

CHAPTER 15**SCOPE****Authority**

N.J.S.A. 34:1-20, 34:1A-3(c), 43:21-1 et seq. and 44:8-114.

Source and Effective Date

R.1995 d.389, effective June 23, 1995.
See: 27 N.J.R. 1946(a), 27 N.J.R. 2693(a).

Executive Order No. 66(1978) Expiration Date

Chapter 15, Scope, expires on June 23, 2000.

Chapter Historical Note

Chapter 12, Scope, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 12 was readopted as R.1990 d.419, effective June 30, 1990. See: 22 N.J.R. 1895(b), 22 N.J.R. 2508(a). Chapter 12 was readopted as R.1995 d.389, effective June 23, 1995. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS**12:15-1.1 Purpose and scope of rules and regulations**

(a) Under the Unemployment Compensation Law and the Temporary Disability Benefits Law, benefits financed from tax or contributions are paid to eligible workers who become unemployed or disabled.

(b) The unemployment benefits are paid from moneys contributed to a State Unemployment Compensation Fund, and temporary disability benefits from moneys contributed to the State Disability Benefits Fund or from private plans approved by the Department of Labor and established by employers for such purposes.

(c) The rules and regulations contained in this subchapter are agency statements of general applicability, and are intended to assist in the implementation of the basic provisions of the laws pertaining to unemployment compensation and temporary disability benefits.

New rule, R.1985 d.423, effective August 19, 1985.

See: 17 N.J.R. 1378(a), 17 N.J.R. 2046(b).

This section expired December 31, 1984 and was readopted as a new rule pursuant to Executive Order 66(1978) effective August 19, 1985. Amended by R.1995 d.389, effective July 17, 1995.

See: 27 N.J.R. 1946(a), 27 N.J.R. 2693(a).

Case Notes

Claimant was not in school full-time and was not entitled to additional unemployment benefits during training. Matter of A.P., 95 N.J.A.R.2d (UCC) 23.

Previous workers' compensation award for back injury did not preclude unemployment claimant's state plan disability award for pregnancy. Matter of A.E.D., 95 N.J.A.R.2d (UCC) 22.

Unemployment claimant's work filling in for employee on maternity leave was not outside employer's usual course of business. Matter of M.S., 95 N.J.A.R.2d (UCC) 21.

Unemployment claimant could not be paid benefits for disability that was compensable under workers' compensation. Matter of J.T.S., 95 N.J.A.R.2d (UCC) 18.

Discharge of unemployment claimant for failure to renew license necessary to his employment was misconduct. Matter of R.F.B., 95 N.J.A.R.2d (UCC) 17.

Unemployment claimant's resignation to avoid probation for absenteeism was without good cause. Matter of D.G.A.B., 95 N.J.A.R.2d (UCC) 16.

Late appeal by unemployment claimant misinformed as to timely appeal procedure was for good cause. Matter of C.B., 95 N.J.A.R.2d (UCC) 15.

Claimant laid off from preschool/day care facility during summer was not disqualified from unemployment. Matter of J.S.R., 95 N.J.A.R.2d (UCC) 14.

Resignation after unemployment claimant's position was changed was without good cause attributable to work. Matter of A.L.R., Jr., 95 N.J.A.R.2d (UCC) 13.

Unemployment claimant was ineligible for workforce development program grant and additional benefits during training. Matter of L.J.B., 95 N.J.A.R.2d (UCC) 10.

Acceptance of early retirement option was voluntary without good cause attributable to unemployment claimant's work. Matter of B.O., 95 N.J.A.R.2d (UCC) 9.

Unemployment claimant's acceptance of early retirement was voluntary with good cause attributable to work. Matter of E.F.B., 95 N.J.A.R.2d (UCC) 8.

Requirements for a work search waiver in connection with unemployment claim were met. Matter of G.A.W., 95 N.J.A.R.2d (UCC) 5.

Expression of an inability to work by unemployment claimant was not a refusal to perform available, suitable work. Matter of D.M.D., 95 N.J.A.R.2d (UCC) 4.

Leaving work and accepting employer's early retirement plan upon plant shutdown was voluntary without good cause on part of unemployment claimant. Matter of W.F.B., 95 N.J.A.R.2d (UCC) 3.

Employee who was incarcerated disqualified from unemployment benefits. In the Matter of J.J.L., 95 N.J.A.R.2d (U.C.C.) 1.

Separation after unemployment claimant's incarceration due to conviction of criminal offense was voluntary without good cause. Matter of J.J.L., 95 N.J.A.R.2d (UCC) 1.

Driving instructors were employees for purposes of assessment of unemployment and temporary disability contributions. Dual Control

Auto Driving School v. New Jersey Department of Labor, 94 N.J.A.R.2d (LBR) 65.

Security guards were not independent contractors; unemployment and temporary disability contributions. J. DiSanti Concrete Corp. v. Department of Labor, 94 N.J.A.R.2d (LBR) 55.

Company supplying personnel to churches; unemployment insurance contributions. Church Personal Services, Inc. v. Department of Labor, 94 N.J.A.R.2d (LBR) 51.

Travel agency failed to prove that employees were independent contractors. Ro-Burt Travel, Inc. v. Department of Labor, 94 N.J.A.R.2d (LBR) 46.

Contractor failed to prove that employees were independent contractors. Taylor v. Department of Labor, 94 N.J.A.R.2d (LBR) 33.

Bandleader ordered to pay unemployment and disability contributions as employer. Koza v. Department of Labor, 94 N.J.A.R.2d (LBR) 16.

Installers and salespersons were not independent contractors but employees. Beautyguard Manufacturing Company of Middlesex, Inc. v. Department of Labor, 94 N.J.A.R.2d (LBR) 13.

Contractors were not independent operators but were employees. Tri-County Appliance Service Company, Inc., v. Department of Labor, 94 N.J.A.R.2d (LBR) 7.

Monetary determination for unemployment was based on both school and non-school employment and wages. Matter of D.E.E., 93 N.J.A.R.2d (UCC) 42.

Resignation in lieu of imminent discharge was not an unemployment disqualification. Matter of D.S., 93 N.J.A.R.2d (UCC) 41.

Termination while on disability did not disqualify claimant from unemployment. Matter of M.M.S., 93 N.J.A.R.2d (UCC) 40.

Remuneration while performing in employer's usual course of business constituted wages required for valid unemployment claim. Matter of A.S., 93 N.J.A.R.2d (UCC) 39.

Resignation in face of probable discharge to protect record was involuntary separation in unemployment case. Matter of A.P., Jr., 93 N.J.A.R.2d (UCC) 37.

Earlier insubordination was not reason for discharge and was not disqualifying misconduct in unemployment case. Matter of J.J.M., 93 N.J.A.R.2d (UCC) 36.

Acceptance of gratuity in performance of duties as town sanitation laborer was work connected misconduct disqualifying claimant from unemployment. Matter of L.L.M., 93 N.J.A.R.2d (UCC) 35.

Failure of unemployment claimant to supply medical note for extended leave was misconduct connected with work. Matter of J.L.C., 93 N.J.A.R.2d (UCC) 35.

Refusal of unemployment claimant to accept work between which there was little difference was not voluntary without good cause. Matter of E.M.P., 93 N.J.A.R.2d (UCC) 34.

Recurring negligence in duties as bank teller was misconduct disqualifying unemployment claimant from benefits. Matter of V.L., 93 N.J.A.R.2d (UCC) 33.

Gross misconduct in discharge of duties as sheriff's officer operated as an unemployment disqualification. Matter of L.S., 93 N.J.A.R.2d (UCC) 31.

Services for employer operating three bridges connecting New Jersey with Pennsylvania were in New Jersey employment for unemployment purposes. Matter of G.W.M., 93 N.J.A.R.2d (UCC) 29.

Separation which occurred when unemployment claimant's own conduct resulted in loss of a prerequisite of employment was voluntary. Matter of M.K., 93 N.J.A.R.2d (UCC) 28.

Unemployment claimant ineligible for summer benefits when under reasonable assurance of performing similar services in next academic year. Matter of M.A.K., 93 N.J.A.R.2d (UCC) 27.

Summer lull between nonprofessional services in one school year and professional services in next school year was not a period of unemployment eligibility. Matter of J.M.B., 93 N.J.A.R.2d (UCC) 25.

Resignation after disability due to non-work connected accident was voluntary and disqualifying. Matter of S.D.G., 93 N.J.A.R.2d (UCC) 25.

Resignation after confrontation with co-worker was voluntary without good cause attributable to work. Matter of R.G., 93 N.J.A.R.2d (UCC) 24.

Cafeteria worker laid off during summer months from educational institutions was not eligible for unemployment benefits. Matter of C.E.O'B., 93 N.J.A.R.2d (UCC) 23.

Leaving work to avoid a foot problem was for a good cause attributable to unemployment claimant's work. Matter of P.B.P., 93 N.J.A.R.2d (UCC) 22.

Continuance of leave of absence after temporary disability excluded application of alternate base year to unemployment claim. Matter of M.Z.S., 93 N.J.A.R.2d (UCC) 22.

Separation when unable to return from maternity leave was voluntary and disqualified claimant from unemployment benefits. Matter of K.C., 93 N.J.A.R.2d (UCC) 18.

Leaving work as waitress was without good cause attributable to work. Matter of J.P.O., 93 N.J.A.R.2d (UCC) 17.

Restricting one's availability to work on a job below minimum renders one ineligible for unemployment benefits. Matter of D.J.V., 93 N.J.A.R.2d (UCC) 16.

Aiding a competitor contrary to employer's interest is misconduct connected with work. Matter of J.W.A., 93 N.J.A.R.2d (UCC) 15.

Employment for college while completing an educational program was excludable from base week calculation for unemployment benefits. Matter of J.G.M., 93 N.J.A.R.2d (UCC) 13.

Leaving of work was not due to misconduct and, when involuntary, was not disqualifying. Matter of J.M.C., 93 N.J.A.R.2d (UCC) 13.

Claim for unemployment benefits was invalid absent required number of base weeks and earnings. Matter of L.N.V., 93 N.J.A.R.2d (UCC) 12.

Employer failed to prove that deliverymen were independent contractors. Independent Newspaper Delivery, Inc. v. New Jersey Department of Labor, 93 N.J.A.R.2d (LBR) 11.

Substitute teacher was not disqualified from unemployment when leaving position was not voluntary. Matter of C.W., 93 N.J.A.R.2d (UCC) 10.

Leaving of work due to congestive obstructive pulmonary disease was without good cause attributable to work. Matter of D.C., 93 N.J.A.R.2d (UCC) 9.

Maximum benefit allowance for unemployment was reduced on a weekly basis due to a pension offset. Matter of M.A.L., 93 N.J.A.R.2d (UCC) 8.

Discharge for theft of property disqualified claimant from receiving regular unemployment benefits. Matter of G.C., 93 N.J.A.R.2d (UCC) 6.

Refusal to work at new job site was not misconduct disqualifying claimant from receiving unemployment benefits. Matter of C.B., 93 N.J.A.R.2d (UCC) 6.

Carpenters were not independent contractors. Jate Building Company Corp. v. New Jersey Department of Labor, 93 N.J.A.R.2d (LBR) 5.

1½ percent changed to 1¼ percent.
 Amended by R.1988 d.535, effective November 7, 1988.
 See: 20 N.J.R. 2187(a), 20 N.J.R. 2786(a).

1¼ percent changed to 1¼ percent.
 Amended by R.1989 d.565, effective November 6, 1989.
 See: 21 N.J.R. 2700(a), 21 N.J.R. 3535(a).

Contribution rate lowered to 0.8 percent; benefit year changed to 1990.
 Amended by R.1990 d.597, effective December 3, 1990.
 See: 22 N.J.R. 2885(a), 22 N.J.R. 3627(a).

Contribution rate changed to 0.6 percent for 1991 calendar year.
 Amended by R.1991 d.573, effective November 18, 1991.
 See: 23 N.J.R. 2611(a), 23 N.J.R. 3519(a).

Contribution rate changed to 0.4 percent for 1992 calendar year.
 Amended by R.1992 d.454, effective November 16, 1992.
 See: 24 N.J.R. 3014(a), 24 N.J.R. 4269(a).

Revised (b).
 Amended by R.1993 d.589, effective November 15, 1993.
 See: 25 N.J.R. 3922(a), 25 N.J.R. 5351(a).

Amended by R.1994 d.552, effective November 7, 1994.
 See: 26 N.J.R. 3592(b), 26 N.J.R. 4410(a).

Recodified from 12:15-1.5 by R.1995 d.389, effective July 17, 1995.
 See: 27 N.J.R. 1946(a), 27 N.J.R. 2693(a).

Amended by R.1995 d.628, effective December 4, 1995.
 See: 27 N.J.R. 3760(a), 27 N.J.R. 4898(a).

Amended by R.1996 d.513, effective November 4, 1996.
 See: 28 N.J.R. 4044(a), 28 N.J.R. 4789(a).

12:15-1.5 Base week

(a) In accordance with the provisions of N.J.S.A. 43:21-19(c)(1) and (t)(2)(A) and 43:21-27(h)(3), the base week amount is hereby promulgated as being \$133.00 per week for calendar year 1997.

(b) In accordance with the provisions of N.J.S.A. 43:21-19(t)(2)(B), in those instances in which the individual has not established 20 base weeks as defined in N.J.S.A. 43:21-19(t)(2)(A), the base week amount is hereby promulgated as being \$101.00 per week for calendar year 1997.

R.1984 d.521, effective November 5, 1984 (operative January 1, 1985).
 See: 16 N.J.R. 2345(a), 16 N.J.R. 3050(b).

Amended by R.1985 d.525, effective October 21, 1985.
 See: 17 N.J.R. 2007(b), 17 N.J.R. 2561(a).

Base week amount raised from \$51.00 to \$72.00.

Amended by R.1985 d.544, effective November 4, 1985 (operative January 1, 1986).
 See: 17 N.J.R. 2080(a), 17 N.J.R. 2667(c).

Base week amount raised from "\$72.00" to "\$76.00".

Amended by R.1986 d.453, effective November 17, 1986 (operative January 1, 1987).
 See: 18 N.J.R. 1787(c), 18 N.J.R. 2331(b).

Weekly rate raised and disability commencing date changed from October 1, 1986.
 Amended by R.1987 d.470, effective November 16, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1623(b), 19 N.J.R. 2196(d).

Base week raised from \$81.00 to \$86.00

Amended by R.1988 d.535, effective November 7, 1988.

See: 20 N.J.R. 2187(a), 20 N.J.R. 2786(a).

Base week raised from \$86.00 to \$92.00.

Amended by R.1989 d.565, effective November 6, 1989.

See: 21 N.J.R. 2700(a), 21 N.J.R. 3535(a).

Base week amount raised to \$99.00 for 1990.

Amended by R.1990 d.597, effective December 3, 1990.

See: 22 N.J.R. 2885(a), 22 N.J.R. 3627(a).

Base week amount raised to \$103.00 for 1991.

Amended by R.1991 d.573, effective November 18, 1991.

See: 23 N.J.R. 2611(a), 23 N.J.R. 3519(a).

Base week amount raised to \$110.00 for 1992.

Amended by R.1992 d.454, effective November 16, 1992.

See: 24 N.J.R. 3014(a), 24 N.J.R. 4269(a).

Revised text.

Amended by R.1993 d.589, effective November 15, 1993.

See: 25 N.J.R. 3922(a), 25 N.J.R. 5351(a).

Amended by R.1994 d.552, effective November 7, 1994.

See: 26 N.J.R. 3592(b), 26 N.J.R. 4410(a).

Recodified from 12:15-1.6 and amended by R.1995 d.389, effective July 17, 1995.

See: 27 N.J.R. 1946(a), 27 N.J.R. 2693(a).

Amended by R.1995 d.628, effective December 4, 1995.

See: 27 N.J.R. 3760(a), 27 N.J.R. 4898(a).

Amended by R.1996 d.513, effective November 4, 1996.

See: 28 N.J.R. 4044(a), 28 N.J.R. 4789(a).

12:15-1.6 Alternative earnings test

(a) In accordance with the provisions of N.J.S.A. 43:21-4(e)(2)(B) and 43:21-41(d), in those instances in which the individual has not established 20 base weeks, the alternative earnings amount for establishing eligibility is hereby promulgated as being \$8,000 for unemployment compensation benefit years and periods of disability commencing on or after January 1, 1997.

(b) In accordance with the provisions of N.J.S.A. 43:21-4(e)(2)(C), in those instances in which the individual has not established 20 base weeks and does not have alternative earnings as defined in N.J.S.A. 43:21-4(e)(2)(B), the alternative earnings amount is hereby promulgated as being \$5,100 for benefit years commencing on or after January 1, 1997.

R.1984 d.520, effective November 5, 1984.

See: 16 N.J.R. 2345(b), 16 N.J.R. 3050(c).

Amended by R.1985 d.542, effective November 4, 1985 (operative January 1, 1986).

See: 17 N.J.R. 2080(b), 17 N.J.R. 2668(a).

Alternative earnings amount raised from \$4,100 to \$4,600.

Amended by R.1986 d.454, effective November 17, 1986 (operative January 1, 1987).

See: 18 N.J.R. 1788(a), 18 N.J.R. 2331(c).

Alternative earnings raised from \$4,600 to \$4,900.

Amended by R.1987 d.471, effective November 16, 1987 (operative January 1, 1988).

See: 19 N.J.R. 1623(b), 19 N.J.R. 2196(e).

Alternative earnings raised from \$4,900 to \$5,200.

Amended by R.1988 d.535, effective November 7, 1988.

See: 20 N.J.R. 2187(a), 20 N.J.R. 2786(a).

Alternative earnings raised from \$5,200 to \$5,500.

Amended by R.1989 d.565, effective November 6, 1989.

See: 21 N.J.R. 2700(a), 21 N.J.R. 3535(a).

Alternative earnings amount raised to \$6,000 for 1990.

Amended by R.1990 d.597, effective December 3, 1990.

See: 22 N.J.R. 2885(a), 22 N.J.R. 3627(a).

Alternative earnings amount raised to \$6,200 for 1991.

Amended by R.1991, d.573, effective November 18, 1991.

See: 23 N.J.R. 2611(a), 23 N.J.R. 3519(a).

Alternative earnings amount raised to \$6,600 for 1992.

Amended by R.1992 d.454, effective November 16, 1992.

See: 24 N.J.R. 3014(a), 24 N.J.R. 4269(a).

Revised text.

Amended by R.1993 d.589, effective November 15, 1993.

See: 25 N.J.R. 3922(a), 25 N.J.R. 5351(a).

Amended by R.1994 d.552, effective November 7, 1994.

See: 26 N.J.R. 3592(b), 26 N.J.R. 4410(a).

Recodified from 12:15-1.7 and amended by R.1995 d.389, effective July 17, 1995.

See: 27 N.J.R. 1946(a), 27 N.J.R. 2693(a).

Amended by R.1995 d.628, effective December 4, 1995.

See: 27 N.J.R. 3760(a), 27 N.J.R. 4898(a).
Amended by R.1996 d.513, effective November 4, 1996.
See: 28 N.J.R. 4044(a), 28 N.J.R. 4789(a).