

**REVISION OF TITLE 60 OF THE CODE OF VIRGINIA**

**REPORT OF THE  
VIRGINIA CODE COMMISSION  
to  
THE GOVERNOR  
and  
THE GENERAL ASSEMBLY OF VIRGINIA**



HD 2, 1968

COMMONWEALTH OF VIRGINIA  
Department of Purchases and Supply  
Richmond  
1967



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REVISION OF TITLE 60 OF THE CODE OF VIRGINIA

REPORT OF THE VIRGINIA CODE COMMISSION TO THE  
GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA

Richmond, Virginia, May 10, 1967.

To:

HONORABLE MILLS E. GODWIN, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

The General Assembly at its Regular Session of 1966 directed the Virginia Code Commission, by Chapter 315 of the Acts of that Session, to revise certain titles of the Code of Virginia, including Title 60, relating to unemployment compensation.

Extracts from Chapter 315 follow:

“§ 1. The Code of Virginia shall be gradually revised by revising one or more titles at a time. In revising each title, all other sections of the Code relating to the same subject matter shall be revised to the extent necessary. Experts shall be employed by the Virginia Code Commission to assist in the project. The Commission may also accept the services of qualified volunteers who are willing to serve without pay. Tentative drafts of proposed revisions shall be printed and circulated among interested persons and their comments solicited.

“§ 2. The Commission shall undertake the revision of Titles 59, 60, 61, 62, 63, 64 and 65 and submit to the Governor and the General Assembly on or before October one, nineteen hundred sixty-seven, a report of its recommendations, together with suggested legislation necessary to carry such recommendations into effect.”

Hugh Reid Thompson, Jr., Esquire, of the Richmond City Bar was retained as Counsel to assist in the revision of this Title.

Counsel examined the provisions of the Title in detail, and consulted officials of the Virginia Employment Commission. The Code Commission met with Counsel, and officials of the Virginia Employment Commission, on several occasions, and discussed in detail changes recommended by Counsel and such officials.

Following the general practice as to other Titles in Volume 9 of the Code of Virginia and most other previous revisions, the Commission determined that this Revision be accomplished by the repeal of Title 60 and the enactment of Title 60.1 in lieu thereof.

Included in this Report is the Report of Counsel to the Commission on Title 60. Also, following each section of the draft of Title 60.1 are Counsel's notes identifying the source of the provisions of the section and commenting upon any changes therein. Furthermore, preceding the draft of Title 60.1 there is set forth a table of comparable sections, for the purpose of tracing each of the provisions of Title 60 into proposed Title 60.1. Those who are interested in the major features of the Revision should read the Report of Counsel and the notes following the several sections of Title 60.1, to which reference is hereby made.

## RECOMMENDATIONS

The Code Commission submits this Report, and recommends that the Legislature enact the attached bill in 1968.

The Commission acknowledges the high caliber of the work of Counsel in this project. The assistance of officials of the Virginia Employment Commission is gratefully recognized.

Respectfully submitted,

JAMES M. THOMSON, Chairman  
E. ALMER AMES, JR., Vice-Chairman  
FRED W. BATEMAN  
JOHN WINGO KNOWLES  
G. M. LAPSLEY  
A. L. PHILPOTT

KENNETH C. PATTY, formerly a member of the Virginia Code Commission, died on March 27, 1967.

LAW OFFICES  
HUGH REID THOMPSON, JR.  
211-213 MUTUAL BUILDING  
RICHMOND, VIRGINIA 23219

April 12, 1967

The Honorable James M. Thomson, Chairman  
The Honorable E. Almer Ames, Jr.  
The Honorable Fred W. Bateman  
The Honorable Robert Y. Button  
The Honorable John Wingo Knowles  
The Honorable G. McIver Lapsley  
The Honorable A. L. Philpott  
Virginia Code Commission  
State Capitol  
Richmond, Virginia

Gentlemen:

Complying with the provisions of Chapter 315 of the Acts of Assembly of 1966 approved March 31, 1966 and your instructions, I have prepared and herewith transmit to you a proposed draft of revision of Title 60 of the Code of Virginia.

This draft has been prepared in keeping with your desires insofar as I have been able to determine them from the several conferences held by the Commission for the purpose.

This draft has been prepared in the usual form, i. e., a bill suitable for introduction at the 1968 Session of the General Assembly, together with a table of contents and a table of comparable sections.

The bill is designed to repeal present Title 60 and to provide in substitution therefor a new Title 60.1.

Although great care has been exercised in the review of Title 60, it will be observed that relatively few changes are recommended. Most of the changes may be termed "conforming." The overall revision may be considered a "tidying up."

It should be observed that the basic nature of Title 60 precludes any substantial changes, the effectiveness thereof being largely dependent upon Federal funding, with the limitations and restrictions resulting therefrom. For this reason, counsel has worked very closely with counsel for the Virginia Employment Commission throughout this undertaking.

Although all provisions of the title were examined in detail, no section of the existing law is recommended for deletion, nor is any new section proposed. In the draft of revision herewith, substantive changes appear in only five sections: § 60-29 (§ 60.1-34), § 60-30 (§ 60.1-35), § 60-46 (§ 60.1-52), § 60-50 (§ 60.1-62) and § 60-77.1 (§ 60.1-93).

§§ 60-29 and 60-30 are amended to provide that rules and regulations of the Virginia Employment Commission conform with the provisions of the General Administrative Agencies Act, with minor necessary exceptions. Presently the Commission is not bound by the General Administrative Agencies Act, (Chapter 1.1, Title 9, of the Code of Virginia).

§ 60-46 amended solely to facilitate the administration of its provision by the Virginia Employment Commission. A more orderly sequence is provided for the consideration of applications for benefits.

§ 60-50 is amended by eliminating certain language which is inappropriate in context in which it has appeared. The deleted language relates to appeals from liability determinations, which matter is adequately covered in § 60-59 (§ 60.1-71).

§ 60-77.1 is amended to suspend assessments of interest on accrued contributions against employers who are on active duty with the armed forces.

In addition to the sections mentioned above, amendments purely technical in nature, may be found in §§ 60-2, 60-12, 60-14, 60-28, 60-32, 60-40, 60-44, 60-45.2, 60-47, 60-49, 60-52, 60-55, 60-57, 60-59, 60-60 and 60-63.

Counsel recommends the accompanying draft of Title 60.1 as a substantial improvement over present Title 60 and suggests its submission to the Governor and the General Assembly for introduction at the 1968 Session.

Respectfully,

HUGH R. THOMPSON, JR.



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*A BILL to revise, rearrange, amend and recodify the general laws of Virginia relating to unemployment compensation; to that end to repeal Title 60 of the Code of Virginia, which title includes Chapters 1 to 11 and §§ 60-1 to 60-117, inclusive, of the Code of Virginia, as amended, which title relates to unemployment compensation; to amend the Code of Virginia by adding thereto in lieu of the foregoing title, chapters and sections of the Code repealed by this act a new title numbered 60.1, which title includes eleven new chapters numbered 1 to 11, both inclusive, and new sections numbered §§ 60.1-1 to 60.1-134, both inclusive, relating to unemployment compensation generally; and to prescribe when such revision and recodification shall become effective.*

Be it enacted by the General Assembly of Virginia:

1. That Title 60 of the Code of Virginia, which title includes chapters 1 to 11 and §§ 60-1 to 60-117, inclusive, of the Code of Virginia, as amended, is repealed.
2. That the Code of Virginia be amended by adding thereto, in lieu of the title, chapters and sections of the Code of Virginia herein repealed, a new title numbered 60.1, new chapters numbered 1 to 11, inclusive, and new sections numbered 60.1-1 to 60.1-134, inclusive, which new title, chapters and sections are as follows:

## **Title 60.1.**

### **UNEMPLOYMENT COMPENSATION.**

#### **CHAPTER 1.**

##### **GENERAL PROVISIONS.**

**60.1-1. Short title.**—This title shall be known and may be cited as the “Virginia Unemployment Compensation Act”.

Source: § 60-1.

Note: No change.

**§ 60.1-2. Definitions generally.**—As used in this title, unless the context clearly requires otherwise, the terms defined in this chapter shall have the meaning there ascribed to them.

Source: § 60-2.

Note: The words “This chapter” are substituted for the words “The following twenty-five sections” to correct an inaccuracy.

**§ 60.1-3. Agricultural labor.**—The term “agricultural labor” includes all service performed:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

(3) In connection with the production or harvesting of maple syrup or maple sugar or any commodity defined as an agricultural commodity in section 15 (g) of the Federal Agricultural Marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes.

(4) In handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any such agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this section, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

Source: § 60-3.

Note: No change.

§ 60.1-4. **Annual pay roll.**—"Annual pay roll" means the total amount of wages payable by an employer, regardless of the time of payment, for employment during a calendar year.

Source: § 60-4.

Note: No change.

§ 60.1-5. **Average annual pay roll.**—"Average annual pay roll" means the average of the annual pay rolls of any employer for the last three or five preceding calendar years, whichever is higher.

Source: § 60-5.

Note: No change.

§ 60.1-6 **Base period after May 1, 1957.**—On and after May first, nineteen hundred fifty-seven, "base period" means the first four out of the last five completed calendar quarters immediately preceding the first day of the individual's benefit year.

Source: § 60-6.1.

Note: No change.

§ 60.1-7. **Benefits.**—"Benefits" means the money payments payable to an individual, as provided in this title, with respect to his unemployment.

Source: § 60-7.

Note: No change.

§ 60.1-8 **Benefit year.**—"Benefit year" with respect to any individual means the one-year period beginning with the day on which such individual first files a valid claim for benefits, and thereafter the one-year period

beginning with the day on which such individual next files a valid claim for benefits after the termination of his last preceding benefit year. An initial claim for benefits filed in accordance with regulations prescribed by the Commission under the provisions of this title shall be deemed to be a valid claim within the purposes of this definition if the individual has been paid wages in his base period sufficient to make him eligible for benefits under the provisions of chapter 3 (§ 60.1-46 et seq.) of this title.

**Source:** § 60-8.1.

**Note:** "On and after July first, nineteen hundred sixty-four," is deleted as obsolete. Internal section references have been conformed.

**§ 60.1-9. Calendar quarter.**—"Calendar quarter" means the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth or December thirty-first, or the equivalent thereof, as the Commission may by regulation prescribe.

**Source:** § 60-9.

**Note:** No change.

**§ 60.1-10. Commission.**—"Commission" means the Virginia Employment Commission. Wherever in this title, Code, or any act of the General Assembly the term Unemployment Compensation Commission is used it shall mean the Virginia Employment Commission.

**Source:** § 60-10.

**Note:** No change.

**§ 60.1-11. Contributions.**—"Contributions" means the taxes imposed by and collectible under this title.

**Source:** § 60-11.

**Note:** No change.

**§ 60.1-12. Employer.**—"Employer" means:

(1) Any employing unit which for some portion of a day, but not necessarily simultaneously, in each of twenty different weeks within either the current or preceding calendar year has or had in its employment, four or more individuals, irrespective of whether the same individuals are or were employed in each such day;

(2) Any employing unit which acquired the organization, trade, separate establishment or business or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this title;

(3) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this section;

(4) Any employing unit which together with one or more other employing units, is owned or controlled, by legally enforceable means or otherwise, directly or indirectly by the same interests, or which owns or controls one or more other employing units, by legally enforceable means or otherwise, and which if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this section;

(5) Any employing unit which, having become an employer under paragraphs (1), (2), (3) or (4) of this section, has not, under § 60.1-99, ceased to be an employer subject to this title; or

(6) For the effective period of its election pursuant to § 60.1-100, any other employing unit which has elected to become fully subject to this title; or

(7) Any employing unit which for some portion of a day within the current calendar year has or had in employment one or more individuals; provided, that this paragraph shall be effective only from the time such employing unit shall be subject to the payroll tax imposed by section 3301 of the Federal Internal Revenue Code or to any other federal tax against which credit may be taken by such employing unit for contributions paid into a State unemployment compensation fund.

This section shall not be construed as expressing a desire by the General Assembly that a federal law be enacted subjecting employers of less than four individuals to the provisions of the federal unemployment tax.

Source: § 60-12.

Note: The first paragraph of subsection (1) is deleted as obsolete. The internal section references have been conformed.

**§ 60.1-13. Employing unit.**—“Employing unit” means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January first, nineteen hundred thirty-six, had in its employ one or more individuals performing services for it within the State. All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this title. Whenever any employing unit contracts with any person for any service which is a part of such employing unit’s usual trade, occupation, profession or business, such employing unit shall be deemed to employ all individuals employed by such person for such service unless such person performs service or is in fact actually available to perform service for anyone who may wish to contract with him and is also found to be engaged in an independently established trade, occupation, profession or business. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this title, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of such work.

Source: § 60-13.

Note: No change.

**§ 60.1-14. Employment.**—(1) “Employment” means any service performed prior to January first, nineteen hundred sixty-two, which was employment as defined in this section prior to such date, and, subject to the other provisions of this section, service performed after December thirty-first, nineteen hundred sixty-one, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied; and any service, of whatever nature, performed after December thirty-first, nineteen hundred sixty-one, by any individual for any employing unit, for remuneration or under any contract of hire, written or oral, and irrespective of citizenship or residence of either,

(a) Within the United States, or

(b) On or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the individual is employed on the vessel or aircraft it touches at a port in the United States, if such individual performs such services on or in connection with such vessel or aircraft when outside the United States, provided that the operating office, from which the operations of the vessel or aircraft are ordinarily and regularly supervised, managed, directed and/or controlled, is within the Commonwealth.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this State if:

(a) The service is localized in this State; or

(b) The service is not localized in any state but some of the service is performed in this State and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

(3) Services performed within this State and not covered under paragraph (2) of this section shall be deemed to be employment subject to this title if contributions are not required and paid with respect to such services under an unemployment compensation law of any other state or of the federal government.

(4) (a) Services not covered under paragraph (2) of this section, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this title if the individual performing such services is a resident of this State and the Commission approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this title.

(b) Services covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this State shall be deemed to be employment if the Commission has approved an election of the employing unit for whom such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(c) The Commission is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or the federal government, or both, whereby services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states (i) in which any part of such individual's service is performed or (ii) in which such individual has his residence or (iii) in which the employing unit maintains a place of business, provided there is in effect, as to such services, an election, approved by the agency charged with the administration of such state's



unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state.

(d) To the extent permissible under the laws and Constitution of this State and the United States the Commission is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this title and facilities and services provided under the unemployment compensation law of any foreign government established on the continent of North America, may be utilized for the taking of claims and the payment of benefits under the Virginia Unemployment Compensation Act or under a similar law of such foreign government.

(5) Service shall be deemed to be localized within a state if:

(a) The service is performed entirely within such state; or

(b) The service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example is temporary or transitory in nature or consists of isolated transactions.

Services performed outside the state in which the base of operations is located shall be deemed to be incidental to the services performed within such state.

(6) Services performed by an individual for remuneration shall be deemed to be employment subject to this title unless:

(a) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and

(b) Such service is either outside the usual course of the business for which such service is performed, or such service is performed outside of all the places of business of the enterprise for which such service is performed; or such individual, in the performance of such service, is engaged in an independently established trade, occupation, profession or business.

(7) The term "employment", after December thirty-first, nineteen hundred sixty-one, shall not include:

(a) Service performed in the employ of a state, or of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section 3301 of the Federal Internal Revenue Code;

(b) Service performed in the employ of the United States Government or of any instrumentality of the United States which is wholly or partially owned by the United States or which is exempt from the tax imposed by section 3301 of the Federal Internal Revenue Code by virtue of any provision of law which specifically refers to such section (or the corresponding section of prior law) in granting such exemption;

(c) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress, including service performed after June thirtieth, nineteen hundred thirty-nine, for an employer determined to be subject to the

Railroad Unemployment Insurance Act by the agency or agencies empowered to make such determination by an act of Congress, and service as an employer representative determined to be subject to such act by such agency or agencies; provided, that the Commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in § 60.1-35 for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this title acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this title;

(d) Agricultural labor as defined in § 60.1-3;

(e) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority;

(f) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft by an employee, if the employee is employed on and in connection with such vessel or aircraft when outside the United States;

(f1) Service performed by an individual in, or as an officer or member of the crew of a vessel while it is engaged in the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including service performed by any such individual as an ordinary incident to any such activity, except (i) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (ii) service performed on or in connection with a vessel of more than ten net tons, determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States;

(g) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(h) Service performed in the employ of a corporation, community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, provided such corporation, community chest, fund or foundation is described as an organization under section 501 (c) (3) and is exempt from income tax under section 501 (a) of the Federal Internal Revenue Code;

(i) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 (a), other than an organization described in section 401 (a), of the Federal Internal Revenue Code, or under section 521 of such Code, if the remuneration for such service is less than fifty dollars;

(j) Service performed in the employ of a school, college, or university, if such service is performed by a student who is regularly attending classes at such school, college, or university;

(k) Service performed as a student in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to State law; and service performed as an interne in the employ

of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to State law;

(l) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(m) Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

(n) Service performed by an individual for an employing unit as a real estate salesman, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission. This paragraph shall also apply to such service performed since January first, nineteen hundred thirty-seven.

(o) Service covered by an arrangement between the Commission and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing units duly approved election are deemed to be performed entirely within such agency's state or under such federal law.

(p) Service performed by an individual for an employing unit as an agent in the wholesale distribution and sale of gasoline and other petroleum products, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

(q) Service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (ii) such individual was regularly employed (as determined under clause (i)) by such employer in the performance of such service during the preceding calendar quarter.

Source: § 60-14.

Note: Internal section references conformed.

**§ 60.1-15. Employment office.**—"Employment office" means a free public employment office, or branch thereof, operated by this State or maintained as a part of a state-controlled system of public employment offices or by a federal agency charged with the administration of free public employment offices.

Source: § 60-15.

Note: No change.

**§ 60.1-16. Fund.**—"Fund" means the unemployment compensation fund established by this title, to which all contributions required and from which all benefits provided under this title shall be paid.

Source: § 60-16.

Note: No change.

§ 60.1-17. **Insured work.**—“Insured work” means employment for employers.

Source: § 60-17.

Note: No change.

§ 60.1-18. **Seasonal employment.**—“Seasonal employment” means all employment during the operating season at any industry in whole or at any separate division, establishment or department thereof that may be determined to be operated by a seasonal employer.

Source: § 60-17.1.

Note: No change.

§ 60.1-19. **Seasonal wages.**—All wages payable by a seasonal employer to individuals who perform services for such employer in seasonal employment only shall be deemed seasonal wages.

Source: § 60-17.2.

Note: No change.

§ 60.1-20. **Seasonal worker.**—“Seasonal worker” means an individual who has base period earnings of which at least seventy per centum were earned in seasonal employment from one seasonal employer.

Source: § 60-17.3.

Note: No change.

§ 60.1-21. **State.**—“State” refers to the Commonwealth of Virginia, including land or premises located therein, owned, held or possessed by the United States, the states of the United States of America, Puerto Rico and the District of Columbia.

Source: § 60-18.

Note: No change.

§ 60.1-22. **Social Security Act.**—“Social Security Act” means the act enacted by the Congress of the United States, approved the fourteenth day of August, nineteen hundred and thirty-five, entitled “an act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several states to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes”, and amendments thereof.

Source: § 60-19.

Note: No change.

§ 60.1-23. **Unemployment.**—An individual shall be deemed “unemployed” in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full time work if the wages payable to him with respect to such week are less than his weekly benefit amount. Wages shall be deemed payable to an individual with respect to any week for which wages are due, or with respect to any week for which the payment of wages is contingent on the receipt of unemployment benefits for such week under this title. An individual’s week of unemployment shall be deemed to commence only after his registration at an employment office, except as the Commission may by regulation otherwise prescribe.

Source: § 60-20.

Note: No change.

§ 60.1-24. **Unemployment Compensation Administration Fund.**—“Unemployment Compensation Administration Fund” means the Unemployment Compensation Administration Fund established by this title, from which administrative expenses under this title shall be paid.

Source: § 60-21.

Note: No change.

§ 60.1-25. **American vessel and American aircraft.**—The term “*American vessel*” means any vessel documented or numbered under the laws of the United States, and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporation organized under the laws of the United States or of any state; and the term “*American aircraft*” means an aircraft registered under the laws of the United States.

Source: § 60-21.1.

Note: No change.

§ 60.1-26. **Wages.**—“Wages” means all remuneration payable for personal services, including commissions, unemployment benefits under any private plan financed in whole or in part by an employer, bonuses and the cash value of all remuneration payable in any medium other than cash. The reasonable cash value of remuneration payable in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the Commission. But the term “wages” shall not include:

(1) Subsequent to the thirty-first day of December, nineteen hundred fifty, for purposes of contributions only, that part of the remuneration which, after remuneration (other than remuneration referred to in the succeeding paragraphs of this section) equal to three thousand dollars is payable during any calendar year to an individual by an employer with respect to employment, is payable during such calendar year to such individual by such employer with respect to employment in this Commonwealth or any other state. If an employer (hereinafter referred to as successor employer) during any calendar year requires substantially all of the property used in a trade or business of another employer (hereinafter referred to as a predecessor), or used in a separate unit of a trade or business of a predecessor, and immediately after the acquisition employs in his trade or business an individual who immediately prior to the acquisition was employed in the trade or business of such predecessor, then, for the purpose of determining whether remuneration (other than remuneration referred to in the succeeding paragraphs of this section) with respect to employment equal to three thousand dollars is payable by the successor to such individual during such calendar year, any remuneration (other than remuneration referred to in the succeeding paragraphs of this section) with respect to employment payable (or considered under this paragraph as payable) to such individual by such predecessor during such calendar year and prior to such acquisition shall be considered as payable by such successor employer.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provisions for his employees generally (or for his employees generally and their de-

pendents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of (a) retirement, or (b) sickness or accident disability, or (c) medical or hospitalization expenses in connection with sickness or accident disability, or (d) death;

(3) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employer under section 3101 of the Federal Internal Revenue Code;

(4) Dismissal payments made prior to January first, nineteen hundred fifty-six which the employer was not legally required to make;

(5) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer. Provided, however, that this subsection shall be applicable only with respect to remuneration paid after 1950;

(6) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business; or

(7) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of sixty-five, if he did not work for the employer in the period for which such payment is made.

Source: § 60-22.

Note: No change.

§ 60.1-27. **Week.**—“Week” means calendar week, ending at midnight Saturday, or the equivalent thereof as determined in accordance with regulations prescribed by the Commission.

Source: § 60-23.

Note: No change.

§ 60.1-28. **Limitations on payment of benefits; nonliability of State and Commission.**—Benefits shall be deemed to be due and payable under this title only to the extent provided in this title and to the extent that moneys are available therefor to the credit of the Unemployment Compensation Fund, and neither the State nor the Commission shall be liable for any amount in excess of such sums.

Source: § 60-24.

Note: No change.

§ 60.1-29. **Contingencies affecting operation of title.**—In the event that chapter 23 of the Internal Revenue Code is repealed, amended or otherwise changed by the Congress of the United States, or is finally adjudged invalid or unconstitutional by the Supreme Court of the United States, with the result that no portion of the contributions required by this title can be credited against any tax imposed by chapter 23 of the Internal Revenue Code, then the Governor shall, within 60 days from the date of such repeal, amendment or change, or from the date that such act is so finally adjudged invalid or unconstitutional, by proclamation so state, and upon the issuance of such proclamation, the provisions of this title shall expire by limitation and thereafter have no force and effect, except that the Commission shall thereupon requisition all moneys standing to the

credit of the State in the unemployment trust fund established by section nine hundred and four of the Social Security Act and all such moneys so refunded, repaid or returned to the State, together with such other money paid to the State as contributions under the terms of this title and then held by the State, less the cost of making the refund and repayment, shall forthwith be refunded or repaid by the State Treasurer, upon warrants of the Comptroller, issued upon vouchers signed by the chairman of the Commission, or such other person or persons as the Commission shall designate for such purpose, to the individual employers who have paid contributions under the terms of this title ratably in proportion to the amounts contributed by each such employer.

In the event that the Secretary of Labor of the United States shall withdraw his approval of this title, with the result that no portion of the contributions required by this title with respect to employment during any year can be credited against any tax imposed by chapter 23 of the Internal Revenue Code with respect to employment for such year, the provisions of this title requiring the payment of contributions shall become and remain suspended until such credit can be had.

Source: § 60-25.

Note: No change.

**§ 60.1-30. Reservation of right to amend or repeal.**—The General Assembly reserves the right to amend or repeal all or any part of this act at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or by acts done pursuant thereto shall exist subject to the power of the General Assembly to amend or repeal this act at any

Source: § 60-25.1.

Note: No change.

## CHAPTER 2.

### VIRGINIA EMPLOYMENT COMMISSION.

**§ 60.1-31. The Commission; appointment, term of office and compensation of Commissioner; Commissioner of Labor.**—The Virginia Employment Commission shall consist of one Commissioner, hereafter in this title called the “Commissioner,” who shall be appointed by the Governor for a term of four years, subject to confirmation by the General Assembly, if in session when such appointment is made, and if not in session, then at its next succeeding session. Appointments to fill vacancies shall be for the unexpired terms. The Commissioner may be suspended or removed by the Governor at his pleasure, and he shall receive such compensation as may be provided in accordance with law.

The Commissioner of Labor shall no longer be a member of the Commission, but he shall give his full cooperation and assistance to the Commission in the administration of this title.

Source: § 60-26.

Note: No change.

**§ 60.1-32. Bond of Commissioner.**—The Commissioner shall, before entering upon the discharge of his duties, give bond payable to the Commonwealth, in form approved by the Attorney General, in such penalty as shall be fixed, from time to time, by the Governor, with some surety

or guaranty company duly authorized to do business in this State and approved by the Governor as security, conditioned upon the faithful discharge of his duties; the premium of such bond shall be paid by the Commission, and the bond shall be filed with and preserved by the Comptroller.

**Source:** § 60-27.

**Note:** No change.

**§ 60.1-33. State Employment Service and Unemployment Compensation Division.**—The Commission may establish two co-ordinate divisions; the Virginia State Employment Service, created pursuant to § 60.1-101, and the Unemployment Compensation Division. Each division shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit, with respect to personnel, budget, and duties, except insofar as the Commission may find that such separation is impracticable. In lieu, however, of establishing the two divisions the Commission may cooperate with and utilize the personnel and services of employment offices or services operated by the United States or any of its authorized agencies but only to the extent necessary for the federal employment offices or services to perform the functions imposed upon employment offices by § 60.1-46 and subsection (a) of § 60.1-52.

**Source:** § 60-28.

**Note:** Internal section references have been conformed.

**§ 60.1-34. Duties and powers of Commission.**—It shall be the duty of the Commission to administer this title. And it shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be subject to the provisions of chapter 1.1 of Title 9 (§§ 9-6.1 through 9-6.14, Code of Virginia), except as to the subject matter of subsections (3) and (4) of § 60.1-75, which shall become effective in the manner and at the time prescribed by the Commission. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this title, and shall have an official seal which shall be judicially noticed.

Not later than the first day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this title during the preceding calendar year and shall make such recommendations for amendments to this title as the Commission deems proper. Such report shall include a balance sheet of the moneys in the fund and in the Unemployment Trust Fund to the credit of the State in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the General Assembly and make recommendations with respect thereto.

**Source:** § 60-29.

**Note:** The third sentence of this section has been revised to have rules and regulations conform with the provisions of the General Administrative Agencies Act, with the exception noted.

**§ 60.1-35. Regulations and general and special rules.**— General and special rules may be adopted, amended, or rescinded by the Commission



only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the Secretary of the Commonwealth and publication in one or more newspapers of general circulation in this State. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. The provisions of Chapter 1.1, Title 9, (§§ 9-6.1 through 9-6.14 of the Code of Virginia of 1950) shall not be applicable to the adoption of rules under this section.

**Source:** § 60-30.

**Note:** The last sentence of § 60-30 has been deleted and the words "The provisions of Chapter 1.1, Title 9, (§§ 9-6.1 through 9-6.14 of the Code of Virginia of 1950) shall not be applicable to the adoption of rules under this section." have been substituted.

**§ 60.1-36. Publication and distribution of law, regulations, etc.—**

The Commission shall cause to be printed for distribution to the public the text of this title, the Commission's regulations and general rules, its annual reports to the Governor, and any other material the Commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

**Source:** § 60-31.

**Note:** No change.

**§ 60.1-37. Personnel; Merit System Council.—**Subject to other provisions of this title and the provisions of chapter 9 of Title 2, the Commission is authorized to appoint, fix the compensation and prescribe the duties and powers of such officers, accountants, experts and other persons as may be necessary in the performance of its duties.

For the administration of a merit system for the selection of personnel of the Commission, an impartial body, to be known as the Merit System Council, consisting of three members, shall be appointed by the Commission. The members shall be appointed for a term of six years, except appointments to fill vacancies, which shall be for the unexpired terms. No member of the Merit System Council shall otherwise be employed as an official or employee of the Commission. The compensation of the members of such Merit System Council shall be fixed by the Commission.

The Merit System Council shall provide for the holding of examinations to determine the qualifications of applicants for the positions so classified. Except for temporary appointment not to exceed six months in duration, the Commission shall appoint its personnel on the basis of efficiency and fitness as determined in such examinations; provided, that the Commission may, in its discretion, require no such examinations of one confidential secretary to the Commissioner and to each Assistant Attorney General appointed by the Attorney General as counsel to the Commission; and provided further, that no examination may be required of any person appointed under § 60.1-63. All other positions shall be filled by persons selected and appointed on a nonpartisan merit basis.

All salaries or remunerations in excess of one thousand dollars per annum shall first be approved by the Governor. The Commission may delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this title, and may, in its discretion, bond any person handling moneys or signing checks hereunder.

**Source:** § 60-32.

**Note:** Internal section reference has been conformed.

**60.1-38. Advisory councils.**—The Commission may appoint a State advisory council and local advisory councils, composed in each case of an equal number of employer representatives and employee representatives who may fairly be regarded as representatives because of their vocation, employment, or affiliations, and of such members representing the general public as the Commission may designate; the members of such councils shall serve at the pleasure of the Commission. Such councils shall aid the Commission in formulating policies and discussing problems related to the administration of this title and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

**Source:** § 60-33.

**Note:** No change.

**§ 60.1-39. Employment stabilization.**—The Commission, with the advice and aid of such advisory councils as it may appoint, and through its appropriate divisions, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts, and the State, of reserves for public works to be used in times of business depression and unemployment; to promote the re-employment of unemployed workers throughout the State in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

**Source:** § 60-34.

**Note:** No change.

**§ 60.1-40. Records and reports.**—Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, but any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any member or employee of the Commission who violates any provision of this section shall be fined not less than twenty dollars nor more than two hundred dollars, or confined in jail for not longer than ninety days, or both.

**Source:** § 60-35.

**Note:** No change.

**§ 60.1-41. Oaths and witnesses; subpoenas.**—In the discharge of the duties imposed by this title, the chairman of an appeal tribunal and any duly authorized representative or member of the Commission shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses

and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this title.

Source: § 60-36.

Note: No change.

**§ 60.1-42. Failure to obey subpoenas; orders of court.**—In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this State within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before an appeal tribunal, a commissioner, the Commission, or its duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof. Any person who shall, without just cause, fail or refuse to attend and testify or to answer to any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if in his power so to do, in obedience to the subpoena of the Commission, shall be guilty of a misdemeanor, and, upon conviction shall be subject to a fine of not more than one thousand dollars or to imprisonment for a term of not more than one year, or both; each day such violation continues shall be deemed to be a separate offense.

Source: § 60-37.

Note: No change.

**§ 60.1-43. Protection against self-incrimination.**—No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the Commission or in obedience to the subpoena of the Commission or any member thereof or any duly authorized representatives of the Commission in any cause or proceeding before the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Source: § 60-38.

Note: No change.

**§ 60.1-44. State-federal cooperation.**—In the administration of this title, the Commission shall cooperate to the fullest extent consistent with the provisions of this title, with the United States Department of Labor; shall make such reports, in such form and containing such information as the United States Department of Labor may from time to time require, and shall comply with such provisions as the United States Department of Labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the United States Department of Labor governing the expenditures of such sums as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the administration of this title.

The Commission shall further make its records available to the Railroad Retirement Board, created by the Railroad Retirement Act and the Railroad Unemployment Insurance Act, and shall furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board, such copies thereof as the Board shall deem necessary for its purposes in accordance with the provisions of section three hundred and three-(c) of the Social Security Act as amended.

The Commission may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

Upon request therefor, the Commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this title.

Source: § 60-39.

Note: No change.

§ 60.1-45. **Reciprocal agreements.**—Subject to the approval of the Governor, the Commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in § 60.1-14, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this State or within one of such other states and whereby potential right to benefits accumulated under the unemployment compensation laws of one or more states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency of any state under terms which the Commission finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

Subject to the approval of the Governor, the Commission is also authorized to enter into arrangements with the appropriate agencies of other states or of the federal government:

(1) Whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages for employment by employers for the purposes of §§ 60.1-46 to 60.1-49 and subsection (a) of § 60.1-52, provided such other state agency or agency of the federal government has agreed to reimburse the fund for such portion of benefits paid under this title upon the basis of such wages or services as the Commission finds will be fair and reasonable as to all affected interests, and:

(2) Whereby the Commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers, as the Commission finds will be fair and reasonable as to all affected interests.

Reimbursements so payable shall be deemed to be benefits for the purposes of §§ 60.1-106 to 60.1-110, but no reimbursement so payable shall be charged against any employer's account for the purposes of §§ 60.1-70 to 60.1-89. The Commission is hereby authorized to make to other state

or federal agencies and receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section.

Source: § 60-40.

Note: Internal section references have been conformed. Improper references (to § 60-45, which was repealed by Acts 1956, C.440) have been corrected.

### CHAPTER 3. BENEFITS.

§ 60.1-46. **Payment of benefits.**—Twenty-four months after the first day of the first period with respect to which contributions are required under this title, benefits shall become payable from the Unemployment Compensation Fund. All benefits shall be paid through public employment offices, in accordance with such regulations as the Commission may prescribe.

Source: § 60-41.

Note: No change.

§ 60.1-47. **Weekly benefit amount.**—With respect to all claims filed on or after July first nineteen hundred and sixty-six, an eligible individual's weekly "benefit amount" shall be the amount appearing in Column B in the "Benefit Table" in this section on the line on which in Column A of such table, there appears the total wages for insured work earned by such individual in that quarter of his base period in which such total wages were highest. With respect to all claims filed prior to July first, nineteen hundred and sixty-six, an eligible individual's weekly "benefit amount" shall be computed under the provisions of this section in force on the date such claim was filed.

**BENEFIT TABLE**

Col. A Highest Quarter Earnings	Col. B Weekly Benefit Amount	Col. C Quali- fying Earnings	DIVISION D															
			DURATION OF BENEFITS															
			12 Weeks	13 Weeks	14 Weeks	15 Weeks	16 Weeks	17 Weeks	18 Weeks	19 Weeks	20 Weeks	21 Weeks	22 Weeks	23 Weeks	24 Weeks	25 Weeks	26 Weeks	
184.00			736.00	800.01	864.01	928.01	992.01	1056.01	1120.01	1184.01	1248.01	1312.01	1376.01	1440.01	1504.01	1568.01	1632.01	
416.00	16.00	736.00	800.00	864.00	928.00	992.00	1056.00	1120.00	1184.00	1248.00	1312.00	1376.00	1440.00	1504.00	1568.00	1632.00	& Over	
416.01			782.00	850.01	918.01	986.01	1054.01	1122.01	1190.01	1258.01	1326.01	1394.01	1462.01	1530.01	1598.01	1666.01	1734.01	
442.00	17.00	782.00	850.00	918.00	986.00	1054.00	1122.00	1190.00	1258.00	1326.00	1394.00	1462.00	1530.00	1598.00	1666.00	1734.00	& Over	
442.01			828.00	900.01	972.01	1044.01	1116.01	1188.01	1260.01	1332.01	1404.01	1476.01	1548.01	1620.01	1692.01	1764.01	1836.01	
468.00	18.00	828.00	900.00	972.00	1044.00	1116.00	1188.00	1260.00	1332.00	1404.00	1476.00	1548.00	1620.00	1692.00	1764.00	1836.00	& Over	
468.01			874.00	950.01	1026.01	1102.01	1178.01	1254.01	1330.01	1406.01	1482.01	1558.01	1634.01	1710.01	1786.01	1862.01	1938.01	
494.00	19.00	874.00	950.00	1026.00	1102.00	1178.00	1254.00	1330.00	1406.00	1482.00	1558.00	1634.00	1710.00	1786.00	1862.00	1938.00	& Over	
494.01			920.00	1000.01	1080.01	1160.01	1240.01	1320.01	1400.01	1480.01	1560.01	1640.01	1720.01	1800.01	1880.01	1960.01	2040.01	
520.00	20.00	920.00	1000.00	1080.00	1160.00	1240.00	1320.00	1400.00	1480.00	1560.00	1640.00	1720.00	1800.00	1880.00	1960.00	2040.00	& Over	
520.01			966.00	1050.01	1134.01	1218.01	1302.01	1386.01	1470.01	1554.01	1638.01	1722.01	1806.01	1890.01	1974.01	2058.01	2142.01	
546.00	21.00	966.00	1050.00	1134.00	1218.00	1302.00	1386.00	1470.00	1554.00	1638.00	1722.00	1806.00	1890.00	1974.00	2058.00	2142.00	& Over	
546.01			1012.00	1100.01	1188.01	1276.01	1364.01	1452.01	1540.01	1628.01	1716.01	1804.01	1892.01	1980.01	2068.01	2156.01	2244.01	
572.00	22.00	1012.00	1100.00	1188.00	1276.00	1364.00	1452.00	1540.00	1628.00	1716.00	1804.00	1892.00	1980.00	2068.00	2156.00	2244.00	& Over	
572.01			1058.00	1150.01	1242.01	1334.01	1426.01	1518.01	1610.01	1702.01	1794.01	1886.01	1978.01	2070.01	2162.01	2254.01	2346.01	
598.00	23.00	1058.00	1150.00	1242.00	1334.00	1426.00	1518.00	1610.00	1702.00	1794.00	1886.00	1978.00	2070.00	2162.00	2254.00	2346.00	& Over	
598.01			1104.00	1200.01	1296.01	1392.01	1488.01	1584.01	1680.01	1776.01	1872.01	1968.01	2064.01	2160.01	2256.01	2352.01	2448.01	
624.00	24.00	1104.00	1200.00	1296.00	1392.00	1488.00	1584.00	1680.00	1776.00	1872.00	1968.00	2064.00	2160.00	2256.00	2352.00	2448.00	& Over	
624.01			1150.00	1250.01	1350.01	1450.01	1550.01	1650.01	1750.01	1850.01	1950.01	2050.01	2150.01	2250.01	2350.01	2450.01	2550.01	
650.00	25.00	1150.00	1250.00	1350.00	1450.00	1550.00	1650.00	1750.00	1850.00	1950.00	2050.00	2150.00	2250.00	2350.00	2450.00	2550.00	& Over	
650.01			1196.00	1300.01	1404.01	1508.01	1612.01	1716.01	1820.01	1924.01	2028.01	2130.01	2236.01	2340.01	2444.01	2548.01	2652.01	
676.00	26.00	1196.00	1300.00	1404.00	1508.00	1612.00	1716.00	1820.00	1924.00	2028.00	2132.00	2236.00	2340.00	2444.00	2548.00	2652.00	& Over	
676.01			1242.00	1350.01	1458.01	1566.01	1674.01	1782.01	1890.01	1998.01	2106.01	2214.01	2322.01	2430.01	2538.01	2646.01	2754.01	
702.00	27.00	1242.00	1350.00	1458.00	1566.00	1674.00	1782.00	1890.00	1998.00	2106.00	2214.00	2322.00	2430.00	2538.00	2646.00	2754.00	& Over	
702.01			1288.00	1400.01	1512.01	1624.01	1736.01	1848.01	1960.01	2072.01	2184.01	2296.01	2408.01	2520.01	2632.01	2744.01	2856.01	
728.00	28.00	1288.00	1400.00	1512.00	1624.00	1736.00	1848.00	1960.00	2072.00	2184.00	2296.00	2408.00	2520.00	2632.00	2744.00	2856.00	& Over	
728.01			1334.00	1450.01	1566.01	1682.01	1798.01	1914.01	2030.01	2146.01	2262.01	2378.01	2494.01	2610.01	2726.01	2842.01	2958.01	
754.00	29.00	1334.00	1450.00	1566.00	1682.00	1798.00	1914.00	2030.00	2146.00	2262.00	2378.00	2494.00	2610.00	2726.00	2842.00	2958.00	& Over	

**BENEFIT TABLE—Continued**

Col. A	Col. B	Col. C	DIVISION D															
			DURATION OF BENEFITS															
			12 Weeks	13 Weeks	14 Weeks	15 Weeks	16 Weeks	17 Weeks	18 Weeks	19 Weeks	20 Weeks	21 Weeks	22 Weeks	23 Weeks	24 Weeks	25 Weeks	26 Weeks	
Highest Quarter Earnings	Weekly Benefit Amount	Quali- fying Earnings																
754.01			1380.00	1500.01	1620.01	1740.01	1860.01	1980.01	2100.01	2220.01	2340.01	2460.01	2580.01	2700.01	2820.01	2940.01	3060.01	
780.00	30.00	1380.00	1500.00	1620.00	1740.00	1860.00	1980.00	2100.00	2220.00	2340.00	2460.00	2580.00	2700.00	2820.00	2940.00	3060.00	& Over	
780.01			1426.00	1550.01	1674.01	1798.01	1922.01	2046.01	2170.01	2294.01	2418.01	2542.01	2666.01	2790.01	2914.01	3038.01	3162.01	
806.00	31.00	1426.00	1550.00	1674.00	1798.00	1922.00	2046.00	2170.00	2294.00	2418.00	2542.00	2666.00	2790.00	2914.00	3038.00	3162.00	& Over	
806.01			1472.00	1600.01	1728.01	1856.01	1984.01	2112.01	2240.01	2368.01	2496.01	2624.00	2752.00	2880.00	3008.00	3136.01	3264.01	
832.00	32.00	1472.00	1600.00	1728.00	1856.00	1984.00	2112.00	2240.00	2368.00	2496.00	2624.00	2752.00	2880.00	3008.00	3136.00	3264.00	& Over	
832.01			1518.00	1650.01	1782.01	1914.01	2046.01	2178.01	2310.01	2442.01	2574.01	2706.01	2838.01	2970.01	3102.01	3234.01	3366.01	
858.00	33.00	1518.00	1650.00	1782.00	1914.00	2046.00	2178.00	2310.00	2442.00	2574.00	2706.00	2838.00	2970.00	3102.00	3234.00	3366.00	& Over	
858.01			1564.00	1700.01	1836.01	1972.01	2108.01	2244.01	2380.01	2516.01	2652.01	2788.01	2924.01	3060.01	3196.01	3332.01	3468.01	
884.00	34.00	1564.00	1700.00	1836.00	1972.00	2108.00	2244.00	2380.00	2516.00	2652.00	2788.00	2924.00	3060.00	3196.00	3332.00	3468.00	& Over	
884.01			1610.00	1750.01	1890.01	2030.01	2170.01	2310.01	2450.01	2590.01	2730.01	2870.01	3010.01	3150.01	3290.01	3430.01	3570.01	
910.00	35.00	1610.00	1750.00	1890.00	2030.00	2170.00	2310.00	2450.00	2590.00	2730.00	2870.00	3010.00	3150.00	3290.00	3430.00	3570.00	& Over	
910.01			1656.00	1800.01	1944.01	2088.01	2232.01	2376.01	2520.01	2664.01	2808.01	2952.01	3096.01	3240.01	3384.01	3528.01	3672.01	
936.00	36.00	1656.00	1800.00	1944.00	2088.00	2232.00	2376.00	2520.00	2664.00	2808.00	2952.00	3096.00	3240.00	3384.00	3528.00	3672.00	& Over	
936.01			1702.00	1850.01	1998.01	2146.01	2294.01	2442.01	2590.01	2738.01	2886.01	3034.01	3182.01	3330.01	3478.01	3626.01	3774.01	
962.00	37.00	1702.00	1850.00	1998.00	2146.00	2294.00	2442.00	2590.00	2738.00	2886.00	3034.00	3182.00	3330.00	3478.00	3626.00	3774.00	& Over	
962.01			1748.00	1900.01	2052.01	2204.01	2356.01	2508.01	2660.01	2812.01	2964.01	3116.01	3268.01	3420.01	3572.01	3724.01	3876.01	
988.00	38.00	1748.00	1900.00	2052.00	2204.00	2356.00	2508.00	2660.00	2812.00	2964.00	3116.00	3268.00	3420.00	3572.00	3724.00	3876.00	& Over	
988.01			1794.00	1950.01	2106.01	2262.01	2418.01	2574.01	2730.01	2886.01	3042.01	3198.01	3354.01	3510.01	3666.01	3822.01	3978.01	
1014.00	39.00	1794.00	1950.00	2106.00	2262.00	2418.00	2574.00	2730.00	2886.00	3042.00	3198.00	3354.00	3510.00	3666.00	3822.00	3978.00	& Over	
1014.01			1840.00	2000.01	2160.01	2320.01	2480.01	2640.01	2800.01	2960.01	3120.01	3280.01	3440.01	3600.01	3760.01	3920.01	4080.01	
1040.00	40.00	1840.00	2000.00	2160.00	2320.00	2480.00	2640.00	2800.00	2960.00	3120.00	3280.00	3440.00	3600.00	3760.00	3920.00	4080.00	& Over	
1040.01			1886.00	2050.01	2214.01	2378.01	2542.01	2706.01	2870.01	3034.01	3198.01	3362.01	3526.01	3690.01	3854.01	4018.01	4182.01	
1066.00	41.00	1886.00	2050.00	2214.00	2378.00	2542.00	2706.00	2870.00	3034.00	3198.00	3362.00	3526.00	3690.00	3854.00	4018.00	4182.00	& Over	
1066.01			1932.00	2100.01	2268.01	2436.01	2604.01	2772.01	2940.01	3108.01	3276.01	3444.01	3612.01	3780.01	3948.01	4116.01	4284.01	
& Over	42.00	1932.00	2100.00	2268.00	2436.00	2604.00	2772.00	2940.00	3108.00	3276.00	3444.00	3612.00	3780.00	3948.00	4116.00	4284.00	& Over	

Source: § 60-42.

Note: No change.

**§ 60.1-48. Weekly benefit for unemployment.**—Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages, if any, payable to him with respect to such week which is in excess of ten dollars; provided, that where such excess is not a multiple of one dollar, such excess shall be computed to the next lowest multiple of one dollar.

Source: § 60-43.

Note: No change.

**§ 60.1-49. Benefit rights based on benefit year.**—Benefit rights of individuals shall be based solely upon the benefit year as defined in § 60.1-8.

Source: § 60-44.

Note: Internal section reference has been conformed.

**§ 60.1-50. Benefits when wages irregular.**—If the remuneration payable to an individual is not based upon a fixed period or duration of time or if the individual's wages are payable at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week or for any calendar quarter for the purpose of computing an individual's right to unemployment benefits only shall be determined in such manner as may by regulation be prescribed. Such regulations shall so far as possible, secure results reasonably similar to those which would prevail if the individual's wages were payable at regular intervals.

Source: § 60-45.1.

Note: No change.

**§ 60.1-51. Maximum total benefit amounts.**—On and after July first, nineteen hundred and sixty-four, the maximum total amount of benefits payable to any individual during any benefit year shall be determined from the "Benefit Table" shown in § 60.1-47 but in no case shall such maximum exceed twenty-six times such individual's weekly benefit amount. Such determination shall be based only upon wages earned in insured work during such individual's base period. The Commission shall maintain a separate account for each individual who subsequent to January first, nineteen hundred and thirty-seven earns wages in insured work. After the expiration of each calendar quarter the Commission shall credit each individual's account with the wages earned by him in insured work in such calendar quarter.

Source: § 60-45.2.

Note: Internal section reference has been conformed.

**§ 60.1-52. Benefit eligibility conditions.**—An unemployed individual shall be eligible to receive benefits with respect to any week only if the Commission finds that:

(a) He has within his base period earned wages in employment for employers equal to not less than the amount appearing in Column C of the "Benefit Table" appearing in § 60.1-47 on the line which extends through Division D on which in Column B of the "Benefit Table" appears his weekly benefit amount.

(b) His total or partial unemployment is not due to a stoppage of work which exists (1) because of a labor dispute at the factory, establishment, or other premises (including a vessel) at which he is or was last



employed, or (2) because of a labor dispute at a factory, establishment or other premises (including a vessel) either within or without this State, which (a) is owned or operated by the same employing unit which owns or operates the premises at which he is or was last employed and (b) supplies materials or services necessary to the continued and usual operation of the premises at which he is or was last employed, provided that this subsection shall not apply if it is shown to the satisfaction of the Commission that:

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises (including a vessel) at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

Provided, that if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment or other premises. Provided further, that mere membership in a union, or the payment of regular dues to a bona fide labor organization, shall not alone constitute financing a labor dispute.

(c) He is not receiving, has not received or is not seeking unemployment benefits under an unemployment compensation law of any other state or of the United States, provided, however, that if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this subsection shall not apply.

(d) He is not on a bona fide vacation.

(e) He has registered for work and thereafter has continued to report at an employment office in accordance with such regulations as the Commission may prescribe, except that the Commission may, by regulation, waive or alter either or both of the requirements of this subsection as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title.

(f) He has made a claim for benefits in accordance with such regulations as the Commission may prescribe.

(g) He is able to work, and is available for work.

(h) He does not have payable to him remuneration equal to or in excess of his weekly benefit amount in the form of a retirement pension, annuity, or other retirement payment under any plan contributed to by the most recent employer for whom he performed services during thirty days, whether or not such days are consecutive; provided, if such remuneration is less than his weekly benefit amount, such remuneration shall be treated as if it were wages in accordance with § 60.1-48; provided further, that this section shall not apply to the receipt of any amount under Title II of the Social Security Act.

(i) He has served a waiting period of one week during which he was eligible for benefits under this section in all other respects, and has

not received benefits; except that only one waiting period week shall be required of such individual within any benefit year.

Source: § 60-46.

Note: The sequence of paragraphs has been changed to facilitate administrative use of the section. The lettering of the sections correspondingly has been changed. The paragraphs were in the order (e) (f) (g) (i) (a) (c) (d) (h) (b).

**§ 60.1-53. Determination as to seasonal employment and seasonal employer.**—Any employer who believes that employment in his industry or any establishment, division or department thereof is seasonal may file with the Commission a petition for a hearing and determination of such matter. Upon the filing of such petition, the Commission, if it is of the opinion that the petition states sufficient grounds therefor, shall, not less than thirty days prior to the date fixed for the hearing, give written notice of the time, place and purpose of such hearing. Such notice shall be served by mailing two copies thereof to the petitioner, one copy of which shall be posted by the petitioner at a conspicuous place at the factory or establishment involved in the proceeding, and the petitioner shall make a certification to the Commission not later than twenty days before the date fixed for the hearing that such notice has been so posted. The Commission may designate and appoint a special examiner to hold such hearings and make a report with respect thereto, and upon the basis of such report the Commission may make its determination.

If the Commission is of the opinion that such employer is operating a seasonal industry in whole or in any separate division, establishment or department, it shall determine such employer to be a seasonal employer with respect to such industry as a whole, or any division, establishment or department thereof as may be prescribed in such determination.

The Commission may, on its own motion, or upon the application of the governing body of any political subdivision of the Commonwealth, investigate and determine whether an employer is a seasonal employer, and in such cases the procedure shall be the same as though the employer has filed a petition in the first instance.

Source: § 60-46.1.

Note: No change.

**§ 60.1-54. Industry which may be determined to be operated by seasonal employer.**—Any industry in whole or in any separate division, establishment or department which, because of the seasonal nature of its operations, it is customary to operate only during a regularly recurring period or periods of not less than thirteen weeks nor more than forty weeks within any calendar year, may be determined to be operated by a seasonal employer.

Source: § 60-46.2.

Note: No change.

**§ 60.1-55. When determination effective; revocation.**—Any determination made during the operating season of any employer shall not become effective until the commencement of the next succeeding seasonal operating period of such employer, and such determination may, after thirty days' notice in writing to the employer, by mailing the same to his last known address, of the time, place and purpose of the hearing thereon, be revoked by the Commission effective at any time after the ending

date of the most recent regular season as fixed by the original order of determination.

Source: § 60-46.3.

Note: No change.

**§ 60.1-56. Notice to workers in seasonal employment.**—Whenever any employer is determined to be a seasonal employer, he shall at all times during his operating season post and maintain at each division, establishment or department of his seasonal industry notices that the individuals employed therein are performing service in seasonal employment for such seasonal employer.

Source: § 60-46.4.

Note: No change.

**§ 60.1-57. Benefits for seasonal workers.**—Notwithstanding any other provisions of this title, no seasonal worker shall be paid benefits except for unemployment occurring during the operating season determined for his base period seasonal employer.

Source: § 60-46.5.

Note: No change.

**§ 60.1-58. Disqualification for benefits.**—An individual shall be disqualified for benefits, but only after having served a waiting period as provided in § 60.1-52.

(a) For any week benefits are claimed until he has performed services for an employing unit during thirty days, whether or not such days are consecutive, if the Commission finds such individual is unemployed because he left work voluntarily without good cause.

(b) For any week benefits are claimed until he has performed services for an employing unit during thirty days, whether or not such days are consecutive, if the Commission finds such individual is unemployed because he has been discharged for misconduct connected with his work.

(c) If it is determined by the Commission that such individual has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commission or to accept suitable work when offered him, and the disqualification shall commence with the week in which such failure occurred, unless such failure occurred during the waiting period in which event the disqualification shall commence with the week following, and shall continue for the period of unemployment next ensuing until he has performed services for an employing unit during thirty days, whether or not such days are consecutive.

In determining whether or not any work is suitable for an individual, the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience, his length of unemployment and the accessibility of the available work from his residence.

Notwithstanding any other provisions of this title, no work shall be deemed suitable and benefits shall not be denied under this title to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (2) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the

locality; (3) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Source: § 60-47.

Note: Internal section reference has been conformed.

**§ 60.1-59. Reciprocal arrangements with agencies of other states or federal government.**—(a) *Transfer of benefit credits to other state agency.*—The Commission may enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby an individual's benefit credits duly determined by the Commission under this chapter may, when he is claiming benefits outside the Commonwealth, be transferred to the agency in the state in which the claim is filed and be used by it as the basis for payments to be made by it to such individual on behalf of the Commission but under the provisions applicable to individuals whose benefit credits are earned, determined and paid out solely under the law administered by such other state agency.

(b) *Transfer of benefit credits to Commission.*—Similarly, an individual's benefit credits, duly determined under the law administered by such other state agency may, when he is claiming within the Commonwealth, be transferred to the Commission and be used by it as a basis for payments to be made by it to such individual on behalf of such other state agency but under the provisions applicable to individuals whose benefit credits are earned, determined and paid out solely under this title.

(c) *Reimbursement of other state agency.*—The Commission shall periodically reimburse such other state agency, up to the amount of benefit credits thus transferred to it by the Commission for payments actually made by such other state agency based on such transfers.

(d) *Reimbursement of Commission.*—Similarly, such other state agency shall periodically reimburse the Commission, for payments actually made by it based on the benefit credits transferred to it by such other state agency.

(e) *Accounts to which payments chargeable.*—Amounts paid under such reciprocal arrangement as is authorized herein by another state agency on behalf of the Commission shall, when reimbursed by the Commission, be chargeable in every respect to the same accounts and in the same amounts as if such benefits had been paid without regard to such reciprocal arrangement.

(f) *Benefit Account Fund.*—Amounts paid under any such reciprocal arrangement by the Commission on behalf of another state agency shall be chargeable to the Commission's Benefit Account Fund and the corresponding reimbursements shall be credited to the same account.

Source: § 60-47.1.

Note: No change.

#### CHAPTER 4.

#### CLAIMS FOR BENEFITS.

**§ 60.1-60. Filing.**—Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe. Each employer shall post and maintain printed statements of such regulations in places

readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the Commission to each employer without cost to him.

Source: § 60-48.

Note: No change.

**§ 60.1-61. Determinations and decisions by deputy; appeals therefrom.**—A representative designated by the Commission, and hereinafter referred to as a deputy, shall promptly examine the claim and, on the basis of the facts found by him, shall either determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or shall refer such claim or any question involved therein to any appeal tribunal or to the Commission, which tribunal or Commission shall make its determination with respect thereto in accordance with the procedure described in § 60.1-62, except that in any case in which the payment or denial of benefits will be determined by the provision of subsection (i) of § 60.1-52 the deputy shall promptly transmit his full finding of fact with respect to that subsection to any appeal tribunal, which tribunal shall make its determination with respect thereto in accordance with the procedure described in § 60.1-62.

Upon the filing of an initial claim for benefits, the Commission should cause an informatory notice of such filing to be mailed to the most recent employing unit of the claimant, but the failure to furnish such notice shall not have any effect upon the claim for benefits.

Notice of determination upon a claim shall be promptly given to the claimant by delivery thereof or by mailing such notice to the claimant's last known address. In addition, notice of any determination which involves the application of the provisions of § 60.1-58 or 60.1-52 (b), together with the reasons therefor, shall be promptly given in the same manner to the most recent employing unit by whom the claimant was last employed; provided that the Commission may dispense with the giving of notice of any determination to any employing unit and such employing unit shall not be entitled to such notice if it has failed to indicate prior to the determination, as required by regulation promulgated by the Commission, that the claimant may be ineligible or disqualified under any provision of this title. The deputy shall promptly notify the claimant of any decision made by him at any time which in any manner denies benefits to the claimant for one or more weeks.

Unless the claimant or any such employing unit, within five calendar days after the delivery of such notification, or within seven calendar days after such notification was mailed to his last known address, or within ten days after such notification was mailed to the last known address of an interstate claimant, files an appeal from such determination or decision, such determination or decision shall be final and benefits shall be paid or denied in accordance therewith.

If an appeal is duly filed from any such determination or decision, benefits with respect to the weeks involved in the appeal shall be paid only after a final determination of the issue involved; provided, that if the Commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, except that should further appeal be taken benefits so paid shall result in a benefit wage charge to the account of the employer under 60.1-70 to 60.1-89 only when and as of the date on which, as a result

of a further appeal, the courts finally determine that the Commission should have awarded benefits to the claimant or claimants involved in such appeal.

**Source:** § 60-49.

**Note:** Internal section references have been conformed.

**§ 60.1-62. Hearing and decision on appeal.**—Appeals filed under § 60.1-61 shall be heard by an appeal tribunal appointed pursuant to § 60.1-63. Such appeal tribunal, after affording the claimant and any other parties thereto reasonable opportunity for a fair hearing, shall have jurisdiction to consider all issues with respect to the claim since the initial filing thereof, and shall affirm, set aside, reverse, modify, or alter the findings of fact and decision of the Commission or the deputy, and may enter such order or decision with respect to the claim since the initial filing thereof as such appeal tribunal finds should have been entered; provided, however, that no such order or decision shall affect benefits already paid except in accordance with the provisions of § 60.1-132. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision of the Commission, unless within ten days after the date of notification or mailing of such decision, further appeal is initiated pursuant to § 60.1-64.

**Source:** § 60-50.

**Note:** The following language has been deleted: "Any further decision by an appeal tribunal involving whether an employing unit constitutes an employer or whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit from which no appeal is initiated shall be conclusive in any subsequent judicial proceedings involving liability for contributions by the Commission against any employing unit which was a party to the proceedings had before such appeal tribunal." This language is inappropriate in this section relating to benefit decisions. The procedure for appeals from liability determinations is adequately covered in § 60.1-71.

**§ 60.1-63. Appeal tribunals.**—To hear and decide disputed claims, the Commission shall establish one or more impartial appeal tribunals consisting in each case of either a salaried examiner or a body consisting of three members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers and the other of whom shall be a representative of employees; each of the latter two members shall serve at the pleasure of the Commission and be paid a fee of not more than ten dollars per day of active service on such tribunal plus necessary expenses. No person shall participate on behalf of the Commission in any case in which he is an interested party. The Commission may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

**Source:** § 60-51.

**Note:** No change.

**§ 60.1-64. Commission review.**—The Commission may on its own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or shall permit any of the parties to such decision to initiate further appeals before it. The Commission may remove to itself or transfer to another appeal tribunal the proceedings on any

claim pending before an appeal tribunal. Any proceeding so removed to the Commission shall be heard in accordance with the requirements of § 60.1-62. The Commission shall promptly notify the interested parties of its findings and decision.

Any decision of the Commission, upon a hearing on appeal, shall become final ten days after the date of notification or mailing thereof, and judicial review thereof shall be permitted the claimant or any interested party claiming to be aggrieved thereby. The Commission shall be deemed to be a party to any judicial action involving any such decision, and shall be represented in any such judicial action by the Attorney General. Any such decision by the Commission involving whether an employing unit constitutes an employer or whether services performed for or in connection with business of an employing unit constitute employment for such employing unit from which no judicial review is had pursuant to § 60.1-67 shall be conclusive in any subsequent judicial proceedings involving liability for contributions by the Commission against any employing unit which was a party to the proceedings had before the Commission.

The Commissioner, appointed pursuant to § 60.1-31 shall have the power to designate a special examiner to hear appeals to the Commission under this section, and may authorize and empower such special examiner to decide any such appeal so heard, in which event the decision of such special examiner shall be the final decision of the Commission under this section, subject to judicial review under § 60.1-67.

Source: § 60-52.

Note: Internal section references have been conformed.

**§ 60.1-65. Procedure generally.**—The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals before any deputy, appeal tribunal or the Commission shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

Source: § 60-53.

Note: No change.

**§ 60.1-66. Witness fees.**—Witnesses subpoenaed pursuant to this chapter shall be allowed fees at a rate fixed by the Commission. Such fees shall be deemed a part of the expense of administering this title.

Source: § 60-54.

Note: No change.

**§ 60.1-67. Judicial review.**—Within ten days after the decision of the Commission upon a hearing pursuant to § 60.1-64 has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in the circuit court of the county or in the corporation or hustings court of the city, or if the city has no corporation or hustings court, then in the circuit court of the city, or if no circuit court, then in the circuit court of the county in which such city is geographically located, in which the individual who filed the claim was last employed, against the Commission for the review of its decision, in which action any other party to the

proceedings before the Commission shall be made a defendant. In such action, a petition, which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the Commission or upon such person as the Commission may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the Commission shall forthwith mail one such copy to each such defendant. With its answer, the Commission shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. The Commission may also, in its discretion, certify to such court questions of law involved in any decision by it. In any judicial proceedings under this chapter, the findings of the Commission as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of such court shall be confined to questions of law. Such actions and the questions so certified, shall be heard in a summary manner at the earliest possible date. An appeal may be taken from the decision of such court to the Supreme Court of Appeals in conformity with the general law governing appeals in equity cases, and from any such decision involving the provisions of §§ 60.1-52 or 60.1-58 or whether an employing unit constitutes an employer or whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit, the Supreme Court of Appeals shall have jurisdiction to review such decision regardless of the amount involved in any claim for benefits. It shall not be necessary, in any proceeding under this chapter, to enter exceptions to the rulings of the Commission or an appeal tribunal, and no bond shall be required upon an appeal to any court. Upon the final determination of such judicial proceeding, the Commission shall enter an order in accordance with such determination.

**Source:** § 60-55.

**Note:** International section reference has been conformed.

**§ 60.1-68. Redetermination of claims.**—Notwithstanding any other provisions of this title, the Commission may, at any time within one year from the date the deputy's determination becomes final pursuant to § 60.1-61, redetermine any claim decided by a deputy respecting which no appeal was taken by the claimant from the determination of such deputy. Notice of any such redetermination shall be given promptly to the interested parties, and an appeal may be had from such redetermination within the time and in the manner prescribed for an appeal from any original determination, and if no such appeal is filed such redetermination shall be final. Any redetermination hereunder shall be limited to claims concerning which an error in computation has occurred, or that wages of the claimant pertinent to such determination but not considered in connection therewith have been newly discovered.

**Source:** § 60-56.

**Note:** Internal section reference has been conformed.

**§ 60.1-69. Board of Review.**—The Commission, in its discretion, is hereby authorized to appoint a Board of Review, consisting of three members, one of whom shall be designated chairman, for a term of six years, except that the terms of the members first taking office shall be two, four, and six years, respectively, as designated by the Commission at the time of the appointment, and except that vacancies shall be filled by appointment by the Commission for the unexpired term. During his term of membership on the Board no member shall serve as an officer or committee member of any political organization. The members of the Board shall be



paid a compensation to be determined by the Commission. The Commission shall furnish the Board such stenographic and clerical assistance as the Board may require. All compensation of the members of the Board and all necessary expenses for the operation thereof shall be paid out of the administrative fund provided for in §§ 60.1-112 to 60.1-118. The Commission may at any time, after notice and hearing, remove any member for cause. The Commission may, after thirty days' notice to the members of the Board, and upon a finding that the Board is no longer needed, abolish the same. The Board shall meet upon the call of the chairman and shall have the same powers and perform the same functions vested in the Commission in this title for review of decisions by an appeal tribunal, including the power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary as evidence in connection with disputed claims. The Board may hold its hearings in the county or city where the claimant was last employed, except that hearings involving the provisions of subsection (b) of § 60.1-52 shall be held in the county or city where the claimant was last employed, and when the same or substantially similar evidence is relevant and material to matters in issue in claims by more than one individual or in claims by a single individual with respect to two or more weeks of unemployment, the same time and place for considering each such claim may be fixed, hearings thereon jointly conducted, and a single record of the proceedings made. The Commission may issue such regulations as it deems necessary for the procedure of the Board in the conduct of its hearings. During the time the Board is organized under authority of the Commission, the Commission shall have no jurisdiction under § 60.1-64. Any decision of the Board shall become final ten days after the date of notification or mailing thereof and judicial review thereof shall be permitted the claimant, the Commission or any interested party claiming to be aggrieved thereby, and in any judicial action involving any such decision the Commission shall be represented by the Attorney General. Any decision of the Board from which no judicial review is sought within the time prescribed in § 60.1-67 shall be conclusive against any party to the hearing before the Board and the Commission in any subsequent judicial proceedings involving liability for contributions under this title.

Within the time specified in § 60.1-67 the Commission, or any party to the proceedings before the Board, may obtain judicial review thereof by filing in the circuit court of the county or in the corporation court or hustings court of the city; or if the city has no corporation court or hustings court, then in the circuit court of the city, or if the city has no circuit court, then in the circuit court of the county in which such city is geographically located, in which the individual who filed the claim was last employed, in the State, a petition for review of such decision and in any such proceeding any other party to the proceeding shall be made a party respondent. The Commission shall be deemed to be a party to any such proceeding. The petition need not be verified. A copy of such petition shall be served upon the Commission and each party to the proceeding had before the Board at least thirty days prior to the placing of the petition upon the docket. The mailing of a copy of such petition to each party thereto at his last known address shall be sufficient service thereof. The Commission shall file along with its petition or answer a certified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the Board's findings, conclusions and decision therein. In any proceeding under this section the findings of the Board as to the facts, if supported by the evidence and in

the absence of fraud, shall be conclusive and the jurisdiction of the court shall be confined to questions of law. The court may order additional evidence to be taken by the Board, which such additional evidence, findings of fact or conclusions, together with the additional transcript of the record, shall be certified by the chairman of the Board and filed by him with the court. Such petition for review shall be heard in a summary manner and shall have preference over all other cases on the docket, except cases in which the Commonwealth is a party. An appeal may be taken from the decision of such court to the Supreme Court of Appeals in conformity with general law governing appeals in equity cases, and from any such decision involving the provisions of §§ 60.1-52 or 60.1-58 or whether an employing unit constitutes an employer or whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit, the Supreme Court of Appeals shall have jurisdiction to review such decision regardless of the amount involved in any claim for benefits. It shall not be necessary, in any proceeding before the Board, to enter exceptions to its ruling, and no bond shall be required upon any appeal to any court. Upon the final determination of such judicial proceeding, the Board shall enter an order in accordance with such determination. A petition for judicial review shall operate as a supersedeas.

Source: § 60-57.

Note: Internal section references have been conformed.

## CHAPTER 5.

### EMPLOYERS AND CONTRIBUTIONS.

#### Article 1.

##### *General Provisions.*

**§ 60.1-70. Determination with respect to whether employing unit is employer.**—The Commission may, upon its own motion or upon application of an employing unit, and after not less than ten days' notice in writing mailed to the last known address of such employing unit and an opportunity for hearing, making findings of fact, and on the basis thereof, determination with respect to whether an employing unit constitutes an employer and whether services performed for or in connection with the business of an employing unit constitute employment for such employing unit. All testimony at any hearing pursuant to this section shall be recorded but need not be transcribed unless a petition for judicial review from such determination is filed in the manner herein prescribed. At such hearing the interests of the Commonwealth shall be represented by the Attorney General.

Source: § 60-58.

Note: No change.

**§ 60.1-71. Judicial review of determination.**—Judicial review of any such determination may be had within thirty days after the mailing of notice of such findings and determination to the employing unit or, in the absence of mailing, within thirty days after the delivery of such notice and determination, in any of the courts of the city of Richmond, as set forth in § 17-145, except the Hustings Court of the city of Richmond, Part Two. Such judicial review shall be commenced by the filing of a petition, which need not be verified but which shall state the grounds upon which a review is sought. Service of two copies of such petition upon the Commissioner shall be deemed completed service and such petition shall be filed with

the clerk of the court within five days after service thereof. With its answer the Commission shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter, together with its findings of fact and decision therein. In any judicial proceedings under this article or article 2 of this chapter, the findings of the Commission as to the facts, if supported by the evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of the court shall be confined to questions of law. Such actions shall be given preference on the docket over all other cases except cases to which the Commonwealth is a party. An appeal may be taken from the decision of such court to the Supreme Court of Appeals, in conformity with general law governing appeals in equity cases, and without regard to the amount involved. In any such proceedings for judicial review, the Commission shall be represented by the Attorney General. A determination by the Commission from which no judicial review has been had shall be conclusive in any subsequent judicial proceeding involving liability for contributions against the employing unit or its successor under the provisions of subsection (2) of § 60.1-12 and the second paragraph of § 60.1-96.

**Source:** § 60-59.

**Note:** Internal section references have been conformed.

**§ 60.1-72. How and when taxes payable.**—Every employer shall, on or before January thirty-first, nineteen hundred thirty-seven, or in the event the time be extended for filing the return of the tax imposed by Title IX of the Social Security Act for the taxable year nineteen hundred thirty-six, then before the expiration of such extension, pay to the Commission with respect to employment, as defined in § 60.1-14, during the year beginning January first, nineteen hundred thirty-six, a tax equal to nine-tenths of one per centum of wages paid and payable by him, regardless of the time of payment, with respect to employment during the calendar year nineteen hundred thirty-six.

It is expressly provided that, any other provision or provisions in this title to the contrary notwithstanding, this title shall not be construed as imposing upon any employer a tax with respect to employment during the calendar year nineteen hundred thirty-six greater in amount than such employer shall be entitled to have allowed as a credit upon the taxes imposed by the Social Security Act with respect to such employment; provided, however, that the foregoing shall not be construed as relieving any employer from liability for any tax imposed by this title where there has been a failure to obtain a credit on said Federal tax due to any act or fault of commission or omission on the part of the said employer.

On and after January first, nineteen hundred thirty-seven, taxes, as hereinafter set forth in this and the succeeding article, shall accrue and become payable by each employer for each calendar year in which he is subject to this title, with respect to wages payable for employment, as defined in § 60.1-14, occurring in such calendar year. Such taxes shall become due and be paid by each employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe.

**Source:** § 60-60.

**Note:** Internal section references have been conformed.

**§ 60.1-73. Requiring payroll and contribution reports and payment of taxes.**—The Commission is hereby expressly authorized to require filing of payroll and contribution reports and payment of the taxes aforesaid in monthly, quarterly, semi-annual or annual payments as shall be determined by the Commission, but the aggregate amount of taxes shall be

fully paid to the Commission on or before January thirty-first of each year next succeeding the year with respect to employment during which year such taxes are imposed, or in the event the time be extended for filing the return of the taxes imposed by Title IX of the Social Security Act for the year for which such taxes are imposed, then before the expiration of such extension.

Source: § 60-61.

Note: No change.

§ 60.1-74. **Failure of employing unit to file reports.**—If any employing unit fails to file with the Commission any report which the Commission deems necessary for the effective administration of this title within thirty days after the Commission requires the same by written notice mailed to the last known address of such employing unit, the Commission may determine on the basis of such information as it may have whether such employing unit is an employer, unless such determination has already been made, and may assess the amount of contribution due from such employer and shall give written notice of such determination and assessment to such employer. Such determination and assessment shall be final unless such employer shall, within twenty days after the mailing to the employer at his last known address or other service of the notice of such determination and/or assessment, apply to the Commission for a review of such determination and assessment or unless the Commission shall, of its own motion, set aside, reduce or increase the same.

Source: § 60-62.

Note: No change.

§ 60.1-75. **Amount of taxes; increase of rate.**—Each employer shall pay taxes equal to the following percentages of wages payable by him with respect to employment:

(1) One and eight-tenths per centum with respect to employment during the calendar year nineteen hundred thirty-seven.

(2) Except as otherwise provided in § 60.1-78, two and seven-tenths per centum with respect to employment during the calendar year nineteen hundred thirty-eight and during each succeeding calendar year, after December thirty-first, nineteen hundred thirty-nine, wages payable beyond the last pay period in December shall be considered as wages earned and payable in the first pay period of the succeeding year, and included in reports required for the first reporting period of such year.

(3) If the federal unemployment tax act is at any time amended to permit a higher maximum rate of credit against the federal tax now levied under section 3301 of the Internal Revenue Code, or that may hereafter be levied under any subsequent amendment, or amendments thereto, than is now permitted under section 3302 of the Internal Revenue Code, to an employer with respect to any state unemployment compensation law whose standard contribution rate on payroll under such law is more than two and seven-tenths per centum, in that event the standard contribution rate as to all employers under this title shall, by Commission rule promulgated under § 60.1-35, be increased from two and seven-tenths per centum on wages to that percentage on wages which corresponds to the higher maximum rate of credit thus permitted against the federal unemployment tax; and such increase shall become effective on the same date as such higher maximum rate of credit becomes permissible under such federal amendment.

(4) If the federal unemployment tax act is at any time amended so as to increase the rate of excise tax each employer shall pay with respect

to having individuals in his employ, the Commission may by rules promulgated under § 60.1-35, increase the rate of contributions under this title to the rate which corresponds to the highest maximum rate of credit permitted against such higher federal unemployment excise tax; and such increase shall become effective on the same date as such higher rate of federal unemployment excise tax becomes effective.

Source: § 60-63.

Note: Internal section references have been conformed.

**§ 60.1-76. Use of collections in financing administrative expenditures.**—If section three hundred three (a) (5) of Title III of the Social Security Act and section 3304 (4) of the Internal Revenue Code are amended to permit a state agency to use, in financing administrative expenditures incurred in carrying out its employment security functions, some part of the moneys collected or to be collected under the state unemployment compensation law, in partial or complete substitution for grants under said Title III, in that event this title shall, by Commission proclamation and rules to be issued with the Governor's approval, be modified in the manner and to the extent and within the limits necessary to permit such use by the Commission under this title; and such modifications shall become effective on the same date as such use becomes permissible under such federal amendments.

Source: § 60-64.

Note: No change.

**§ 60.1-77. Taxes not deducted from wages.**—Taxes imposed by this title shall not be deducted, in whole or in part, from the wages of individuals in the employ of any employer.

Source: § 60-65.

Note: No change.

**§ 60.1-78. How fractional part of cent computed.**—In the payment of any such taxes, a fractional part of a cent shall be disregarded, unless it amounts to one-half cent or more in which case it shall be increased to one cent.

Source: § 60-66.

Note: No change.

## Article 2.

### *Computation of Contribution Rate.*

**§ 60.1-79. General provisions.**—For each calendar year commencing after December thirty-first, nineteen hundred sixty, the contribution rate of each employer, whose experience rating account has been chargeable with benefit wages throughout the most recent twelve completed calendar month period ending on the thirtieth day of June of the calendar year immediately preceding the calendar year for which a contribution rate is being determined, shall be computed as hereinafter provided. The Commission shall notify each such employer of his contribution rate for such calendar year not later than the thirty-first day of December immediately preceding such year, but the failure of any such employer to receive such notice shall not relieve him from liability for such contribution.

Source: § 60-67.

Note: No change.

**§ 60.1-80. Individual's benefit wages.**—(a) Effective July first, nineteen hundred sixty-six, when in any benefit year an individual is paid benefits equal to three times his weekly benefit amount his wages during his base period shall be termed the individual's "benefit wages." If such individual's unemployment is caused by separation from an employer, such individual's "benefit wages" shall be treated for the purposes of this article as though they had been paid by such employer in the calendar year in which such benefits are first paid. The employing unit from whom such individual was separated, resulting in the current period of unemployment, shall be the most recent employing unit for whom such individual has performed services for remuneration during thirty days, whether or not such days are consecutive. For the purposes of this article, "benefit wages" shall include only the first four thousand three hundred and sixty-eight dollars of wages received by any one individual from all employers in such individual's base period.

(b) An individual's "benefit wages" shall not be treated as though they had been paid by an employer if such employer is deemed to have paid, under this section, other "benefit wages" of such individual arising out of the same separation from work.

(c) No "benefit wages" shall be deemed to have been paid by any employer of an individual whose separation from the work of such employer arose as a result of a violation of the law by such individual, which violation led to confinement in any jail or prison, or by any employer of an individual who voluntarily left employment in order to accept other employment, genuinely believing such employment to be permanent and when such individual thereafter refused to accept an offer of the original work when the new employment did not last as many as thirty days.

**Source:** § 60-68.

**Note:** No change.

**§ 60.1-81. Employer's benefit wages.**—Any employer's benefit wages for a given calendar year shall be the total of the "benefit wages" which, pursuant to the provisions of § 60.1-80, are wages deemed to have been paid by such employer.

Notwithstanding any other provisions of this title, any employer who has been deemed to have paid benefit wages in accordance with the provisions of this section and § 60.1-80 and who has reemployed during his benefit year the claimant whose receipt of benefits caused the benefit wage charge, may make application to the Commission not later than thirty days following the day on which the Commission notifies the employer of such benefit wage charge for a reduction in benefit wages as provided herein.

If, upon the filing of such application, the Commission finds that such claimant because of such reemployment received in benefits a total amount aggregating not more than twenty-five per cent of his total potential benefits within such benefit year, the employer's benefit wages resulting from such claimant's previous employment shall be reduced by seventy-five per cent; or, if the Commission finds that such claimant because of such reemployment received in benefits an amount aggregating more than twenty-five per cent but not more than fifty per cent of his total potential benefits, the employer's benefit wages resulting from such claimant's previous employment shall be reduced by fifty per cent; or, if the Commission finds that such claimant because of such reemployment received in benefits a total amount aggregating more than fifty per cent but not more than seventy-five per cent of his total potential benefits, the employer's benefit wages

resulting from such claimant's previous employment shall be reduced by twenty-five per cent.

In computing an employer's contribution rate for any calendar year a reduction in benefit wages shall be used only in connection with the re-employment of claimants whose benefit years ended no later than the thirtieth day of June immediately preceding the calendar year for which a contribution rate is being determined.

Source: § 60-69.

Note: Internal section references have been conformed.

**§ 60.1-82. Benefit wage ratio.**—The "*benefit wage ratio*" of each employer for a given calendar year shall be the percentage equal to the employer's benefit wages for the twelve consecutive calendar month period ending on the thirtieth day of June immediately preceding that calendar year, divided by the total of his payroll for the same period except that for an employer whose account has been chargeable with benefit wages for thirty-six or more consecutive completed calendar months, the "benefit wage ratio" shall be the percentage equal to the employer's benefit wages for the most recent thirty-six consecutive completed calendar month period ending on the thirtieth day of June immediately preceding that calendar year, divided by the total of his payrolls for the same period, and for an employer whose account has been chargeable with benefit wages for twenty-four but less than thirty-six consecutive completed calendar months the "benefit wage ratio" shall be the percentage equal to the employer's benefit wages for the most recent twenty-four consecutive completed calendar month period ending on the thirtieth day of June immediately preceding that calendar year divided by his payroll for the same period. The term "*payroll(s)*" as used herein means the payroll on which contributions have been paid on or before July thirty-first immediately following such June thirtieth.

Source: § 60-70.

Note: No change.

**§ 60.1-83. State experience factor.**—For any calendar year the "State experience factor" shall be the total benefits paid from the fund during the most recent thirty-six consecutive completed calendar month period ending June 30 of the immediately preceding calendar year, less all amounts credited to the fund in such period other than employer's contributions, divided by the total of the "benefit wages" of all individuals as determined pursuant to § 60.1-80 during the same period. In such computation any fraction shall be adjusted to the nearest multiple of one per centum.

Source: § 60-71.

Note: Internal section reference has been conformed.

**§ 60.1-84. Contribution rate; table.**—Subject to the provision of § 60.1-85, the contribution rate for each employer shall be the percentage at the lowest numbered column in the following table, in which on the same line as the current State experience factor, there appears a percentage equal to the employer's benefit wage ratio, calculated to the nearest multiple of one-tenth of one per centum. If no percentage appearing in the same line of the table is equal to such benefit wage ratio the next highest percentage immediately to the right in the same line shall determine the rate. If no percentage equal to or in excess of such employer's benefit wage ratio appears on such line, then such employer's contribution rate shall be two and seven-tenths per centum.

TABLE

When the State Experience Factor is	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10	Col. 11	Col. 12	Col. 13
If the employer's benefit wage ratio does not exceed:													
1% or less	0.4%	0.8%	1.7%	3.3%	5.0%	6.7%	8.3%	10.0%	11.7%	13.3%	15.0%	16.7%	18.3%
2	0.4	0.7	1.4	2.9	4.3	5.7	7.1	8.6	10.0	11.4	12.9	14.3	15.7
3	0.3	0.6	1.2	2.5	3.7	5.0	6.2	7.5	8.7	10.0	11.3	12.5	13.7
4	0.3	0.6	1.1	2.2	3.3	4.4	5.6	6.7	7.8	8.9	10.0	11.1	12.2
5	0.2	0.5	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0
6	0.2	0.5	0.9	1.8	2.7	3.6	4.5	5.5	6.4	7.3	8.2	9.1	10.0
7	0.2	0.4	0.8	1.7	2.5	3.3	4.2	5.0	5.8	6.7	7.5	8.3	9.2
8	0.2	0.4	0.8	1.5	2.3	3.1	3.8	4.6	5.4	6.2	6.9	7.7	8.5
9	0.2	0.4	0.7	1.4	2.1	2.9	3.6	4.3	5.0	5.7	6.4	7.1	7.9
10	0.2	0.3	0.7	1.3	2.0	2.7	3.3	4.0	4.7	5.3	6.0	6.7	7.3
11	0.2	0.3	0.6	1.2	1.9	2.5	3.1	3.7	4.4	5.0	5.6	6.2	6.9
12	0.1	0.3	0.6	1.2	1.8	2.4	2.9	3.5	4.1	4.7	5.3	5.9	6.5
13	0.1	0.3	0.6	1.1	1.7	2.2	2.8	3.3	3.9	4.4	5.0	5.6	6.1
14	0.1	0.3	0.5	1.1	1.6	2.1	2.6	3.2	3.7	4.2	4.7	5.3	5.8
15	0.1	0.2	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5
16	0.1	0.2	0.5	1.0	1.4	1.9	2.4	2.9	3.3	3.8	4.3	4.8	5.2
17	0.1	0.2	0.5	0.9	1.4	1.8	2.3	2.7	3.2	3.6	4.1	4.5	5.0
18	0.1	0.2	0.4	0.9	1.3	1.7	2.2	2.6	3.0	3.5	3.9	4.3	4.8
19	0.1	0.2	0.4	0.8	1.2	1.7	2.1	2.5	2.9	3.3	3.7	4.2	4.6
20	0.1	0.2	0.4	0.8	1.2	1.6	2.0	2.4	2.8	3.2	3.6	4.0	4.4
21	0.1	0.2	0.4	0.8	1.2	1.5	1.9	2.3	2.7	3.1	3.5	3.8	4.2
22	0.1	0.2	0.4	0.7	1.1	1.5	1.9	2.2	2.6	3.0	3.3	3.7	4.1
23	0.1	0.2	0.4	0.7	1.1	1.4	1.8	2.1	2.5	2.9	3.2	3.6	3.9
24	0.1	0.2	0.3	0.7	1.0	1.4	1.7	2.1	2.4	2.8	3.1	3.4	3.8
25	0.1	0.2	0.3	0.7	1.0	1.3	1.7	2.0	2.3	2.7	3.0	3.3	3.7
The employer's contribution rate shall be:													
	0.1%	0.2%	0.3%	0.4%	0.5%	0.6%	0.7%	0.8%	0.9%	1.0%	1.1%	1.2%	1.3%



TABLE—Continued

	Col. 14	Col. 15	Col. 16	Col. 17	Col. 18	Col. 19	Col. 20	Col. 21	Col. 22	Col. 23	Col. 24	Col. 25	Col. 26	Col. 27
1% or less	20.0%	21.7%	23.3%	25.0%	26.7%	28.3%	30.0%	31.7%	33.3%	35.0%	36.7%	38.3%	40.0%	41.7%
	17.1	18.6	20.0	21.4	22.9	24.3	25.7	27.1	28.6	30.0	31.4	32.9	34.3	35.7
3	15.0	16.2	17.5	18.7	20.0	21.2	22.5	23.8	25.0	26.2	27.5	28.7	30.0	31.2
4	13.3	14.4	15.6	16.7	17.8	18.9	20.0	21.2	22.2	23.3	24.4	25.6	26.7	27.8
5	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0
6	10.9	11.8	12.7	13.6	14.5	15.5	16.4	17.3	18.2	19.1	20.0	20.9	21.8	22.7
7	10.0	10.8	11.7	12.5	13.3	14.2	15.0	15.8	16.7	17.5	18.3	19.2	20.0	20.8
8	9.2	10.0	10.8	11.5	12.3	13.1	13.8	14.6	15.4	16.2	16.9	17.7	18.5	19.2
9	8.6	9.3	10.0	10.7	11.4	12.1	12.9	13.6	14.3	15.0	15.7	16.4	17.1	17.9
10	8.0	8.7	9.3	10.0	10.7	11.3	12.0	12.7	13.3	14.0	14.7	15.3	16.0	16.7
11	7.5	8.1	8.7	9.4	10.0	10.6	11.2	11.9	12.5	13.1	13.7	14.4	15.0	15.6
12	7.1	7.6	8.2	8.8	9.4	10.0	10.6	11.2	11.8	12.4	12.9	13.5	14.1	14.7
13	6.7	7.2	7.8	8.3	8.9	9.4	10.0	10.6	11.1	11.7	12.2	12.8	13.3	13.9
14	6.3	6.8	7.4	7.9	8.4	8.9	9.5	10.0	10.5	11.1	11.6	12.1	12.6	13.2
15	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10.0	10.5	11.0	11.5	12.0	12.5
16	5.7	6.2	6.7	7.1	7.6	8.1	8.6	9.0	9.5	10.0	10.5	11.0	11.4	11.9
17	5.5	5.9	6.4	6.8	7.3	7.7	8.2	8.6	9.1	9.5	10.0	10.5	10.9	11.4
18	5.2	5.7	6.1	6.5	7.0	7.4	7.8	8.3	8.7	9.1	9.6	10.0	10.4	10.9
19	5.0	5.4	5.8	6.2	6.7	7.1	7.5	7.9	8.3	8.7	9.2	9.6	10.0	10.4
20	4.8	5.2	5.6	6.0	6.4	6.8	7.2	7.6	8.0	8.4	8.8	9.2	9.6	10.0
21	4.6	5.0	5.4	5.8	6.2	6.5	6.9	7.3	7.7	8.1	8.5	8.8	9.2	9.6
22	4.4	4.8	5.2	5.6	5.9	6.3	6.7	7.0	7.4	7.8	8.1	8.5	8.9	9.3
23	4.3	4.6	5.0	5.4	5.7	6.1	6.4	6.8	7.1	7.5	7.9	8.2	8.6	8.9
24	4.1	4.5	4.8	5.2	5.5	5.9	6.2	6.6	6.9	7.2	7.6	7.9	8.3	8.6
25	4.0	4.3	4.7	5.0	5.3	5.7	6.0	6.3	6.7	7.0	7.3	7.7	8.0	8.3
	1.4%	1.5%	1.6%	1.7%	1.8%	1.9%	2.0%	2.1%	2.2%	2.3%	2.4%	2.5%	2.6%	2.7%

Source: § 60-72.

Note: Internal section reference has been conformed.

**§ 60.1-85. Increase of contribution rate.**—As of the beginning of the first day of July, nineteen hundred sixty-one, and as of the beginning of the first day of July of each succeeding calendar year, the balance which shall stand to the credit of the account of the Commonwealth of Virginia in the unemployment trust fund in the treasury of the United States, including amounts withdrawn therefrom but not expended, shall be compared with the average of taxable payrolls on which contributions were paid during the preceding thirty-six calendar months.

If such balance is less than five per centum of the average of such taxable payrolls an adjustment factor shall be added to the contribution rate of each employer for the calendar year following such first day of July.

Such adjustment factor shall be equal to one-quarter of the difference, calculated to the nearest one-tenth of one per centum, between such percentage balance and six per centum of the average of such taxable payrolls. Such adjustment factor shall remain in effect throughout the entire calendar year for which it is added.

No employer's contribution rate under this section shall be increased to a total of more than two and seven-tenths per centum.

Source: § 60-73.

Note: No change.

**§ 60.1-86. Decrease of contributions by application of credits.**—As of the beginning of the first day of July, nineteen hundred sixty-one, and as of the beginning of the first day of July of each succeeding calendar year, the balance which shall stand to the credit of the account of the Commonwealth of Virginia in the unemployment trust fund in the treasury of the United States, including amounts withdrawn therefrom but not expended and including any amount in the clearing account without regard to possible refunds, shall be compared with the average of taxable payrolls on which contributions were paid during the preceding thirty-six calendar months.

If such balance is as much as seven per centum but not as much as seven and one-fourth per centum of the average of such taxable payrolls, each employer who is assigned a contribution rate for the following calendar year of less than two and seven-tenths per centum on the basis of his and/or his predecessor's experience shall be entitled to a credit of twenty per centum of the contributions accruing and payable by him for each of the ensuing four calendar quarters beginning the first day of January following such first day of July.

If such balance is as much as seven and one-fourth per centum of the average of such taxable payrolls, each employer who is assigned a contribution rate for the following calendar year of less than two and seven-tenths per centum on the basis of his and/or his predecessor's experience shall be entitled to a credit of forty per centum of the contributions accruing and payable by him for each of the ensuing four calendar quarters beginning the first day of January following such first day of July.

Any credit so determined shall be applied by the Commission as a payment and corresponding decrease in contributions accruing for such ensuing four calendar quarters.

Notice in writing of the entitlement to a credit shall be given by the Commission to each employer not later than the thirty-first day of December immediately preceding the year for which such credit is applicable, and such notice shall be mailed to each employer at his last known address.

Source: § 60-73.1.

Note: No change.

**§ 60.1-87. Contribution rate defined.**—As used in this article the term “contribution rate” means the tax or percentage of wages payable by an employer with respect to employment.

**Source:** § 60-74.

**Note:** No change.

**§ 60.1-88. Employing unit acquiring business, etc., of another employing unit.**—Wherever any employing unit in any manner succeeds to or acquires the organization, trade, separate establishment or business, or substantially all the assets thereof, (whether or not the succeeding or acquiring unit was an “employing unit,” as that term is defined in § 60.1-13, prior to such acquisition) of another which at the time of such acquisition was an employer subject to this title, and such predecessor employing unit within sixty days after the Commission has notified the successor employing unit of its right to request a waiver, has executed and filed with the Commission on a form approved by the Commission together with such information regarding the prior experience of the predecessor as may be required by the Commission, a waiver relinquishing all rights to prior experience for the purpose of obtaining a reduced rate and requesting the Commission to permit such experience to inure to the benefit of the successor employing unit, upon request of the successor employing unit within the same sixty day period, the experience record for rate computation purposes of the predecessor shall thereupon be deemed the experience record of the successor as of the first day of July of the calendar year in which the acquisition occurred. Such successor, unless already an employer subject to this title, shall, during the remainder of the current calendar year upon the filing of the waiver herein mentioned within the period specified, be subject to the rate of taxation of the predecessor, but if such successor is at the time of the acquisition an employer subject to this title, such successor’s rate of tax to which it is then subject shall remain the same until the next determination of rates under this chapter for all employers.

Notwithstanding any other provisions of this section, if the required forms and information concerning the acquisition are not received from the successor and predecessor within the time prescribed herein, the experience record for rate computation purposes shall be deemed transferred to the successor as of the first day of July of the calendar year in which such forms and information are received.

This section shall apply only to acquisitions occurring on or after the first day of January nineteen hundred sixty.

**Source:** § 60-75.

**Note:** Internal section reference has been conformed.

**§ 60.1-89. Contribution rate of employer becoming such at certain time.**—Notwithstanding any other provisions of this chapter, the contribution rate of any employer which first became an employer as of January first, nineteen hundred forty, or January first, nineteen hundred forty-one, with respect to whom during the thirty-six month period immediately preceding the first day of any calendar quarter throughout which any individual in his employ could have received benefits, if eligible, shall be computed as provided in this chapter, provided, however, no contribution rate of less than two and seven-tenths per centum shall be allowed any such employer except upon wages earned in his employment subsequent to the last day of such thirty-six month period.

**Source:** § 60-76.

**Note:** No change.

**§ 60.1-90. Reduced contribution rate permissible under federal amendment.**—Notwithstanding the preceding provisions of this chapter, if section 3303 of the Internal Revenue Code is amended so as to permit the allowance of an additional credit under section 3302 (b) of the Internal Revenue Code to employers not otherwise eligible for a reduced rate by reason of the lapse of insufficient time since first becoming subject to this title, in that event the Commission, by a regulation promulgated under § 60.1-35, shall fix and determine the contribution rate of all such employers at such reduced rate as shall then be permissible under such federal amendment.

Source: § 60-76.1.

Note: Internal section reference has been conformed.

**§ 60.1-91. Where employer's contributions are delinquent.**—Notwithstanding any other provisions of this chapter, if on July 31 of any year the contributions or any portion thereof and/or the interest due thereon for any previous quarter is delinquent and unpaid and has been delinquent and unpaid for a period of 90 days or more, the Commission may thereafter issue a notice of delinquency demanding payment, and if the amount due is not paid within 30 days after such notice is mailed to the delinquent employer at his last known address, such delinquent employer's rate for the calendar year immediately following the calendar year in which such notice is sent shall not be computed under the provisions of this article.

Source: § 60-76.2.

Note: No change.

### Article 3.

#### *Collection of Contributions.*

**§ 60.1-92. Interest on past-due contributions.**—Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission pursuant to the provisions of § 60.1-72, shall bear interest at the rate of one per centum per month from and after such date until payment plus accrued interest is received by the Commission. Interest collected pursuant to this article shall, from July first, nineteen hundred forty-six, be paid into the Special Unemployment Compensation Administration Fund continued by § 60.1-119.

Source: § 60-77.

Note: Internal section references have been conformed.

**§ 60.1-93. Contributions which accrued while employer was in armed forces.**—No interest shall be assessed against or collected from any employer upon any contributions which accrued against such employer during the period of active service of such employer in the armed forces of the United States. Any proof of such service satisfactory to the Commission shall be sufficient. Any such employer who has already paid to the Commission any interest on contributions which would have been abated under this provision shall be entitled to a refund for the amount of interest so paid upon the filing of an application therefor.

Source: § 60-77.1.

Note: § 60-77.1 is amended so as to suspend the assessment of interest which otherwise would accrue against an employer during such employer's service in the armed forces. § 60-77.1 takes care of the period from January 1, 1946, to January 1, 1954, so as to embrace World War II and the Korean Conflict. Proposed §60.1-93 makes the exemptions applicable to persons in active service in the armed forces without regard to time.

**§ 60.1-94. Collection by civil action; other remedies; compromise and adjustment.**—If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the Commission, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this article to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date. In addition to the foregoing remedy the Commission shall have such other remedies as are available to the State Tax Commissioner and county and city treasurers for the collection of taxes generally. The Commission is hereby authorized to compromise, settle and adjust any tax or taxes assessed against any employer where in the judgment of the Commission the best interests of the Commonwealth of Virginia will be promoted or served thereby and may in such cases accept in full settlement of the tax assessed an amount less than that assessed.

**Source:** § 60-78.

**Note:** No change.

**§ 60.1-95. Injunction.**—When an execution has been returned by an officer unsatisfied, and the employer against whom the judgment has been obtained on which the execution was issued continues in default of payment of the contributions, or any portion thereof, covered by the execution, such employer may be enjoined from operating and doing business in this State until such contributions have been paid. The Circuit Court of the city of Richmond shall have exclusive original jurisdiction to grant such injunction upon the complaint of the Commission. Notice of the time and place when the application for the injunction will be made shall be served on the employer, and a copy of the bill of complaint shall be served with the notice.

**Source:** § 60-79.

**Note:** “At least fifteen days” has been deleted from the beginning of the last sentence, being in conflict with the rules of court which provide for 21 days’ notice. By deleting this language, the 21 days’ notice would apply.

**§ 60.1-96. Priorities under legal dissolutions or distributions.**—In the event of any distribution of an employer’s assets, contributions then or thereafter due shall be a lien against such assets, prior to all claims of lien and general creditors. Contributions accruing by reason of an employment for an employer who is a receiver, trustee or other fiduciary shall be a lien against all the assets in the custody or control of such receiver, trustee or other fiduciary, prior and paramount to all other claims of lien and general creditors. Nothing in this article shall be construed in derogation of any prior lien of the Commonwealth or any of its political subdivisions now existing or hereafter created by law, nor any mortgage, deed of trust or other lien duly perfected prior to the date the contributions or any part thereof first accrued, provided that no such lien in favor of the Commonwealth or any of its subdivisions, nor any mortgage, deed of trust or other lien shall in any case be preferred, paramount or prior to the lien for contributions due by any such receiver, trustee or other fiduciary upon payrolls earned in the employment of such receiver, trustee or other fiduciary.

The contributions or tax imposed by this chapter shall be a lien upon the assets of the business of any employer subject to the provisions hereof who shall lease, transfer or sell out his business, or shall cease to do business and such employer shall be required, by the next reporting date as prescribed by the Commission, to file with the Commission all reports and pay all contributions due with respect to wages payable for employment up to the date of such lease, transfer, sale or cessation of the business and such employer’s successor in business shall be required to withhold suffi-

cient of the purchase money to cover the amount of the contributions due and unpaid until such time as the former owner or employer shall produce a receipt from the Commission showing that the contributions have been paid, or a certificate that no contributions are due. If the purchaser of a business or successor of such employer shall fail to withhold purchase money or any money due to such employer in consideration of a lease or other transfer and the contributions shall be due and unpaid after the next reporting date, as above set forth, such successor shall be personally liable to the extent of the assets of the business so acquired for the payment of the contributions accrued and unpaid on account of the operation of the business by the former owner or employer. Whenever the purchaser or successor of such employer shall file with the Commission a written request for a statement showing the amount of tax, if any, due by such employer, unless such statement is furnished to such purchaser or successor of such employer within ninety days from the date such written request was filed, such purchaser or successor shall not be liable for any tax or taxes due by such employer, and the lien created by this section shall thereupon be released and discharged.

Source: § 60-80.

Note: No change.

**§ 60.1-97. Refunds.**—If not later than two years after the date on which any contributions or interest thereon are paid, an employing unit which has paid such contributions or interest thereon shall make application for adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made, and the Commission shall determine that such contributions or interest or any portion thereof was erroneously collected, the Commission shall allow such employing unit to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the Commission shall refund the amount, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the Commission's own initiative.

In any case where the Commission finds that any employing unit has erroneously paid to this State contributions or interest upon wages earned by individuals in employment in another state, or under the provisions of the Federal Railroad Unemployment Insurance Act, refund or adjustment thereof shall be made, without interest, and without regard to the due date thereof, upon satisfactory proof to the Commission that payment of such contributions or interest has been made to such other jurisdiction.

In any case where the Commission finds that an instrumentality of the United States has paid to this State contributions or interest upon wages for any year with respect to which this State is not certified by the Secretary of Labor of the United States under section 3304 of the Internal Revenue Code, refund thereof shall be made to such instrumentality, without interest, and without regard to the date of payment.

Source: § 60-81.

Note: No change.

## CHAPTER 6. EMPLOYER'S COVERAGE.

**§ 60.1-98. Period of coverage generally.**—Any employing unit which is or becomes an employer subject to this title within any calendar year shall be subject to this title during the whole of such calendar year.

Source: § 60-82.

Note: No change.

**§ 60.1-99. Termination of coverage.**—Except as otherwise provided in this section and § 60.1-100, an employing unit shall cease to be an employer subject to this title as of the first day of January of any calendar year, only if it files with the Commission, prior to the second day of February of such year, a written application for termination of coverage and the Commission finds that there were no twenty different days, each day being in a different week within the preceding calendar year, within which such employing unit employed four or more individuals in employment subject to this title. For the purpose of this section, the two or more employing units mentioned in subsections (3) or (4) of § 60.1-12 shall be treated as a single employing unit.

On and after January first, nineteen hundred forty, the provisions of this section shall not apply to any employing unit which is an organization exempt from income tax under sections 501 and 502 of the Internal Revenue Code.

Any employing unit which is an employer at the end of any calendar year solely by acquisition during such year as provided in subsection (2) of § 60.1-12 shall cease to be an employer subject to this title as of January first of the succeeding calendar year without the filing of the written application required of all other employers, provided the Commission finds that there were no twenty different days, each day being in a different week within the preceding calendar year, within which such employing unit and its predecessors in title, treated as a single employing unit, employed four or more individuals subject to this title.

After December thirty-first, nineteen hundred forty-five, whenever any employer shall, during any completed calendar year, fail to be subject to the payment of contributions solely because no individual has earned wages from such employer during such calendar year, the Commission may, after not less than thirty days' notice in writing mailed to such employer at his last known address of its intention so to do, cause such employer to cease to be an employer subject to this title as of the first day of January of the calendar year in which such notice is given.

Source: § 60-83.

Note: Internal section references have been conformed.

**§ 60.1-100. Election as to coverage.**—Any employing unit, not otherwise subject to this title, which files with the Commission its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the Commission, become an employer subject hereto to the same extent as all other employers, as of January first of the calendar year for which such election is approved, and shall cease to be subject hereto as of January first of any calendar year subsequent to such two calendar years, if prior to the second day of the next succeeding February, it has filed with the Commission a written notice to that effect; provided, however, that the Commission may, on its own motion, and after ten days' written notice mailed to such employing unit at its last known address, without regard to the two year calendar period, revoke such written approval of such election and, as of the date of such revocation, such employing unit shall cease to be an employer.

Any employing unit for which services that do not constitute employment as defined in this title are performed, may file with the Commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this title for

not less than two calendar years. Upon the written approval of such election by the Commission, such services shall be deemed to constitute employment subject to this title from and after the date stated in such approval. Such services shall cease to be deemed employment subject thereto as of January first of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January such employing unit has filed with the Commission a written notice to that effect.

**Source:** § 60-84.

**Note:** No change.

## CHAPTER 7.

### EMPLOYMENT SERVICE.

**§ 60.1-101. Virginia State Employment Service.**—All rights, powers and duties formerly vested in the Department of Labor and Industry, the former Free Employment Bureau of the Department, and in the Commissioner of Labor, with respect to the establishment, maintenance and operation of free employment offices in the State, and formerly transferred to and vested in the Commission, are continued in the Commission which shall possess, exercise and perform the same through a division known as the Virginia State Employment Service. The Commission through the division shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this title.

**Source:** § 60-85.

**Note:** No change.

**§ 60.1-102. Cooperation with United States Employment Service.**—The provisions of an act passed by Congress and approved on June sixth, nineteen hundred and thirty-three, entitled “An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes,” having heretofore been accepted by and on behalf of this State, the Commission through the Virginia State Employment Service, is designated as the State agency and vested with all powers necessary to cooperate with the United States Employment Service in accordance with the terms and conditions expressed in such act of Congress.

**Source:** § 60-86.

**Note:** The words “in lieu of The Department of Labor and Industry through The Free Employment Bureau thereof” have been deleted. They no longer are applicable.

**§ 60.1-103. Cooperation and agreements with federal agencies.**—The Commission may cooperate with or enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, with respect to the maintenance and use of free employment service facilities.

**Source:** § 60-87.

**Note:** No change.

**§ 60.1-104. Financing.**—The State Treasurer is authorized to receive all grants of money apportioned to this State under the act of Congress referred to in § 60.1-102. All such funds so received shall be paid



into the separate employment service account in the Unemployment Compensation Administration Fund, and are hereby specifically appropriated to the Commission for the purpose or purposes for which they are granted unto this State.

As a part of any such agreement as is mentioned in § 60.1-103 the Commission may accept moneys, services or quarters as a contribution to the employment service account.

Source: § 60-88.

Note: No change.

§ 60.1-105. **Act continued in effect.**—Chapter 13 of the Acts of 1933, approved September 2, 1933, providing for cooperation between the Commonwealth and the United States Employment Service is, subject to the provisions of this chapter, continued in effect.

Source: § 60-89.

Note: No change.

## CHAPTER 8.

### FUNDS.

#### Article 1.

##### *Unemployment Compensation Fund.*

§ 60.1-106. **Fund continued; accounts maintained.**—The special fund established in the State treasury and known as the Unemployment Compensation Fund is continued. The Comptroller shall maintain with the fund two separate accounts: (1) a clearing account, and (2) a benefit account.

Source: § 60-90.

Note: No change.

§ 60.1-107. **Clearing account; payment to credit of federal unemployment trust fund.**—All contributions and other moneys required by this title to be paid to the Unemployment Compensation Fund and collected by the Commission, and any interest or earnings upon any moneys or property belonging to the fund shall, immediately upon collection, be paid into the State treasury and credited to the clearing account. Any interest collected on contributions from July first, nineteen hundred forty-six, shall be paid into the Special Unemployment Compensation Administration Fund continued by § 60.1-119. Refunds, except for interest collected from July first, nineteen hundred forty-six, payable pursuant to § 60.1-97 may be paid from the clearing account. After clearance thereof, all other moneys in the clearing account shall immediately be paid over to the Secretary of the Treasury of the United States, to the credit of the unemployment trust fund established by the Social Security Act, to be held for the State upon the terms and conditions provided the Social Security

Source: § 60-91.

Note: Internal section references have been conformed.

§ 60.1-108. **Requisitions from federal unemployment trust fund.**—Moneys shall be requisitioned from this State's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the Commission, except that money credited to

this State's account pursuant to § 903 of the Social Security Act, as amended, shall be used exclusively as provided in § 60.1-111. The Commission shall, from time to time, requisition from the unemployment trust fund such amounts, not exceeding the amount standing to its credit therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof, the same shall be paid into the State treasury to the credit of the benefit account, and shall be used solely to pay the benefits provided for in this title. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be paid over to the Secretary of the Treasury of the United States, as provided in § 60.1-107. All benefits shall be paid through public employment offices provided for in this title.

**Source:** § 60-92.

**Note:** Internal section references have been conformed.

**§ 60.1-109. Moneys appropriated to Commission.**—All moneys paid into the State treasury and credited to the Unemployment Compensation Fund are hereby appropriated to the Commission for the purposes hereinabove set forth.

**Source:** § 60-93

**Note:** No change.

**§ 60.1-110. Disbursements by State Treasurer upon warrants of Comptroller.**—All payments and disbursements from the Unemployment Compensation Fund shall be made by the State Treasurer upon warrants of the Comptroller issued upon vouchers signed by the Commissioner or by such other person or persons as the Commission may designate for such purpose.

**Source:** § 60-94.

**Note:** No change.

**§ 60.1-111. Requisition or use of money credited to State in unemployment trust fund.**—(1) Money credited to the account of this State in the unemployment trust fund by the Secretary of the Treasury of the United States of America pursuant to § 903 of the Social Security Act may not be requisitioned from this State's account or used except for the payment of benefits and for the payment of expenses incurred for the administration of this Act. Such money may be requisitioned pursuant to § 60.1-108 for the payment of benefits. Such money may also be requisitioned and used for the payment of expenses incurred for the administration of this Act but only pursuant to a specific appropriation by the General Assembly and only if the expenses are incurred and the money requisitioned after the enactment of an appropriation law which:

(a) Specifies the purpose for which such money is appropriated and the amount appropriated therefor;

(b) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be obligated during any twelve-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (i) the aggregate of the amount credited to the account of this State pursuant to § 903 of the Social Security Act during the same twelve-month period and the four

preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this State pursuant to such section during such five twelve-month periods.

(2) Amounts credited to this State's account in the unemployment trust fund under § 903 of the Social Security Act which are obligated for administration or paid out for benefits shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during a twelve-month period specified herein may be charged against any amount credited during such a twelve-month period earlier than the fourth preceding such period.

(3) Money requisitioned as provided herein for the payment of expenses of administration shall be deposited in the Unemployment Compensation Administration Fund, but, until expended, shall remain a part of the unemployment trust fund. The Commission shall maintain a separate record of the deposit, obligation, expenditure and return of funds so deposited.

Source: § 60-94.1.

Note: Internal section reference has been conformed.

## Article 2.

### *Unemployment Compensation Administration Fund.*

§ 60.1-112. **Fund continued; available to Commission.**—The special fund in the State treasury known as the Unemployment Compensation Administration Fund is continued. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Commission.

Source: § 60-95.

Note: No change.

§ 60.1-113. **Moneys constituting fund.**—The fund shall consist of all moneys appropriated by this State, and all moneys received from the United States of America, or any agency thereof, including the United States Department of Labor, the Railroad Retirement Board, and the United States Employment Service, or from any other source, for the purpose declared in § 60.1-114. Notwithstanding any provision of this article, all moneys requisitioned and deposited in this fund pursuant to the provisions of § 60.1-111 (3) shall remain part of the unemployment trust fund and shall be used only in accordance with the conditions specified in

Source: § 60-96.

Note: Internal section references have been conformed.

§ 60.1-114. **Expenditures solely for cost of administration.**—All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this title and for no other purpose whatsoever.

All moneys received by the Commission pursuant to the provisions of section three hundred and two of Title III of the Social Security Act, as amended, shall be expended solely for the purposes and in the amounts found necessary by the Secretary of Labor of the United States for the proper and efficient administration of this title.

Source: § 60-97.

Note: No change.

§ 60.1-115. **Replacing funds lost or expended for unnecessary purposes.**—The Commission is authorized and directed to replace in the Unemployment Compensation Administration Fund, within a reasonable time, out of any funds appropriated by the General Assembly for such purpose, any moneys received by the Commission pursuant to the provisions of section three hundred and two of Title III of the Social Security Act, as amended, which because of any action or contingency, are lost or are expended for purposes other than, or in amounts in excess of those found necessary by the Secretary of Labor of the United States for the proper administration of this title. The Commission is directed to report to the Governor in accordance with the provisions of § 2.1-54 the amount necessary to make such replacement to the Unemployment Compensation Administration Fund, and the Governor shall include in the budget reported to the General Assembly and in the tentative budget bill the amount necessary to be appropriated for such purposes.

Source: § 60-98.

Note: Internal section reference has been conformed.

§ 60.1-116. **Special employment service account.**—A special employment service account shall be maintained as a part of the Unemployment Compensation Administration Fund for the purpose of maintaining the public employment offices established pursuant to § 60.1-101, and for the purpose of cooperating with the United States Employment Service.

Source: § 60-99.

Note: Internal section reference has been conformed.

§ 60.1-117. **Disbursements by State Treasurer upon warrants of Comptroller.**—All payments and disbursements from the Unemployment Compensation Administration Fund shall be made by the State Treasurer upon warrants of the Comptroller issued upon vouchers signed by some member of the Commission designated by the Commission for such purpose, or by such other person or persons as the Commission may designate for such purpose.

Source: § 60-100.

Note: No change.

§ 60.1-118. **Expenses incurred by Auditor of Public Accounts, Comptroller and State Treasurer.**—All expenses incurred by the Auditor of Public Accounts in auditing the books, records and accounts of the Commission and in rendering other services to the Commission and all expense incurred by the Comptroller and the State Treasurer in performing the services required by this title, may be treated as administrative expenses of the Commission and accordingly paid by the Commission.

Source: § 60-101.

Note: No change.

### Article 3.

#### *Special Unemployment Compensation Administration Fund.*

§ 60.1-119. **Fund continued; interest and penalties paid into fund.**—The special fund in the State treasury known as the Special Unemployment Compensation Administration Fund is continued. All interest and penalties, regardless of when the same became payable, collected from employers under the provisions of this title, shall be paid into this fund.

Source: § 60-102.

Note: No change.

§ 60.1-120. **Proper expenditures from fund.**—No part of the Special Unemployment Compensation Administration Fund shall be expended or available for expenditure in lieu of federal funds made available to the Commission for the administration of this title. Such fund shall be used by the Commission for the payment of costs and charges of administration which are found by the Commission not to be proper and valid charges payable out of any funds in the Unemployment Compensation Administration Fund received from any source. Refunds of interest, allowable under § 60.1-97, shall be made from this special fund, provided such interest was deposited in such fund.

Source: § 60-103.

Note: No change.

§ 60.1-121. **Disbursements by State Treasurer upon warrants of Comptroller.**—All payments and disbursements from the Special Unemployment Compensation Administration Fund shall be made by the State Treasurer upon warrants of the Comptroller issued upon vouchers signed by the Commissioner, or such other person as the Commissioner may designate for such purpose.

Source: § 60-104.

Note: No change.

§ 60.1-122. **Moneys in fund continuously available to Commission.**—The moneys in the Special Unemployment Compensation Administration Fund shall be continuously available to the Commission for expenditure in accordance with the provisions of this article.

Source: § 60-105.

Note: No change.

## CHAPTER 9.

### PROTECTION OF RIGHTS AND BENEFITS.

§ 60.1-123. **Waiver of rights void.**—Any agreement by an individual to waive, release or commute his rights to benefits or any other rights under this title shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this title from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ. Any employer or officer or agent of any employer who violates any provision of this section shall, for each offense, be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly.

Source: § 60-106.

Note: No change.

§ 60.1-124. **Limitation of fees.**—No individual claiming benefits shall be charged fees of any kind in any proceeding under this title by the Commission or its representatives. Any individual claiming benefits in any proceeding before the Commission or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the Commission. Any person who violates any provision of this section shall, for each such offense, be guilty of a misdemeanor and upon conviction thereof be punished accordingly.

Source: § 60-107.

Note: No change.

§ 60.1-125. **No assignment of benefits; exemptions.**—Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this title shall be void; and such rights to benefits shall be exempt from levy, execution, attachment or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void.

Source: § 60-108.

Note: No change.

## CHAPTER 10.

### REPRESENTATION IN COURT.

§ 60.1-126. **Civil action to enforce title.**—In any civil action to enforce the provisions of this title the Commission and the State may be represented by the Attorney General.

Source: § 60-109.

Note: No change.

§ 60.1-127. **Criminal cases.**—All criminal actions for violation of any provision of this title, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney for the Commonwealth of the county or city in which the offense, or a part thereof, was committed. If, in the opinion of the Commission, in any case, the prosecution should be conducted by the Attorney General, the Attorney General, upon request of the Commission, shall have authority to conduct or supervise such prosecution.

Source: § 60-110.

Note: No change.

§ 60.1-128. **Assistants to Attorney General or special counsel.**—Where in this title any duty is required to be performed or any service to be rendered by the Attorney General, it may be performed or rendered by him through assistants or special counsel employed by the Commission upon the recommendation of the Attorney General. For the purpose of enabling the Attorney General to perform the duties required of him under this title and other duties required by law to be performed by him for the Commission, he is hereby authorized to appoint one or more assistants, and to require of them the performance of such duties as he may assign to them. The compensation of the assistants shall be fixed by the Attorney General, with the approval of the Governor, and, together with their proper expenses incurred in the performance of their duties, shall be chargeable as administrative expense of the Commission and paid in the manner in which the compensation and expenses of employees of the Commission are paid.

Source: § 60-111.

Note: No change.

## CHAPTER 11.

### VIOLATIONS, PENALTIES AND LIABILITIES.

§ 60.1-129. **False statements, etc., to obtain or increase benefits.**—Whoever makes a false statement or representation knowing it to be false

or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this title, or the unemployment compensation act of any other state, either for himself or for any other person, shall be guilty of a misdemeanor and on conviction thereof shall be punished accordingly. Each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

**Source:** § 60-112.

**Note:** No change.

**§ 60.1-130. False statements, etc., by employing units; failure to furnish reports, etc.**—Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this title, or who wilfully fails or refuses to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. Each such false statement or representation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

**Source:** § 60-113.

**Note:** No change.

**§ 60.1-131. Violation of title or rule or regulation.**—Any person who shall wilfully violate any provision of this title or any valid rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this title, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. Each day such violation continues shall be deemed to be a separate offense.

**Source:** § 60-114.

**Note:** No change.

**§ 60.1-132. Receiving benefits to which not entitled.**—Any person who has received any sum as benefits under this title to which he was not entitled shall, in the discretion of the Commission, be liable to repay such sum to the Commission for the fund or to have such sum deducted from any future benefits payable to him under this title.

In any case in which under this section a claimant is liable to repay to the Commission any sum for the fund, such sum shall be collectible without interest by civil action in the name of the Commission.

**Source:** § 60-115.

**Note:** The change.

**§ 60.1-133. Receiving back pay after reinstatement.**—Whenever the Commission finds that a discharged employee has received back pay at his customary wage rate from his employer after reinstatement such employee shall, in the discretion of the Commission, be liable to repay the benefits, if any, paid to such person during the time he was discharged or have such benefits deducted from any future benefits payable to him under this title.

**Source:** § 60-116.

**Note:** No change.

**§ 60.1-134. Deprivation of further benefits.**—Any person who has been finally convicted under this chapter shall be deprived of any further benefits for the one year period next ensuing after the date the offense was committed.

**Source:** § 60-117.

**Note:** No change.

3. All acts and parts of acts, all sections of the Code of Virginia, and all provisions of municipal charters inconsistent with the provisions of this act are, except as otherwise provided, repealed to the extent of such inconsistency.

4. The repeal of Title 60 effective as of October 1, 1968, shall not affect any act or offense done or committed, or any penalty or forfeiture incurred, or any right established, accrued or accruing on or before such date, or any prosecution, suit or action pending on that date. Except as in this act otherwise provided, neither the repeal of Title 60 of the Code of Virginia nor the enactment of Title 60.1 shall apply to offenses committed prior to October 1, 1968, and prosecutions for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purposes of this act, an offense was committed prior to October 1, 1968, if any of the essential elements of the offense occurred prior thereto.

5. Whenever in Title 60.1 any of the conditions, requirements, provisions or contents of any section, article or chapter of Title 60, as such title existed prior to October 1, 1968, are transferred in the same or in modified form to a new section, article or chapter of Title 60.1, and whenever any such former section, article or chapter of Title 60 is given a new number in Title 60.1, all references to any such former section, article or chapter of Title 60 appearing elsewhere in the Code of Virginia than in Title 60.1 shall be construed to apply to the new or renumbered section, article or chapter containing such conditions, requirements, provisions or contents or portions thereof.

6. It is the intention of the General Assembly that this act shall be liberally construed to effect the purposes set out herein, and if any clause, sentence, paragraph or section of this act shall ever be declared unconstitutional, it shall be deemed severable, and the remainder of this act shall continue in full force and effect.

7. This act shall become effective on October 1, 1968.