health insurance policy or plan must be investigated in order to ascertain whether the claimant's allegations 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 refuted 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 R6-3-52375 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 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).

**R6-3-52416. Reserved through**

**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**

**R6-3-52474. Reserved**

**R6-3-52475. Union relations (Able and Available 475)**

- A. General (Able and Available 475.05)

1. While union requirements may narrow a claimant's field of employment, a restriction to union conditions will not generally render a claimant unavailable for work if all of the following conditions are met:
    - a. He is a member in good standing of the union whose standard of wages and working conditions he demands.
    - b. The union has agreements affecting a substantial percentage of the jobs in the locality where he is seeking work.
  2. The requirements for seeking work for a union member are outlined in R6-3-52160(A) of these rules.
- B. Membership (Able and Available 475.5).** Generally, lack of union membership does not render a claimant unavailable if there is a reasonable possibility of his obtaining employment in his usual occupation. A nonunion individual is not considered unavailable merely because an employer requires union membership as a prerequisite of being employed.

**Historical Note**

Former rule number Able and Available 475. - 475.5.  
Former rule repealed, new Section R6-3-52475 adopted effective January 24, 1977 (Supp. 77-1).

**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**

**Historical Note**

Former rule number - Refusal of Work 40. Former rule repealed, new Section R6-3-5340 adopted effective January 24, 1977 (Supp. 77-1). Section repealed effective July 22, 1997 (Supp. 97-3).

- 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 official travel as the standard for determining cost of travel to the claimant.)

**Historical Note**

Former rule number Refusal of Work 150. - 150.2. Former rule repealed, new Section R6-3-53 150 adopted effective January 24, 1977 (Supp. 77-1). Former Section R6-3-53150 repealed, new Section R6-3-53150 adopted effective July 27, 1983 (Supp. 83-4).

**R6-3-53151. Reserved through**

**R6-3-53169. Reserved**

**R6-3-53170. Employment office or other agency referral (Refusal of Work 170)**

**A.** General (Refusal of Work 170.05)

1. A disqualification should not be considered until it is clear that the claimant has had sufficient time to consider the offer or referral. While a claimant should need little or no time to determine whether he will accept work which does not differ from his customary work, he may need substantial time to think over acceptance of other types of work.
2. A statement of preference for a specific type of work is not necessarily a refusal of other work. An attempt by the claimant to get better terms or a more desirable referral without a rejection of the offer should not be considered a refusal.

- B.** Failure to report to employment office (Refusal of Work 170.15). A claimant's failure to respond as directed to a job service call in card or telephone call, regarding a possible referral to employment, shall not be treated as a refusal of work since neither instructions to apply for work nor a definite offer of work was given. The issue in such cases is the claimant's availability for the week in question and should be adjudicated in accordance with R6-3-52160(B) of these rules.

**Historical Note**

Former rule number - Refusal of Work 170. - 170.15. Former rule repealed, new Section R6-3-53170 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-53171. Reserved through**

**R6-3-53194. Reserved**

**R6-3-53195. Experience or training (Refusal of Work 195)**

**A.** General (Refusal of Work 195.05)

1. To avoid downgrading of the claimant's skills, his prior training and experience shall be considered before he is disqualified for refusing work beneath his highest skill.
2. If the claimant has been unemployed for a long time and prospects for work in his usual occupation are not favorable he may reasonably be expected to take other work.

**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).

**R6-3-53196. Reserved through**

**R6-3-53234. Reserved**

**R6-3-53235. Health or physical condition (Refusal of Work 235)**

- A. Illness or injury (Refusal of Work 235.25). Work that would adversely affect an existing physical or mental impairment of the claimant is unsuitable. Evidence such as a medical statement, if practical, should be obtained.
- B. Risk of illness or injury (Refusal of Work 235.45). Any work involving undue risk to the claimant's health, or work that fails to meet the standards of the industry is unsuitable.

**Historical Note**

Former rule number Refusal of Work 235. - 235.45. Former rule repealed, new Section R6-3-53235 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-53236. Reserved through**

**R6-3-53264. Reserved**

**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 through**

**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.

Adjustment Period	Skill Level
4 weeks	Unskilled
7 weeks	Semi-skilled
10 weeks	Skilled

- 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 surrounding his separation shall be considered in determining the suitability of the job offer.

**Historical Note**

Former rule number Refusal of Work 335. Former rule repealed, new Section R6-3-53335 adopted effective January 24, 1977 (Supp. 77-1). Amended effective August 3, 1978 (Supp. 78-4).

**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; or
  2. A definite promise of a job although the starting date is an estimate by the employer; or
  3. An indefinite statement by the employer that he may have work for the claimant; or
  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 450.155). 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, inconvenient 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 R6-3-53350(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. - 450.55. Former rule repealed, new Section R6-3-53450 adopted effective January 24, 1977 (Supp. 77-1).

**R6-3-53451. Reserved through****R6-3-53474. Reserved****R6-3-53475. Union relations (Refusal of Work 475)**

- A.** General (Refusal of Work 475.05). A claimant may not be denied benefit for refusing a referral to, or an offer of new work if as a condition of being employed he would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.
- B.** Nonunion shop or supervisor (Refusal of Work 475.55)
1. A.R.S. § 23-776(B) of the Employment Security Law provides in part: “. . . In determining whether or not work is suitable for an individual, the department shall consider ... his ... prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation . . .”
  2. The fact that a union has a rule against a member working for a nonunion employer or on the same job with non-union workers does not of itself make the offered work unsuitable, or provide good cause for refusal.

**Historical Note**

Former rule number Refusal of Work 475. - 475.55. Former rule repealed, new Section R6-3-53475 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 operations 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 - Refusal of Work 515. - 515.65. Former rule repealed, new Section R6-3-53515 adopted effective January 24, 1977 (Supp. 77-1).

**ARTICLE 54. BENEFIT CLAIMS, COMPUTATION, EXTENSION, AND OVERPAYMENT****R6-3-5401. Reserved****through****R6-3-5439. Reserved****R6-3-5440. Repealed****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 through****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.

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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 employee to see if work is available.
- 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 claimant's separation from employment or a statement as to whether 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.

**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 through**  
**R6-3-5469. Reserved**  
**R6-3-5470. Repealed**

**Historical Note**

Former rule number -- Miscellaneous 70. Former rule repealed, new Section R6-3-5470 adopted effective January 24, 1977 (Supp. 77-1). Amended effective July 7, 1978 (Supp. 78-4). Amended effective March 5, 1981 (Supp. 81-2). Repealed effective December 20, 1995 (Supp. 95-4).

- 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:

- 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;
    - b. Will be eligible for a higher weekly benefit amount in the following benefit calendar quarter; and
    - c. Requests cancellation within seven days of the start of the new benefit calendar quarter;
  4. Except as provided in subsections (F)(1) through (3), the claimant initiates a claim but does not file for a week of unemployment, and the claimant will qualify for a higher weekly benefit amount in a subsequent benefit calendar quarter; or
  5. The claimant shows that the Department provided the claimant with incorrect information regarding the claimant's potential eligibility at the time the claim was initiated.
- G.** Continued claim for benefits. Except as otherwise provided in A.R.S. §§ 23-761 through 23-766, R6-3-1405, and R6-3-1809, for each week of unemployment claimed, a claimant shall timely file a continued claim for benefits or waiting period credit, on a form provided by the Department, by telephone, or through the Internet.
1. The Department may limit the available methods of filing these claims according to budgetary constraints or program needs. The Department shall provide each claimant with instructions on how to file continued claims at the time the initial claim is filed.
  2. A continued claim shall include the following information for the applicable claim period:
    - a. A statement of any employment the claimant held and any wages the claimant earned;
    - b. A statement as to the claimant's ability to work, availability for work, and efforts to seek work;
    - c. A statement as to whether the claimant received or refused any offers of work;
    - d. A statement that the claimant understands and acknowledges that the claimant has a duty to notify the Department of changes in any circumstances that may affect the claimant's eligibility for benefits; and
    - e. The claimant's signature or personal identification number.
  3. A claim is timely filed when the Department receives the claim within 14 days of the benefit week ending date. If the claim is mailed, the claim is timely if postmarked within 14 days of the benefit week ending date.
- H.** Untimely claims. The Department shall disallow an untimely claim unless:
1. The untimeliness was due to Department error; or
  2. The claimant establishes good cause for the untimeliness. As used in this Section "good cause" means that the untimeliness was due to a circumstance beyond the reasonable control of the claimant;
  3. Notwithstanding any other provision of this Section, when the untimely claim is the first occurrence in a benefit year, the Department shall not disallow the claim unless the Department finds that the untimeliness was willful. Willfulness is established if:
    - a. The claimant files the claim more than seven days after the 14-day period specified in subsection (G)(3), and
    - b. The Department has clear and convincing proof that the claimant knew of the filing requirements and deliberately chose to ignore them.
- I.** Adjudication and eligibility interviews.
1. The Department may require a claimant to participate in a:
    - 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

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- 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).

**R6-3-5476. Reserved through**

**R6-3-5494. Reserved**

**R6-3-5495. Disqualification; Definition of Last Employment**

- A.** The Department shall determine whether to disqualify a claimant as prescribed in A.R.S. § 23-775(1) and (2) based on the reason for separation from the claimant's last employment when the claimant:
  - 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**

Former rule number -- Miscellaneous 95. - 95.1. Former rule repealed, new Section R6-3-5495 adopted effective January 24, 1977 (Supp. 77-1). Amended effective June 24, 1981 (Supp. 81-3). Amended effective December 27, 1985 (Supp. 85-6). Amended effective July 22, 1997 (Supp. 97-3).

**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.

Prospects are "not good" -- there is no definite prospect of the claimant returning to work within the next six weeks.

- b. This classification can be changed at any time during the extended benefit period as circumstances warrant, providing the claimant is informed immediately of the reclassification.
  - c. This classification is not appealable unless it is a part of a determination regarding failure to apply for or accept an offer of suitable work.
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. § 23-776(A) (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 con-

sidered 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 knowingly 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**

**Historical Note**

Former rule number -- Miscellaneous 407. - 407.1. Former rule repealed, new Section R6-3-54407 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

**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 salesman, 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).

**R6-3-55416. Reserved through**

**R6-3-55459. Reserved**

**R6-3-55460. Type of compensation (Total and Partial Unemployment 460)**

- A. Dismissal or separation pay (T.P.U. 460.35)
  1. Dismissal payments include, but are not limited to, wages in lieu of notice, dismissal payments, and severance payments, and may be in accordance with the contract of employment or an unilateral policy of the employer.
  2. Payments may be made as a lump sum at the time of termination of services in other instances, the employer may continue to include the worker on his payroll for one or more pay periods following the termination of the worker's services.

3. Section 23-621 of the Employment Security Law of Arizona provides that an employee is unemployed with respect to any week in which he performs no services and with respect to which no wages are payable to him. Therefore, dismissal or separation payments, as shown above, are considered to be payments for past services and shall not be allocated to any period after the separation from work.
- B. Vacation, holiday or sick pay (T.P.U. 460.75)**
1. For the purpose of Unemployment Insurance, payments received for vacation, sick or holiday leave are considered earnings and shall result in denial of benefits if allocated to periods during which claims are filed.
  2. The appropriate period to which vacation, sick, or holiday pay is allocable will be determined in one of the following ways:
    - a. If there was a written or verbal contract between the employer and the claimant in effect at the time of separation, allocate to the appropriate period in accordance with the contract, continuing for the number of work days which the pay would cover at the regular wage rate.
    - b. If no written or verbal contract was in effect, allocate to the appropriate period following the last day of performance of services, continuing for the number of work days which the pay would cover at the regular wage rate.
  3. If in a particular situation the agreement was made for a purpose other than to establish a vacation period (e.g., to prevent payment of UI benefits for an extended period which the pay would not cover at the worker's pay rate), the appropriate period will be determined as in subsection (B) above.
- C. Back pay awards**
1. Unemployment Insurance regulation R6-3-1703 requires employers to report wages of workers for the quarter in which the wages were paid. For the purpose of determining a claimant's eligibility for an unemployment insurance award, wages are allocated to the quarter in which the wages were paid, in accordance with A.R.S. § 23-771(6).
  2. For purposes of A.R.S. §§ 23-621, 23-771(6) and 23-779(A) and (B), back pay awards are wages for the period for which the payment is made, irrespective of when paid. This shall not affect the manner in which wages are reported for contribution purposes.
  3. For the purpose of this policy, back pay awards include, but are not included to, awards
    - a. Under the Fair Labor Standards Act for unpaid overtime or minimum wages, but not for liquidated damages thereunder; and
    - b. Of the National Labor Relations Board or by private agreement consent or arbitration for loss of pay by reason of wrongful discharge.
- Historical Note**
- Former rule number -- Total and Partial Unemployment 460. - 460.75. Former rule repealed, new Section R6-3-55460 adopted effective January 24, 1977 (Supp. 77-1). Amended effective August 24, 1977 (Supp. 77-4).
- 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 that 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 January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

**R6-3-5636. Reserved**

**through**

**R6-3-56124. Reserved**

**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**

**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**

Former rule number - Labor Dispute 445.- 445.2. Former rule repealed, new Section R6-3-56445 adopted effective January 24, 1977 (Supp. 77-1). Amended effective March 22, 1979 (Supp. 79-2). Amended as an emergency effective

tive 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 March 17, 1981 (Supp. 81-2). Repealed effective July 22, 1997 (Supp. 97-3).

**R6-3-56446. Reserved through**

**R6-3-56464. Reserved**

**R6-3-56465. Repealed**

**Historical Note**

Former rule number - Labor Dispute 465. - 465.15. Former rule repealed, new Section R6-3-56465 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

**R6-3-56466. Reserved**

**R6-3-56467. Reserved**

**R6-3-56468. Reserved**

**R6-3-56469. Reserved**

**R6-3-56470. Repealed**

**Historical Note**

Former rule number - Labor Dispute 470. - 470.1. Former rule repealed, new Section R6-3-56470 adopted effective January 24, 1977 (Supp. 77-1). Repealed effective July 22, 1997 (Supp. 97-3).

**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).

**R6-3-6005. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6006. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**ARTICLE 61. REPEALED**

**R6-3-6101. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6102. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6103. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6104. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6105. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6106. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6107. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**ARTICLE 62. REPEALED**

**R6-3-6201. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6202. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6203. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6204. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6205. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**ARTICLE 63. REPEALED**

**R6-3-6301. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6302. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6303. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6304. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**ARTICLE 64. REPEALED**

**R6-3-6401. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**ARTICLE 65. REPEALED**

**R6-3-6501. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**ARTICLE 66. REPEALED**

**R6-3-6601. Repealed**

**Historical Note**

Adopted effective June 22, 1976 (Supp. 76-3). Repealed effective February 1, 1995 (Supp. 95-1).

**R6-3-6602. Repealed**

**Historical Note**

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**R6-3-6603. Repealed**

**Historical Note**

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**R6-3-6604. Repealed**

**Historical Note**

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**R6-3-6605. Repealed**

**Historical Note**

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**R6-3-6606. Repealed**

**Historical Note**

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