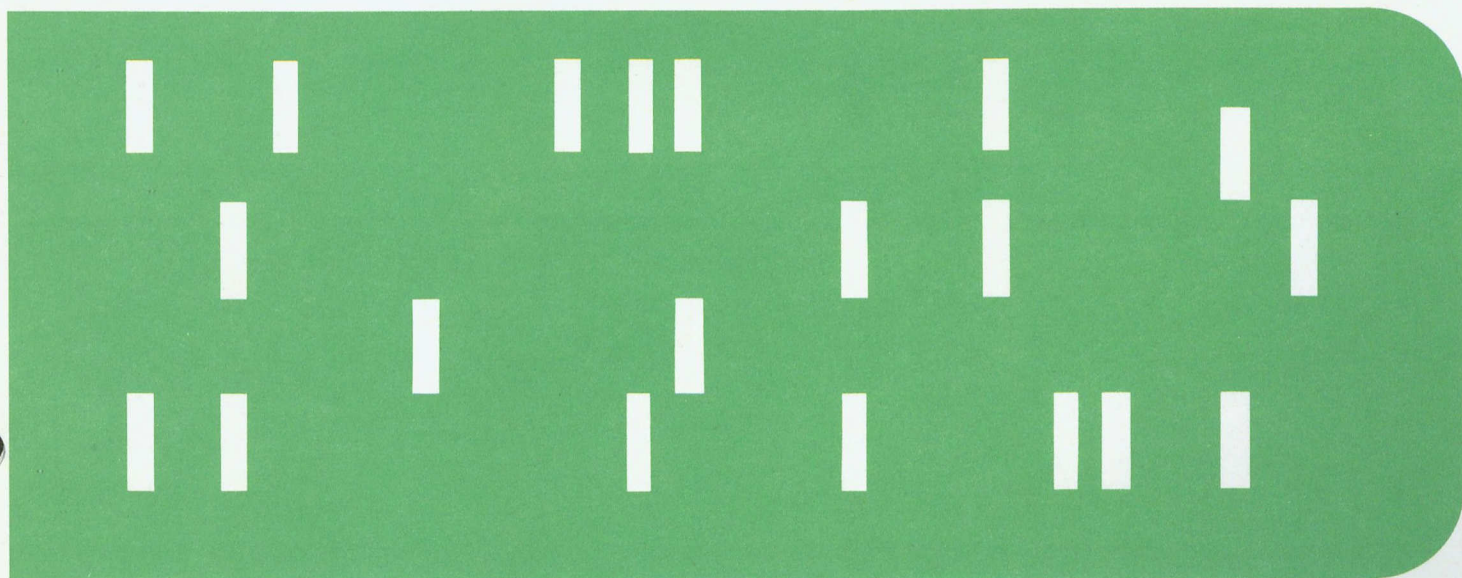


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1972 Pt.2

DOING BUSINESS IN CANADA

LABOUR LEGISLATION



DEPARTMENT OF INDUSTRY, TRADE AND COMMERCE
OTTAWA, CANADA

DOING BUSINESS IN CANADA

Labour Legislation

Prepared by
Industrial and Trade Enquiries Division
Department of Industry, Trade and Commerce
Ottawa, Canada

FOREWORD

The information in this booklet deals with labour legislation in Canada and has particular reference to implications for employers in the manufacturing industry. It is intended as a guide in this field of legislation and as such refers only to the basic principles involved.

Every effort has been made to accurately reflect the legislation in force at the time of preparing the material. However, since the law contains a considerable amount of detail and in many cases varies from province to province, it is suggested that an enquirer consult with relevant provincial or federal authorities when seeking precise and detailed advice on a given problem.

Other publications available from the series "Doing Business in Canada" are:

- The Canadian Environment
- Forms of Business Organization
- Canadian Customs Duties
- Taxation — Income, Business, Property
- Taxation — Sales, Excise, Commodity
- Construction and Equipment Standards
- Federal Incentives to Industry
- Patents, Copyrights and Trade Marks
- Tariff Preferences for Canadian Goods Abroad

Also available:

- Financing Canadian Industries

Revised 1972

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INTRODUCTION

Labour legislation in Canada is usually concerned with local working conditions or contracts of service between employers and employees and between members of a trade union.

The British North American 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 exceptions, "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. Wage rates, hours of work,

fringe benefits, and other aspects of working conditions are normally settled through collective bargaining.

Workers in industries within federal jurisdiction are subject to the Canada Labour Code. Industries and undertakings within federal jurisdiction are those of a national, interprovincial or international nature, such as railways, highway transport, pipelines, canals, and telephone, telegraph and cable systems, where any of these undertakings connect a province with another province or with another country. Shipping and services connected with shipping, air transport, radio and television broadcasting, banks, grain elevators, flour and feed mills and uranium mining are also industries within federal jurisdiction.

Labour ordinances have also been enacted by the territorial councils of the Northwest and Yukon Territories.

EMPLOYMENT SERVICES

The Canada Manpower Division of the Department of Manpower and Immigration provides a free public employment service for all Canadian employers and workers, and collects and publishes information on manpower supply and demand in all industries and occupations. These services are available from the department in Ottawa or any of its regional offices and Canada Manpower Centres.

When labour requirements cannot be met from the local labour supply, the Canada Manpower Centre can clear the employer's order to any or all other centres across Canada and, if necessary, to immigration offices in other countries. By use of electronic communications among centres in Canada, local labour requirements can often be filled with workers from distant points within a short time.

Canada Manpower Centres have personnel experienced in serving employers' needs for all classes of workers — professional, scientific, managerial, sales, clerical, skilled, semi-skilled and unskilled — whether for full or part-time employment. Professional evaluation and selection ensures that only those workers who meet the employer's specifications are referred to him for his consideration. In addition, because of technical knowledge of occupational and job requirements and experience in the selection of workers, Canada Manpower Centres are able to counsel employers on the maintenance and retention of a competent, productive work force.

The Department of Manpower and Immigration administers manpower programs which are of direct assistance to employers

in meeting their employment needs. The Occupational Training for Adults Program, besides providing assistance for individual clients to upgrade their work skills, also offers to help pay the costs of apprenticeship

training and certain types of occupational training that companies may offer to their employees. The Manpower Mobility Program provides financial assistance for workers who are required to relocate.

MANPOWER CONSULTATIVE SERVICE

The Manpower Consultative Service of the Department of Manpower and Immigration has been established to provide assistance to labour and management in meeting the challenges of manpower adjustment arising as a consequence of technological and economic change. Methods of solving manpower adjustment problems have been devised based upon the principles of joint consultation, prior research and planning and the co-ordinated

application of existing federal and provincial services and facilities including those of training and placement. Financial incentives have been provided to facilitate the joint development of plant and industry manpower adjustment programs.

Enquiries may be directed to the Director, Activities Development Branch, Canada Manpower Division, Department of Manpower and Immigration, Ottawa.

MINIMUM AGE

All provinces have legislation which fixes a minimum age for employment in factories and, in most instances, for other work places as well. Compulsory school attendance laws in each province and territory forbid the employment of school-age children during school hours.

British Columbia fixes a minimum age for employment of 15 years and New Brunswick and Nova Scotia a minimum age of 16, but provision is made in all three provinces for exceptions by permit from the Minister of Labour. The minimum age for employment

in factories in Prince Edward Island is 15 and 16 in Newfoundland, Manitoba and Saskatchewan.

In Ontario and Alberta, the minimum age is 15 but children must attend school until the age of 16. In Quebec, the minimum age is 16 but 15-year-olds may be employed during school holidays with a permit. In certain dangerous occupations, the minimum age is 16 for boys and 18 for girls. In others, boys under 18 may not be employed and the employment of girls is entirely forbidden.

APPRENTICESHIP AND TRADESMEN'S QUALIFICATIONS

All provinces and the two territories have apprenticeship laws providing for an organized procedure of on-the-job training and school instruction in designated skilled trades. On completion of apprenticeship, a certificate is issued by the appropriate board. Statutory

provision is made in most provinces for the issuing of certificates of qualification, on application, to qualified tradesmen in certain trades. In some provinces, tradesmen must hold certificates of competency in order to work in certain trades.

MINIMUM WAGE

All jurisdictions in Canada have minimum wage laws under which minimum wage rates are set. These rates are reviewed frequently. In all cases, a general rate has been set, and some provinces have also established special rates for certain industries and occupations, such as construction or logging, and for students, young, or inexperienced workers. See Appendix A for a table of general minimum hourly wage rates.

Industrial standards legislation in Ontario, Alberta, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island 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 these standards can be made legally binding throughout the trade or industry when agreement is reached. These laws have been applied chiefly to the building trades, barbering, and, in Ontario, to the fur industry and some branches of the clothing industry. In Newfoundland, New Brunswick, Nova Scotia, and Prince Edward Island the acts have been applied to the construction trades only. An advisory committee, usually representative of employers and employees, is established to assist in enforcing a schedule.

The Collective Agreement Decrees Act in

the Province of Quebec is similar in nature to the industrial standards legislation of the other provinces. Under the act, the terms of a collective agreement between employers and trade unions, who are representative of a certain industry, may be made binding by government decree on all 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 Quebec construction industry is governed by the Construction Industry Labour Relations Act, which is similar in principle to the Collective Agreement Decrees Act. It requires multi-party, multi-trade bargaining in the industry.

The Construction Industry Wages Act in Manitoba provides for the setting of minimum rates of wages and maximum hours of work at regular rates for employees in the construction industry, based on the recommendations of a board equally representative of employers and employees. A schedule for each sector of the industry, issued annually, sets hourly rates of wages and the regular work week for various classifications of construction work.

HOURS OF WORK

The federal government, five provinces and the two territories have hours of work laws of general application.

Federal employment is governed by the Canada Labour Code which sets standard hours of eight in a day and 40 in a week, after which overtime at one and one-half times the regular rate must be paid, and limits weekly hours to a maximum of 48.

In the two territories, standard hours are eight in a day and 48 in a week for most employees, with maximum hours of 10 in a day and 60 in a week. In the Yukon there is a monthly maximum of 260 hours.

In Alberta and British Columbia, maximum hours are eight in a day and 44 in a week and in Ontario, eight in a day and 48 in a week.

The Manitoba and Saskatchewan acts regulate hours through the requirement that one and one-half times the regular rate must be paid if work is continued after specified hours. In Saskatchewan, payment of the overtime rate is required after eight and 40 hours, and in Manitoba after eight and 44 hours.

In all the jurisdictions described above, provision is made for exceptions to, and variations in, the hours of work requirements.

Under all the acts, daily hours may be increased (in Manitoba and Saskatchewan, without payment of overtime rates) to provide for a five or five and a half-day week, or a four-day week in Saskatchewan, as long as weekly hours are not exceeded. Except in Saskatchewan, the acts stipulate that hours may be exceeded in emergencies.

ANNUAL VACATIONS AND PUBLIC HOLIDAYS

Most employees throughout Canada are legally entitled to a paid annual vacation. Two weeks with pay after a year of employment is the general standard. Ontario provides for one week after the first year of employment and two weeks thereafter. In Saskatchewan employees are entitled to a three-week vacation after five years of employment.

The Nova Scotia Labour Standards Code provides for five general holidays; under the

Alberta and Manitoba legislation, most employees are entitled to seven paid holidays a year; the Canada Labour Code and the laws of British Columbia, Saskatchewan and the Northwest Territories provide for eight holidays and the Yukon Territory for nine. Manitoba also has a special act dealing with Remembrance Day. Ontario requires an overtime rate to be paid when employees work on any of the seven public holidays.

FAIR EMPLOYMENT PRACTICES AND EQUAL PAY

Fair employment practices laws prohibiting discrimination in hiring, conditions of employment and trade union membership on grounds of race, colour, religion or national origin are in force throughout Canada. These prohibitions are also applicable to employment agencies.¹

The Alberta, Manitoba, New Brunswick and Quebec laws forbid employers' associations to discriminate in membership. A similar prohibition is directed in New Brunswick and Nova Scotia at professional, business or trade associations that control admission to or the practice of any occupation or calling or admission to any business or trade. In Manitoba the legislation is aimed at occupational associations.

Alberta, British Columbia, Newfoundland, and Ontario forbid discrimination in employment and trade union membership on grounds of age. All provinces except Prince Edward Island prohibit employment discrimination on the basis of sex. A special act in Ontario forbids discrimination in employment on grounds of sex and marital status.

Discrimination in the membership of trade unions and employers' organizations because of marital status is forbidden in Alberta and Manitoba; Manitoba also prohibits such discrimination in the membership of occupational groups.

These acts contain further prohibitions regarding the publication of advertisements, the use of application forms and the making of enquiries in connection with employment which express or imply discrimination on any of the forbidden grounds or which require an applicant to furnish information as to his race, colour, religion or national origin. Most of the acts allow an exception, however, where a preference is based upon a bona fide occupational qualification. In Quebec, employers with fewer than five employees are excluded from the act.

All jurisdictions except Quebec and the Yukon Territory have supplemented these laws with legislation requiring equal pay for equal work without discrimination on grounds of sex. The definition of what constitutes equal work varies.

¹The Canada Labour Code is expected to be amended in 1972 to include age, sex and marital status among the grounds on which discrimination is prohibited (Bill C-206).

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 em-

ployers 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 for 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.

INDUSTRIAL RELATIONS

All Canadian jurisdictions have legislation governing collective bargaining. These laws guarantee freedom of association and the right of employees and employers to organize; establish machinery for the certification of a trade union as the exclusive bargaining agent for an appropriate unit of employees; and require an employer and a certified trade union to bargain collectively to conclude a collective agreement covering wages and other terms of employment. Unfair practices provisions place limitations on employers and on employees or their unions regarding interference with each other's rights.

Under all the acts, government conciliation services are available to assist the parties to reach agreement. A strike or lockout is forbidden while such conciliation is in progress. A collective agreement is binding on both

parties. While it is in force, work stoppages are prohibited and disputes must be settled through a grievance procedure and, if necessary, arbitration.

In some jurisdictions, the coverage of the industrial relations act has been extended in varying degrees to unions voluntarily recognized by the employer.

In British Columbia, an employers' organization may be accredited as the exclusive bargaining agent for a group of employers. In Alberta, New Brunswick and Ontario this provision is limited to the construction industry. Quebec requires multi-party, multi-trade bargaining in the construction industry — five employer and two employee organizations are recognized as representative and must bargain together for one collective agreement leading to a decree.

INDUSTRIAL SAFETY AND HEALTH

Laws in most jurisdictions establish safeguards for the protection of the health and safety of workers with respect to such matters as sanitation, heating, lighting, ventilation and the guarding of dangerous machinery. Long-established laws regulating the design, construction, installation and operation of mechanical equipment, such as boilers and other pressure vessels, elevators and electri-

cal installations, have been revised in recent years in line with technological changes. Legal standards have been set in new fields involving hazards to workers and to the public such as in the use of gas and oil burning equipment. Laws requiring safety standards to be observed in construction and excavation work are in force in most provinces.

NOTICE OF TERMINATION OF EMPLOYMENT

In addition to the federal government, the provinces of Manitoba, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan have legislation requiring an employer to give notice to the individual worker whose employment is to be terminated. Notice periods may range from one to eight weeks. Manitoba, Nova Scotia, Newfoundland, Prince Edward Island and Quebec also place an obligation on the employee to give notice to his employer before quitting his job.

Ontario, Quebec, Nova Scotia and the federal government require an employer to give advance notice of a projected dismissal or layoff of a group of employees in order to

permit government authorities to develop and carry out programs to find alternative employment. In Quebec, notice must be given where 10 or more persons are being dismissed within a two-month period; in Nova Scotia, 10 or more employees within a four-week period; and, in the federal industries and Ontario, 50 or more persons within four weeks or less. The periods of notice vary with the number of employees being dismissed but range from eight weeks to four months.

In the federal jurisdiction, employees with five or more years of service are entitled to severance pay on termination of employment.

MATERNITY LEAVE

The federal government and the provinces of Ontario, British Columbia, New Brunswick and Nova Scotia require employers to provide unpaid maternity leave and prohibit dismissal because of pregnancy. Ontario, British Co-

lumbia and New Brunswick provide for 12 weeks of maternity leave, six weeks before and six weeks after childbirth; the federal and Nova Scotia laws provide for 17 weeks, 11 before and six after childbirth.

UNEMPLOYMENT INSURANCE

In Canada, workers who become unemployed may qualify for unemployment insurance benefits under a federal government program. The program is administered by the Unemployment Insurance Commission which comprises a chairman and two commissioners, one appointed to represent employees and the other to represent employers.

With a few exceptions, all employment in Canada performed under a contract of service is insurable and hence subject to employee's premiums and employer's premiums. Certain employment outside Canada is also insurable.

The Department of National Revenue, Taxation, is responsible for collecting employee-employer unemployment insurance premiums. In addition, it will provide information and issue rulings involving unemployment insurance coverage and premiums (contributions). All matters relating to deductions, remittances and rulings for unemploy-

ment insurance premiums, as well as Canada Pension Plan contributions and income tax deductions at source, are handled by the Department of National Revenue, Taxation. Under this arrangement, duplication of payroll audits and rulings is avoided, and all three remittances may be combined. As premium scales may change each year, it is recommended that employers obtain current information from the Department of National Revenue, Taxation, Ottawa K1A 0L5, or from the nearest District Taxation Office.

It is the employer's responsibility to issue a separation certificate to any worker who suffers an "interruption of earnings." In all cases, except illness, maternity, injury or quarantine, an interruption of earnings occurs when the employee does not work and is not paid for a period of one calendar week or more. If the employee does not work because of sickness, pregnancy, injury or quarantine, an interruption of earnings occurs when the

amount of insurable earnings received is less than two-thirds of the usual weekly insured earnings.

While it is the responsibility of the employee to provide his social insurance number to his employer, the Unemployment Insurance Act, 1971, as well as the Quebec and Canada Pension Plans, places certain responsibilities with the employer. For example, although an employee may not have a social insurance number, the employer must deduct income tax, unemployment insurance premiums and Quebec or Canada Pension Plan contributions.

Under the Unemployment Insurance Act, a reduction of the premium rate is available to employers with wage loss replacement plans covering sickness or disability, provid-

ing the plan meets the criteria established by the commission. These premium rate reductions must be shared with employees. If such a plan is made available to employees, employers' premiums will be reduced effective January 1, 1973, based on the existence of approved plans during 1972.

To qualify for a premium reduction, the employer must submit an application for premium rate reduction to the Unemployment Insurance Commission showing that his disability income plan meets the stated criteria. Subsequently the employers' share of weekly premiums would be reduced by approximately 40 cents per \$100 of insured earnings. The employees' share of this reduction would be 5/12 or approximately 17 cents per \$100 of insured earnings.

APPENDIX A

MINIMUM HOURLY WAGE RATES FOR EXPERIENCED ADULTS,
AS OF JULY 1, 1972

Federal Industries	\$1.75 (\$1.90 from November 1, 1972)
Alberta	1.55
British Columbia	1.50 (\$2.00 from December 4, 1972)
Manitoba	1.65 (\$1.75 from October 1, 1972)
Ontario	1.65
New Brunswick	1.40 (\$1.50 from January 1, 1973)
*Quebec	1.50
Newfoundland and Labrador	1.40
Nova Scotia	1.55 (\$1.65 from July 1, 1973)
Prince Edward Island	
— male	1.25
— female	1.10
Saskatchewan	1.75
Yukon Territory	1.75
Northwest Territories	1.50

*Quebec will increase its minimum hourly wage to \$1.60 on August 1, 1972; \$1.65 on November 1, 1972; \$1.70 on May 1, 1973; \$1.80 on November 1, 1973; \$1.90 on May 1, 1974; and to \$2.00 on November 1, 1974.

APPENDIX B

The following list of publications represents a selection likely to be of interest to persons doing business in Canada. All titles against which a catalogue number is quoted should be ordered from Information Canada, Ottawa, Ontario, K1A 0S9. A remittance must accompany the order and be made payable to the Receiver-General of Canada. All titles marked free should be ordered from: Publications Division, Labour Canada, Ottawa, Ontario, K1A 0J2.

TITLE	CATALOGUE NO.	PRICE \$
Provisions in Major Collective Agreements (twice yearly)		Free
Wage Determination in Canada	L2-26/3	.50
Labour Gazette (monthly)	L12-1	.50
Canada Labour (Standards) Code, Ottawa, 1966	L34-1666	Free
Canada Labour (Safety) Code, Ottawa, 1967	L34-1667	Free
Women at Work in Canada, 1964	L38-664	.60
The Behaviour of Canadian Wages and Salaries in the Postwar Period: A Graphic Presentation	L41-567	1.50
NES* Service to Small Business, Ottawa (1965)	L47-165	Free
Canadian Government Annuities	L51-165	Free
Canada Department of Labour, Annual Report	L1-1971	Free
Wage Rates, Salaries and Hours of Labour, 1970	L2-553	3.00
Workmen's Compensation in Canada	L34-1969	1.00
Working Conditions in Canadian Industry, 1970	22-15/1970	2.00
Manpower Consultative Service, Ottawa, 1965	L86-186	Free
Labour Standards in Canada, Ottawa, 1970	L2-7/1970	1.00
Labour Organizations in Canada, 1971	L2-2/1971	1.25
Teamwork in Industry (monthly)	L12-3/23	Free
Collective Bargaining Review (monthly)		Free
Labour Force	CS71-001	2.00
Fair Employment Laws in Canada		Free
Way to Profits	L32-2566	Free
National Industrial Relations Film Library		Free
Safety Film Catalogue	L36-1871	Free
Case Histories: Labour — Management Consultation Committees	L82-2371	Free
Labour Relations Legislation in Canada, Annual Supplement	L34-2069	3.50

*(NES) National Employment Service now identified as (CMC) Canada Manpower Centres.

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