

§ 96-16. Seasonal pursuits.

(a) A seasonal pursuit is one which, because of seasonal conditions making it impracticable or impossible to do otherwise, customarily carries on production operations only within a regularly recurring active period or periods of less than an aggregate of 36 weeks in a calendar year. No pursuit shall be deemed seasonal unless and until so found by the Division; except that any successor under G.S. 96-11.7 to a seasonal pursuit shall be deemed seasonal unless such successor shall within 120 days after the acquisition request cancellation of the determination of status of such seasonal pursuit; provided further that this provision shall not be applicable to pending cases nor retroactive in effect.

(b) Upon application therefor by a pursuit, the Division shall determine or redetermine whether such pursuit is seasonal and, if seasonal, the active period or periods thereof. The Division may, on its own motion, redetermine the active period or periods of a seasonal pursuit. An application for a seasonal determination must be made on forms prescribed by the Division and must be made at least 20 days prior to the beginning date of the period of production operations for which a determination is requested.

(c) Whenever the Division has determined or redetermined a pursuit to be seasonal, such pursuit shall be notified immediately, and such notice shall contain the beginning and ending dates of the pursuit's active period or periods. Such pursuits shall display notices of its seasonal determination conspicuously on its premises in a sufficient number of places to be available for inspection by its workers. Such notices shall be furnished by the Division.

(d) A seasonal determination shall become effective unless an interested party files an application for review within 10 days after the beginning date of the first period of production operations to which it applies. Such an application for review shall be deemed to be an application for a determination of status, as provided in G.S. 96-4, subsections (q) through (u) of this Chapter, and shall be heard and determined in accordance with the provisions thereof.

(e) All wages paid to a seasonal worker during his base period shall be used in determining his weekly benefit amount; provided however, that all weekly benefit amounts so determined shall be rounded to the nearest lower full dollar amount (if not a full dollar amount).

- (f)
- (1) A seasonal worker shall be eligible to receive benefits based on seasonal wages only for a week of unemployment which occurs, or the greater part of which occurs within the active period or periods of the seasonal pursuit or pursuits in which he earned base period wages.
 - (2) A seasonal worker shall be eligible to receive benefits based on nonseasonal wages for any week of unemployment which occurs during any active period or periods of the seasonal pursuit in which he has earned base period wages provided he has exhausted benefits based on seasonal wages. Such worker shall also be eligible to receive benefits based on nonseasonal wages for any week of unemployment which occurs during the inactive period or periods of the seasonal pursuit in which he earned base period wages irrespective as to whether he has exhausted benefits based on seasonal wages.
 - (3) The maximum amount of benefits which a seasonal worker shall be eligible to receive based on seasonal wages shall be an amount, adjusted to the nearest multiple of one dollar (\$1.00), determined by multiplying the maximum benefits payable in his benefit year, as provided in G.S. 96-14.3, by the percentage obtained by dividing the seasonal wages in his base period by all of his base period wages.
 - (4) The maximum amount of benefits which a seasonal worker shall be eligible to receive based on nonseasonal wages shall be an amount, adjusted to the nearest multiple of one dollar (\$1.00), determined by multiplying the

maximum benefits payable in his benefit year, as provided in G.S. 96-14.3, by the percentage obtained by dividing the nonseasonal wages in his base period by all of his base period wages.

- (5) In no case shall a seasonal worker be eligible to receive a total amount of benefits in a benefit year in excess of the maximum benefits payable for such benefit year, as provided in G.S. 96-14.3.

(g) All benefits paid to a seasonal worker shall be charged in accordance with G.S. 96-11.2.

(h) The benefits payable to any otherwise eligible individual shall be calculated in accordance with this section for any benefit year which is established on or after the beginning date of a seasonal determination applying to a pursuit by which such individual was employed during the base period applicable to such benefit year, as if such determination had been effective in such base period.

(i) Nothing in this section shall be construed to limit the right of any individual whose claim for benefits is determined in accordance herewith to appeal from such determination as provided in G.S. 96-15 of this Chapter.

(j) As used in this section:

- (1) "Pursuit" means an employer or branch of an employer.
- (2) "Branch of an employer" means a part of an employer's activities which is carried on or is capable of being carried on as a separate enterprise.
- (3) "Production operations" mean all the activities of a pursuit which are primarily related to the production of its characteristic goods or services.
- (4) "Active period or periods" of a seasonal pursuit means the longest regularly recurring period or periods within which production operations of the pursuit are customarily carried on.
- (5) "Seasonal wages" mean the wages earned in a seasonal pursuit within its active period or periods. The Division may prescribe by regulation the manner in which seasonal wages shall be reported.
- (6) "Seasonal worker" means a worker at least twenty-five percent (25%) of whose base period wages are seasonal wages.
- (7) "Interested party" means any individual affected by a seasonal determination.
- (8) "Inactive period or periods" of a seasonal pursuit means that part of a calendar year which is not included in the active period or periods of such pursuit.
- (9) "Nonseasonal wages" mean the wages earned in a seasonal pursuit within the inactive period or periods of such pursuit, or wages earned at any time in a nonseasonal pursuit.
- (10) "Wages" mean remuneration for employment. (1939, c. 28; 1941, c. 108, s. 7; 1943, c. 377, s. 141/2; 1945, c. 522, s. 33; 1953, c. 401, ss. 20, 21; 1957, c. 1059, s. 14; 1959, c. 362, s. 18; 1983, c. 585, s. 19; 2011-401, s. 2.17; 2013-2, s. 9(c); 2013-224, ss. 19, 20(k), (l); 2013-391, s. 7; 2015-238, s. 2.8(d).)