



Labour

Information on **Labour Standards**

1

SUMMARY

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

This publication is a general summary of the federal labour standards outlined in Part III of the *Canada Labour Code*. If you are employed in, or operate, a business or workplace other than what is described in the Coverage section below, contact your provincial or territorial labour department for their labour standards information.

1. Coverage

Part III of the *Canada Labour Code* (the *Code*) and related Regulations describe the federal labour standards which apply to employees and employers in works, undertakings, or businesses under the legislative authority of the Parliament of Canada. Broadly speaking, these include:

- interprovincial and international services such as:
 - railways;
 - road 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;
- some First Nations communities and activities;
- 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 atomic energy.

Most federal Crown corporations, such as the Canada Mortgage and Housing Corporation and the Canada Post Corporation, are also covered by the *Code*'s labour standards. Federal public service employees are not covered.

Employer – Employee Relationship

In order to be covered by the *Code*, an employer-employee relationship must exist. Independent contractors may not be considered employees. An investigation by a Labour Program inspector may be required to establish if an employer-employee relationship exists to determine if the provisions of the *Code* apply.

Full-time, Part-time, and Casual Employees

The *Code* makes no distinction between full-time, part-time or casual employees. All are covered by the *Code*'s labour standards if the employees meet the qualifying requirements.

Temporary Foreign Workers

Temporary Foreign Workers working for an employer who is subject to Part III of the *Code* have the same rights and are subject to the same qualifying criteria as any employee working in the federal jurisdiction.

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, nor do these provisions apply to members of architectural, dental, engineering, legal or medical professions. Managers are also excluded from coverage under the unjust dismissal provisions of the *Code*.

2. Federal Labour Standards

The primary objective of Part III of the *Canada Labour Code* is to establish and protect workers' rights to fair and equitable conditions of employment. The provisions of the *Code* set labour standards for employment conditions, such as minimum wage, statutory leaves, payment of wages, and notice of termination. The provisions also offer a way for employees to recover unpaid wages and seek recourse if they are unjustly dismissed.

The provisions of the *Code* in no way interfere with more favourable rights or benefits established by a collective agreement, private arrangement or employer policy. In addition, unionized employees should resolve any labour standards complaints under their collective agreement's grievance procedure, rather than using the complaints' handling process provided through the *Canada Labour Code*.

The following are brief descriptions of the monetary and non-monetary standards provided by the *Code*. For further details, refer to the series of pamphlets on individual standards identified at the end of this publication.

Monetary Standards

Minimum Wages

The federal minimum wage is the general adult minimum wage rate established by each province and territory, which is 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.

Hours of Work

Standard hours are eight 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 in the *Code* permit flexibility in applying these standards. Special regulations also cover certain classes of workers in specific industries, such as city and highway transport drivers.

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. The *Code* allows the substitution of other holidays designated in collective agreements or where the employer and at least 70 per cent of employees agree to the substitution.

When an employee is entitled to a general holiday with pay but does not work on that day, the amount owed to the employee will depend on how the employee is paid.

An employee who works on a general holiday will be paid at a rate equal to at least one and one-half times their regular rate of wages for the time that they work on the holiday.

Different calculation methods apply in the longshoring industry, in continuous operations and for managerial and professional employees.

Annual Vacations

An employee is entitled to at least two weeks of 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 of vacation with pay equivalent to six per cent of gross wages.

Vacation must be granted no later than 10 months after completion of the year entitling the employee to the vacation. Employers are required to pay employees accumulated annual vacation pay when the employee takes vacation. Any outstanding vacation pay must also be paid to an employee within 30 days upon termination of their employment.

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 four-week period, at least 16 weeks' advance notice must be given in writing to the Minister of Labour, with copies to the Minister of Employment and Social Development Canada, 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.

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

Severance Pay

Employees with at least 12 continuous months of service whose employment is terminated by their employer are entitled to severance pay, except in cases of dismissal for just cause. The amount of severance pay 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. Other wages or amounts to which the employee is entitled under the *Code*, such as overtime pay, general holiday pay, vacation pay, severance pay or bereavement pay, are to be paid within 30 days from the time that the payments are owed.

Garnishment of Wages

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

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, is authorized by a court order or collective agreement, or is related to specified amounts authorized in writing by an employee or the overpayment of wages by the employer. An employer may not make deductions for 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.

Wage Recovery

The *Code* provides a legislated process for the collection of unpaid wages and other benefits to which an employee is entitled. Following investigation of a complaint, a Labour Program inspector may issue a written payment order to the employer or, under certain circumstances, to a director of the corporation, ordering payment of the amount owed. If the inspector concludes that the complaint is unfounded, a *Notice of Unfounded Complaint* may be issued to the employee.

A person affected by a *Payment Order* or a *Notice of Unfounded Complaint* may request a review of the inspector's decision by providing written reasons within 15 days after the order or notice was served. An employer or director may only file their request if the amount indicated on the payment order is first paid to the Minister.

Non-Monetary Standards

Unjust Dismissal

After 12 or more months of continuous employment, an employee who is not a manager or subject to a collective agreement and who has been dismissed may make a written complaint of unjust dismissal with the Department. The complaint must be filed no later than 90 days from the date of the dismissal.

The *Code* provides that a Labour Program inspector may assist the parties in settling the complaint; however, this power is limited. As part of the unjust dismissal complaint handling process, an Alternate Dispute Resolution (ADR) session will be offered to the parties. The inspector's role as a mediator during the session is to structure discussions, organize information, help the parties express themselves and point out opportunities for agreement. The inspector is neutral and does not create the resolution nor make a ruling on whether the dismissal was just or unjust. Where a complaint is not settled, and on the written request of the complainant, the Minister may appoint an Adjudicator to settle the matter.

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 in the workplace.

Statutory Leaves

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. Additional parental leave of up to 37 weeks is available to natural or adoptive parents, if each has worked for the same employer for at least six months and has or will have care and custody of a child. Except where leave is extended following an employer's refusal to allow an interruption (see below), the combined maternity and parental leaves cannot exceed 52 weeks.

If the child is hospitalized during the employee's maternity or parental leave, the employee can request to have the leave interrupted. Also, while on parental leave, an employee may interrupt the leave in order to take other statutory leaves (except for purposes of annual training for reservist leave).

Compassionate Care Leave

Employees are entitled to up to 28 weeks of compassionate care leave to provide care and support to a gravely ill family member. To be eligible for the leave, a certificate is required from a qualified medical practitioner, stating that the family member has a serious medical condition with a significant risk of death within 26 weeks.

The *Code* provides protection against employee dismissal, lay off, suspension, demotion or discipline because of absence due to compassionate care leave.

An employee may interrupt the leave in order to take sick leave or work-related illness and injury leave.

Leave Related to Critical Illness

An employee, whose child is under 18 years of age and is critically ill, is eligible to take up to 37 weeks of leave to provide care or support to this child.

If two or more children of an employee are critically ill as a result of the same event, the employee is eligible for only one leave of 37 weeks. However, if two or more children of an employee are critically ill as a result of different events, the employee will be eligible for separate leaves with respect to each affected child.

An employee may interrupt the leave in order to take sick leave or work-related illness and injury leave.

The *Code* provides protection against employee dismissal, lay off, suspension, demotion or discipline because of absence due to leave related to critical illness.

Leave Related to Death and Disappearance

An employee, whose child is under 18 years of age and has disappeared or died as a result of a probable crime, is eligible to take up to 52 weeks of leave in the case of a missing child and up to 104 weeks of leave if the child has died.

An employee is not entitled to the leave of absence if the employee is charged with the crime or it is probable, considering the circumstances, that the child was a party to the crime.

If two or more children of an employee disappear or are murdered as a result of the same event, the employee is eligible for only one leave of 52 or 104 weeks respectively. However, if two or more children of an employee disappear or are murdered as a result of different events, the employee will be eligible for separate leaves with respect to each affected child.

An employee may interrupt the leave in order to take sick leave or work-related illness and injury leave.

The *Code* provides protection against employee dismissal, lay off, suspension, demotion or discipline because of absence due to leave related to death or disappearance.

The Federal Income Support for Parents of Murdered or Missing Children grant is available to eligible parents who have lost income as a result of taking time away from work to cope with the death or disappearance of their child as a result of a probable Criminal Code offence. Information on this support is available at www.servicecanada.gc.ca/pmmc.

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 17 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, would continue to be in force during the absence provided the employee pays 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, lay off, 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 a rate equivalent to that provided under applicable workers' compensation legislation in the employee's province of permanent residence.

Long-Term Disability Plans

Employers who voluntarily provide a long-term disability (LTD) plan as a discretionary benefit to their employees are required to insure these plans. The LTD obligation is on a go-forward basis commencing July 1, 2014. It does not retroactively apply with respect to employees who are already receiving LTD benefits or had applied to receive these benefits prior to this date. Labour Program inspectors have the authority to request proof that the long-term disability plan is insured.

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.

Reservist Leave

An employee who is a member of the Reserve Force and who has six or more consecutive months of continuous employment is entitled to a leave of absence without pay from their civilian employment to take part in annual training or in certain military operations in Canada or abroad. The *Code* also provides the employee with protection against dismissal, lay off, suspension, demotion or discipline due to their reservist activities.

The Canadian Forces Liaison Council provides education and support to reservists and employers and plays a key role in resolving concerns related to the deployment of reservists. For additional information about the Council, visit www.forces.gc.ca/en/business-reservist-support/index.page or call 1-800-567-9908.

3. Ensuring Compliance

Employers and employees are required to respect the labour standards outlined in Part III of the *Code*. The *Code* prohibits employers and employees from operating below these set standards, even if the parties voluntarily agree to do so.

The Labour Program promotes compliance with the *Code* by supplying information and tools to help employers and employees understand and apply federal labour standards. The Labour Program also enforces compliance with the *Code* by engaging in proactive workplace inspections and investigating complaints of labour standards violations.

When a violation is found, the employer will be asked to correct the violation or, as the case may be, implement appropriate workplace practices. The employer has the opportunity to provide an Assurance of Voluntary Compliance. This is a written commitment that the violation will be corrected within a specified period of time.

If a violation of the *Code* is not corrected despite the efforts of the Labour Program, prosecution in a court of law may be taken. Criminal prosecution may be pursued whenever someone who knows the legal obligations wilfully breaks the law. Repeated violations are an indication of intentional actions.

4. Administration

The Minister of Labour has appointed inspectors to ensure that the provisions of the Part III of the *Canada Labour Code* are respected in the workplace. 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 related to wages, hours of work and conditions of employment, require employers and employees to provide documents, administer oaths, take and receive affidavits and statutory declarations, and issue *Payment Orders* or *Notice of Unfounded Complaints*. They also have the right to enter employers' premises and to question both employers and employees. In addition, inspectors are empowered to suspend, settle and/or reject a complaint. Employees and employers are required to give inspectors all reasonable assistance in the performance of these duties.

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

Any person who receives a *Notice of Unfounded Complaint* or a *Payment Order* may request a review of the investigation decision, if the request is made to the Minister of Labour, with written reasons and within 15 days after the notice or order was served.

Upon completion of the review, the inspector's decision may be confirmed, varied or overturned. A further appeal to a referee may be requested on question of law or jurisdiction. Some cases may be referred directly to a referee to be heard.

5. Complaints

The *Code* provides a statutory process to address any complaints about federal labour standards violations.

Employees must be timely in filing a complaint. Complaints of unjust dismissal must be made within 90 days of the date of dismissal. Complaints related to unpaid wages or other amounts must be made within six months from the last day on which the employer was required to pay the amounts.

Complaints related to non-monetary violation must be filed within six months from the day on which the subject matter of the complaint arose.

On request, a complainant's name will not be revealed to the employer. It may be necessary, however, to disclose the complainant's identity for purposes of court proceedings.

6. Information

The following related pamphlets are available from the Labour Program Internet site:

- 1 Summary
- 1A Filing a Complaint
- 2 Minimum Wages
- 3 Annual Vacations
- 4 General Holidays
- 4A General Holidays – Continuous Operations
- 5 Maternity-Related Reassignment Leave, Maternity Leave, and Parental Leave
- 5A Compassionate Care Leave
- 5B Leave Related to Critical Illness
- 5C Leave Related to Death or Disappearance
- 6 Bereavement Leave
- 7 Sick Leave, Work-Related Illness and Injury Leave, and Long-Term Disability Plans
- 8 – Unjust Dismissal
– Unjust Dismissal –
Mediation Process
- 9 Hours of Work
- 9A Hours of Work – Motor Transport
- 10 Terminations
- 11 Wage Recovery
- 11A Wage Recovery –
Guide to an Appeal Hearing
- 12 Sexual Harassment
- 13 Deductions from Wages
- 14 Keeping of Records
- 15 Reservist Leave
- 16 Progressive Discipline

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

Information about these provisions may be obtained from the Labour Program by calling toll free at 1-800-641-4049, by visiting the website at www.labour.gc.ca or by submitting your questions or comments through the Labour Program [Contact Us form](#).

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You can download this publication by going online:

publiccentre.esdc.gc.ca

This document is available on demand in multiple formats by contacting 1 800 O-Canada (1-800-622-6232), teletypewriter (TTY), 1-800-926-9105.

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