



Labour

Information on **LABOUR STANDARDS**

11 WAGE RECOVERY

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

Following are questions and answers about wage recovery and payment orders, based on Part III of the *Canada Labour Code*. They will be of interest to employees and employers in industries under federal jurisdiction. Pamphlet 1 of this series describes the types of businesses covered by the Code. It is available from any Labour Program office and on the Labour Program website.

1. What is the wage recovery system?

The wage recovery system is an administrative tool for the collection of an employee's unpaid wages or other amounts owing, and provides a route of appeal to parties who disagree with an inspector's determination.

2. What action does the inspector take?

In the first instance, inspectors attempt to obtain voluntary compliance with the provisions of the Code. They investigate to determine whether a complaint is founded. If the complaint is founded, the inspector attempts to have the employer voluntarily pay the wages or other amounts owing.

When an inspector concludes that a complaint of non-payment of wages or other amounts is unfounded, the inspector shall so notify the complainant in writing.

3. Can an inspector's notice of unfounded complaint be appealed?

Yes. When a notice of unfounded complaint has been issued, any affected party may appeal the inspector's decision to the Minister within 15 days after service of the notice.

4. How are cases of non-payment of wages handled?

Inspectors have the power to issue a written payment order to an employer or director who fails to pay wages or other amounts owing under Part III of the *Canada Labour Code*.

5. To what extent are directors liable?

When wage recovery from a corporation is impossible or unlikely, directors may be held liable for amounts due during their incumbency. Corporate directors are jointly and severally liable for employees' wages and other amounts to which the employees are entitled such as severance and notice pay, up to a limit equivalent to six months' wages.

6. Can an inspector's payment order be appealed?

Any affected party may appeal the payment order within 15 days.

The employer or director may not appeal a payment order unless the employer or director (subject to a maximum amount) pays to the Minister the amount indicated in the payment order.

7. Who will hear the appeal?

The Minister will appoint a referee from a designated list, on a case-by-case basis, to hear an appeal of a payment order or notice of unfounded complaint. The referee has the power to summon witnesses, administer oaths, receive evidence, determine the procedure to be followed, etc. The referee will confirm, rescind or vary the payment order or notice of unfounded complaint. The referee could also award costs. The referee's order is final.

8. Does a payment order become a judgment?

The order of the referee or, if there is no appeal, the payment order of the inspector may be registered in Federal Court and proceedings taken as a court judgment.

9. What is a third party claim procedure?

A third party claim is made against a debtor of an employer, up to the amount stated in the payment order. The debtor is required to pay the amount to the Minister within 15 days. The issuance of a written order to debtor may be made by a regional director of the Department.

This publication is provided 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.

Please note that Part 4 of the *Department of Human Resources and Skills Development Act* provides that personal information may be made available to individuals upon their request in writing.

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