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LABOUR LEGISLATION

IN

CANADA

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FOREWORD

The information in this text deals with labour legislation, and has particular reference to implications for employers. Every effort has been made to accurately reflect the legislation in force at the time of preparing the material.

It should be appreciated, however, that many of the laws contain a considerable amount of detail. Since the text does not do more than refer to basic principles it is suggested that an enquirer should consult relevant authorities or solicitors of his choice or both when seeking precise and detailed advice on a given problem at a specific time.

LABOUR LEGISLATION IN CANADA

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LABOUR LEGISLATION IN CANADA

Labour legislation in Canada is usually concerned with a contract of service between employer and employee, a contract between members of a trade union, or local working conditions.

The British North America Act, which distributes legislative powers between the Parliament of Canada and the Provincial Legislatures, grants to the provinces the right to enact laws in relation to "property and civil rights" and, with certain exception, "local works and undertakings". Such being the case, labour legislation in Canada is in large part a product of provincial enactment.

Employment in factories, for example, is usually subject to provincial regulation regarding employment of young persons, maximum hours of work, minimum rates of pay, annual vacations with pay, and certain minimum standards for the health and safety of the employee. The most important piece of legislation, however, is that dealing with unionization. Freedom of association is guaranteed and employers are required to recognize and bargain with the trade union representing the majority of their employees in an appropriate unit. Wage rates, hours of work, fringe benefits, and other aspects of working conditions, are normally settled through collective bargaining. Conciliation services are available for settlement of disputes.

EMPLOYMENT SERVICES

The National Employment Service provides a free public employment service for all Canadian employers and workers, and collects and disseminates information on manpower supply and demand in all industries and occupations and in local and regional areas as well as nationally. Over 200 National Employment Offices, located in the major urban centres, 5 regional offices, and the head office in Ottawa, are established to provide such service.

Part of the hiring service provided for employers by the National Employment Service includes locating workers with special skills not available locally and co-ordinating the movement of such workers to jobs in different parts of the country. Other services include a specialized executive and professional placement service, a student placement service supplying students as required for employers' summer needs, operation of casual labour pools, etc.

The legislation relating to the National Employment Service is found in the Unemployment Insurance Act and Regulations and in the International Labour Organization Convention No. 88 ratified by Canada in 1950.

The Province of Quebec also operates employment bureaus within the province.

Eight of the ten provinces as well as the Yukon and the Northwest Territories have legislation governing the operation of private fee-charging employment agencies. While the legislation varies from province to province it is designed in five of them and in the Yukon and the Northwest Territories to prohibit their operation. In three provinces they are licensed and regulated by the provincial authorities.

MINIMUM AGE

Except with a permit granted by the Minister of Labour (provided for in British Columbia and New Brunswick), the minimum age for employment in factories is sixteen in New Brunswick and Saskatchewan, fifteen in Alberta, British Columbia, Manitoba and Prince Edward Island and fourteen in the other provinces, excluding Newfoundland. Newfoundland does not have legislation with regard to minimum age for employment in factories.

In Nova Scotia and Ontario, children under sixteen cannot be employed during school hours, unless granted an employment certificate. In Quebec, a child between fourteen and sixteen may not be employed without a permit from provincial employment service, and in some designated occupations, where employment is deemed to be unsuitable for young persons, the minimum age is sixteen for boys and eighteen for girls. In others, boys under eighteen may not be employed and the employment of girls is forbidden.

APPRENTICESHIP AND CERTIFICATION

Apprenticeship in designated trades is subject to provincial control. On completion of apprenticeship a certificate is issued by the appropriate board.

Some of the provinces have ruled that employment in specified trades (carpentry, plumbing, automobile repairing, barbering, etc.) is subject to apprenticeship certificate or demonstration of competency. Many municipalities have by-laws for the regulation and licensing of tradesmen.

MINIMUM WAGE

A minimum wage for factory employment, usually applicable to both men and women, has been established under minimum wage legislation in all provinces but Prince Edward Island. Prince Edward Island has enacted minimum wage legislation, but has not set any rates for factories. For a few types of factory employment a higher minimum binding on all firms in the trade within an area or throughout the province may have the force of law under the terms of industrial standards legislation. In addition, of course, an employer is required to recognize and bargain with a certified trade union, and the wages set by agreement have the force of law for the duration of the contract in each individual case.

The minimum rates applicable to factory employment are as follows: in Alberta, \$34 a week in centres with a population over 5,000, and \$30 a week in the remainder of the province; in British Columbia, \$1 an hour; in Manitoba, 66 cents an hour in cities and 61 cents an hour in rural areas; in New Brunswick, 60 cents an hour for women, and for men employed in canning fish, vegetables or fruit 65 cents an hour; in Newfoundland, 50 cents an hour for men and 35 cents an hour for women; in Nova Scotia, \$14.40 to \$21.60 a week, depending on the locality, for women; in Ontario, \$26 to \$30 a week for women, depending on the locality; in Quebec, 70 cents an hour in the Greater Montreal area and 64 cents an hour in the remainder of the province; and in Saskatchewan, \$34 a week in the cities and \$32 in the rest of the province.

Industrial standards legislation in Ontario, Alberta, Manitoba, New Brunswick, Nova Scotia and Saskatchewan provides the means whereby wages and hours of work can be discussed at a conference of a representative group of employers and employees in a trade or industry, and can be made legally binding throughout the trade or industry when agreement is reached. These laws have been applied to building trades, barbering and a few other industries, such as, in Ontario, manufacture of furniture and some branches of the clothing industry. In New Brunswick and Nova Scotia, the Acts have been applied to the construction trades only.

The Collective Agreement Act in the Province of Quebec is similar in nature to the industrial standards legislation of the other provinces. Under the Act, certain terms of a collective agreement between employers and trade unions, in particular, those respecting wages, hours, vacations and apprenticeship, may be made binding by Government decree on all the employers and employees in the province or in a stated area. Decrees under this Act cover a large part of Quebec industry. The parties to a collective agreement which has been made legally binding must form a parity committee to ensure the enforcement of the decree. The cost of supervision is defrayed by a levy on the employee's remuneration and the employer's payroll. In some instances employers are required to collect the employee's contribution.

EQUAL PAY

Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan prohibit discrimination between men and women in rates of pay when they do the same or comparable work in the same establishment.

HOURS OF WORK

Five provinces have 'hours of work' laws of general application. Subject to special exemptions, weekly hours in factories are limited in British Columbia to 44; in Alberta to 44 in the four largest cities and to 48 elsewhere in the province; and in Ontario to 48. In Saskatchewan, weekly

hours in factories are limited to 44, unless time and one-half is paid. In Manitoba, the payment of time and one-half is obligatory in factory employment after 44 hours for women and after 48 hours for men but the requirement applies only in the urban areas of the province.

In the remaining provinces except Prince Edward Island there is some regulation of hours through other statutes. In Prince Edward Island, hours of work are a matter for contract.

Under all the Acts, there is provision for working 9 or more hours in a day in order to establish a 5-day week, provided the weekly maximum is not exceeded. The Acts also stipulate that hours may be exceeded in emergencies.

VACATIONS WITH PAY

Except in Newfoundland, Prince Edward Island and New Brunswick, factory workers are required by law to be granted, after a year of employment, annual vacations with pay of one week or more. Alberta, British Columbia, Manitoba and Saskatchewan provide for an annual vacation with pay of two weeks after one year's service. In the other provinces a vacation of one week with pay must be given. In addition, Saskatchewan provides for a three weeks' vacation after five years' service.

The New Brunswick legislation applies to construction, mining including the peat-moss industry, and the processing, canning and packing of fish, vegetables and fruit. It provides for an annual vacation of one week with pay after a year of employment.

Vacation pay stamps are used in some provinces. Construction workers are entitled to vacation pay stamps equivalent to 4 per cent of wages in Alberta and to 2 per cent of wages in Nova Scotia and Ontario. In Ontario, stamps are used in any industry other than the construction industry if employment is terminated during a working year.

FAIR EMPLOYMENT PRACTICES

Fair employment practices Acts prohibiting discrimination in hiring and conditions of employment and in trade union membership on grounds of race, colour, religion or national origin are in effect in British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario and Saskatchewan.

All the Acts prohibit the publication of advertisements, the use of application forms, and, except in Manitoba, the making of inquiries, either written or oral, in connection with employment which express any limitation, specification or preference as to race, colour, religion or

national origin. Several of the Acts, however, allow an exception where a preference is based upon a bona fide occupational qualification. Except in Nova Scotia and Saskatchewan, employers with fewer than five employees are excluded.

WORKMEN'S COMPENSATION

In all provinces compensation is provided for workmen in most types of industrial employment who sustain personal injury by accident arising out of and in the course of employment, unless they are disabled for less than a stated number of days, and to the dependents of such workmen if death results from an industrial accident. Compensation is also payable for specified industrial diseases.

Each Workmen's Compensation Act provides for an Accident Fund administered by a Workmen's Compensation Board to which employers are required to contribute and from which compensation and medical benefits are paid. The Acts thus provide for a system of compulsory collective liability, relieving employers of individual responsibility in accident costs. The assessment rate for each class of industry is fixed by the Board according to the hazards of the class.

A workman to whom these provisions apply has no right of action against his employer for injury from an accident occurring in the course of employment.

UNEMPLOYMENT INSURANCE

All employees paid by the hour, day or on piece rate (including a mileage rate) must be insured regardless of the amount of earnings, together with all employees who receive \$5,460 or less per annum under a weekly, monthly or yearly rate. There are certain exceptions, such as workers employed in agriculture, but in the main these exceptions are of minor interest to the businessman.

The fund from which insurance benefits are paid is created by contributions from employers, employees, and the Federal government. Employers and employees contribute equally to the scheme, the weekly contributions of each ranging from ten cents, where the earnings of the employee are less than nine dollars a week, to ninety-four cents, where the earnings are sixty-nine dollars or over per week. The Federal Government contributes an amount equal normally to one-fifth of the combined employer-employee contribution and assumes the cost of administration.

Every employer with insurable employees is required to register with the Unemployment Insurance Commission. Applications for registration are available from the 234 offices of the Commission. There is no charge for registration. When the form has been submitted a "Licence to Purchase Unemployment Insurance Stamps" may be obtained.

The licence must be produced at the Post Office each time unemployment insurance stamps are purchased. Since these stamps represent work performed for an employer, and since the period of time for which an unemployed person can draw benefits is related to the length of time that he has worked and contributed to the fund, strict control must be exercised over their sale. Only bona fide employers, as evidenced by the licence which they produce at the Post Office, can purchase unemployment insurance stamps.

The stamps are affixed to an Unemployment Insurance Book which is the property of and issued by the Unemployment Insurance Commission to an employee who lodges it with his employer while in employment. This book constitutes the record on which the employee's insurance benefits are based should he ever find himself unemployed. The employer is required to give an employee his insurance book, stamped up to date, on separation.

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