



Information on

LABOUR STANDARDS

1 SUMMARY

Part III of the *Canada Labour Code* (Labour Standards)

1. Coverage

Part III of the *Canada Labour Code* (Labour Standards) and accompanying Regulations apply to employees and employers in works, undertakings, or businesses under the legislative authority of the Parliament of Canada.

Broadly speaking, the activities that come within federal jurisdiction include:

- ▶ interprovincial and international services such as
 - railways;
 - highway transport;
 - telephone, telegraph, and cable systems;
 - pipelines;
 - canals;
 - ferries, tunnels, and bridges;
 - shipping and shipping services;
- ▶ radio and television broadcasting, including cablevision;
- ▶ air transport, aircraft operations, and aerodromes;
- ▶ banks;

- ▶ undertakings for the protection and preservation of fisheries as a natural resource;
- ▶ undertakings declared by Parliament to be for the general advantage of Canada such as
 - most grain elevators;
 - flour and seed mills, feed warehouses and grain-seed cleaning plants;
 - uranium mining and processing; and
 - certain individual undertakings such as the Hudson Bay Mining and Smelting Company.

Most federal Crown corporations, such as the Canada Mortgage and Housing Corporation and Canada Post Corporation, are covered while federal public service employees are not. The Government of Canada has stated, however, that the minimum standards of the *Code* will be met in the public service as a matter of policy.

This is a general outline of the undertakings subject to Part III of the *Canada Labour Code*. If you are employed in or operate an undertaking other than described above, you should contact your provincial or territorial labour department for information relating to labour standards.

Managerial and Professional Employees

The hours-of-work provisions of the *Code* do not apply to employees who are managers or superintendents or who exercise management functions or to members of architectural, dental, engineering, legal, or medical professions. Managers are also excluded from coverage under the unjust dismissal provisions.

Part-time and Casual Employees

The *Code* makes no distinction between full-time and part-time or casual employees. All are covered by its provisions if they meet the qualifying requirements.

2. Standards

The primary objective of Part III of the *Canada Labour Code* is to establish and protect the work place partners' right to fair and equitable conditions of employment.

Following are brief descriptions of the minimum standards provided by the *Code*. For further detail, please refer to the pamphlets on individual standards.

The *Code* provisions are minimum standards only and in no way interfere with more favourable rights or benefits established by collective agreement, private arrangement or employer policy. Further, unionized undertakings are exempt from the divisions of the *Code* dealing with minimum wages, annual vacations, general holidays and bereavement leave where the collective agreement provides rights and benefits as favourable or better than those in the *Code* in respect of length of leave, rates of pay

and qualifying periods; and, the collective agreement provides for the settlement of disputes by a third party.

Hours of Work

Standard hours are 8 in a day and 40 in a week. At least one and one-half times the regular rate of pay must be paid for hours worked in excess of standard hours. Maximum hours are 48 in a week. Certain provisions permit flexibility in applying these standards. As well, special regulations cover certain classes of workers in specific industries such as, for example, city and highway transport drivers.

Minimum Wages

The federal minimum wage rate is the general adult minimum wage rate established by each province and territory, as revised from time to time. Each time a province or a territory raises its minimum wage rate, the federal minimum wage rate for that province or territory is automatically raised.

Annual Vacations

An employee is entitled to at least two weeks vacation annually with vacation pay of not less than four per cent of gross wages. After six consecutive years of employment with one employer, an employee is entitled to three weeks vacation with pay, equivalent to six per cent of gross earnings.

Vacation must be granted not later than 10 months after completion of the year entitling the employee to the vacation. Any outstanding vacation pay must be paid on termination of employment.

General Holidays

Employees are entitled to nine holidays with pay each year: New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, and Boxing Day.

Provision is made for the substitution of other holidays where so designated in collective agreements or where the employer and at least 70 per cent of employees agree to the substitution. When an employee, who would have been entitled to a general holiday with pay is required to work on a general holiday, the employee will be paid, in addition to his regular rate of wages for that day, at a rate at least equal to one and one-half times his or her regular rate of wages for the time the employee worked on that day. Special provisions apply to workers in "continuous operations" and to managerial and professional employees (see pamphlet 4 in this series).

Maternity-Related Reassignment and Leave, Maternity Leave and Parental Leave

An employee who is pregnant or nursing may request that the employer temporarily modify her job duties or reassign her to another job, where reasonably practicable, if continuing any of her current duties may pose a risk to her health or that of the foetus or child. A physician's certificate indicating how long the risk is likely to last and what activities or conditions should be avoided, is required.

An employee who has worked for the same employer for at least six months is entitled to up to 17 weeks of maternity leave to have her child. The employer may not compel an employee to take leave unless she is unable to perform an essential function of her job and no appropriate alternative job is available. An additional leave of up to 37 weeks is available to natural or adoptive parents each of whom have worked for the same employer for at least six months and have or will have care and custody of a child. If both parents work for federally regulated employers, their combined parental leave cannot exceed 37 weeks. The combined maternity and parental leaves cannot exceed 52 weeks.

An employer may not dismiss, suspend, lay off, demote, or discipline an employee because she is pregnant or has applied for leave. Pregnancy or intention to take related leave cannot affect an employer's decision to train or promote her.

Upon their written request, employees on leave are entitled to be informed of any employment, promotion, or training opportunities for which they are qualified.

The *Code* also provides that seniority continue and pension, health, and disability plans remain in force during leave, provided the employee pays normally required contributions. The employer must continue payments to such plans in at least the same proportion as if the employee were at work. If there is an income replacement or insurance plan in force at the work place, an employee on leave is entitled to benefits on the same terms as any employee absent from work for health-related reasons.

Upon return from leave, the employee must be reinstated in his or her position or be given a comparable position in the same work place with the same wages and benefits. However, an employee's wages and benefits may be affected if, during the leave, the wages and benefits of the employee's group are changed as part of a plan to reorganize the work place. For further details and conditions concerning parental leave, see pamphlet 5 of this series.

Termination of Employment

Employers are required to give individual employees two weeks written notice of termination, or two weeks' pay in lieu of notice, except where the employee is dismissed for just cause. Employees must have been continuously employed for at least three months to qualify for notice or pay in lieu.

If an employer intends to terminate the employment of 50 or more employees in an industrial establishment within any 4-week period, at least 16 weeks advance notice must be given in writing to the Minister of Labour, Minister of Human Resources Development, the Canada Employment Insurance Commission, and any trade union recognized as the bargaining agent for affected employees.

Where there is no bargaining agent, notice must be given directly to the employees.

In addition, an employer who gives notice of a group termination is required to establish a committee of employer and employee representatives for the purposes of developing an adjustment plan to reduce the impact of the termination upon the affected employees.

Severance Pay

Employees with at least 12 consecutive months of service are entitled to severance pay on termination, except in cases of dismissal for just cause. The amount of entitlement is the greater of two days' pay for each completed year of service or five days' pay.

Payment of Wages

Employers are required to pay employees on the regular payday as established by the employer's practice and to pay any wages or other amounts such as overtime pay, holiday pay, vacation pay, severance pay, or bereavement pay within 30 days of entitlement.

Wage Recovery

The *Code* provides an administrative procedure for collecting unpaid wages and other benefits. If an employer has not paid an employee wages or other amounts to which the employee is entitled, a written payment order may be issued by a federal inspector to the employer or, under certain circumstances, to a director of the corporation, ordering payment of the amount in question. A person affected by a payment order may appeal to the Minister, in writing, within 15 days after service of the order. An employer or director may file an appeal only if the amount indicated in the payment order is paid to the Minister. Should the federal inspector conclude that the employee's complaint is without merit, a notice of unfounded complaint is issued. The employee may appeal to the Minister in writing within 15 days after service of the notice.

Garnishment of Wages

An employee may not be disciplined because garnishment proceedings may be or have been taken against him or her.

Deductions from Wages

An employer may not make deductions from wages or other amounts due to an employee unless the deduction is required by federal or provincial law, authorized by a court order or collective agreement, or where the deduction is related to amounts authorized in writing by an employee, or overpayment of wages by the employer. An employer may not make deductions in respect of damage to property or loss of money or property if any person other than the employee had access to the property or money in question.

Sick Leave Protection

An employee who has three or more consecutive months of continuous employment may not be disciplined, demoted, laid off, suspended, or dismissed because of absence due to illness or injury, provided the absence does not exceed 12 weeks and the employee, if requested in writing by the employer, provides the employer with a doctor's certificate certifying that the employee was not able to work during that period. Seniority accumulates and pension and benefit plans continue in force during the absence provided the employee pays within a reasonable period of time any normally required contributions. The employer is not required to continue wage payments during sick leave but must maintain contributions to health and disability benefit plans in at least the same proportion as if the employee were at work.

Injured Worker Protection

Employees are protected from dismissal, suspension, layoff, demotion, or discipline because of absence from work due to work-related illness or injury. During such absences, employees are entitled to wage replacement, payable at an equivalent rate to that provided for under applicable workers' compensation legislation in the employee's province of permanent residence.

Bereavement Leave

All employees are entitled to bereavement leave on any normal working day that occurs during the three days immediately following the death of a member of their immediate family. Employees with three or more months of service are entitled to be paid for such leave days.

Unjust Dismissal

After 12 consecutive months of employment, employees who are not managers or subject to a collective agreement and believe they have been unjustly dismissed may lodge a written complaint of unjust dismissal with the Department. The complaint must be lodged no later than 90 days from the date of the dismissal.

Departmental officials will attempt to arrange a mutually satisfactory solution to the dispute. Where this is not possible, the Minister may appoint an adjudicator to settle the matter. Complaints of dismissal due to lack of work or discontinuance of a function, or where other procedures for redress are provided in any federal statute, may not be considered by the adjudicator.

Sexual Harassment

The *Code* defines sexual harassment and establishes a right to freedom from such treatment for all employees.

Employers are required, after consultation with employees or their representatives, to issue and post a policy statement concerning sexual harassment that shall include

- ▶ a definition substantially the same as the *Code* definition;
- ▶ a statement that every employee is entitled to employment free from sexual harassment;
- ▶ a statement that the employer will make every reasonable effort to ensure that no employee is subjected to sexual harassment;
- ▶ an explanation of how complaints may be brought to the attention of the employer;
- ▶ a statement that disciplinary action will be taken against a person under the employer's direction who subjects an employee to sexual harassment;
- ▶ an assurance that the employer will not disclose the name of the complainant or the circumstances of the complaint except where disclosure is necessary for the investigation;
- ▶ information respecting employees' rights under the *Canadian Human Rights Act*.

3. Administration and inspection

The Minister of Labour has appointed inspectors to ensure that the provisions of the *Code* are respected in the work place. Inspectors carry out their work from the regional and district offices of the Department.

Under the *Code*, inspectors are empowered to inspect and copy employers' records, require employers and employees to furnish documents, administer oaths, and take and receive affidavits and statutory declarations. As well, they have the right to enter employers' premises and question employers and employees. Employers are required to give inspectors all reasonable assistance in the performance of their duties.

Employers are obliged to keep payroll and other records relating to employment for at least 36 months. They must post an outline of the *Code* requirements and notices as required by the *Code* and relevant Regulations along with an indication where one may obtain further information.

Complaints and Problems

Beyond the regular inspection program, the Department's services are available to those who want information or wish to file complaints concerning violations of the *Code*. Normally, a complainant's name will not be revealed to the employer without permission. It may be necessary to disclose the complainant's identity, however, for purposes of court proceedings.

Complaints should be made as soon as possible after the problem occurs; complaints of unjust dismissal must be made within 90 days of the date of dismissal.

4. *Information*

The following related pamphlets are available from any Human Resources Development Canada (Labour Program) office:

- 2 Minimum Wages
- 3 Annual Vacations
- 4 General Holidays
- 5 Maternity-Related Reassignment and Leave, Maternity Leave and Parental Leave
- 6 Bereavement Leave
- 7 Sick Leave and Work-Related Illness and Injury Leave
- 8 Unjust Dismissal
- 9 Hours of Work
- 9A Hours of Work Motor Transport
- 10 Terminations
- 11 Wage Recovery
- 12 Sexual Harassment

For information only. For interpretation and application purposes, please refer to Part III of the *Canada Labour Code* (Labour Standards), the *Canada Labour Standards Regulations*, and relevant amendments.

Additional copies of this publication can be obtained from:
Public Enquiries Centre
Human Resources Development Canada
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Hull, Quebec
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Cat. No. MP43-345/1-2001
ISBN 0-662-66000-5