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[Table of Public Statutes](#)

[Main Site](#)

[How current is this statute?](#)

[Responsible Department](#)

RSNL1990 CHAPTER L-2

LABOUR STANDARDS ACT

Amended:

1992 c17; 1993 c53 s18; 1994 c28 s14; 1996 c29; 2000 c25; 2001 c33; 2004 c36 s21; 2004 c39; 2004 c47 s22; 2008 c15; 2013 c16 s25;
2013 c18; 2016 c30; 2016 c47; 2018 c1; 2018 c32; 2019 c8 s16;
2019 c21; 2020 cC-37.03 s3; 2022 cP-3.02 s19

CHAPTER L-2

AN ACT TO PROVIDE UNIFORM MINIMUM STANDARDS OF CONDITIONS OF EMPLOYMENT IN THE PROVINCE

Analysis

[1. Short title](#)

[2. Definitions](#)

[2.1 Employment statement](#)

[2.2 Copy of Act](#)

[3. Conditions](#)

[4. Preferential conditions](#)

[5. Statutory deductions](#)

[6. Continuation of employment](#)

[6.1 Confidentiality](#)

PART I

VACATIONS WITH PAY

[7. Definitions](#)

[8. Annual vacation with pay](#)

[9. Vacation pay](#)

[10. Time of payment](#)

[11. Excess vacation](#)

[12. Where notice of termination given](#)

[13. Regulations](#)PART II
PUBLIC HOLIDAYS[14. Meaning of "public holiday"](#)[15. Public holidays](#)[16. Additional day instead](#)[17. Consent of employer and employee](#)[18. Services in the public interest](#)[19. Some employees excluded](#)[20. Limiting public holidays](#)PART III
HOURS OF WORK[21. Definitions](#)[21.1 Designation of week](#)[22. Day of rest](#)[23. Daily maximum hours](#)[24. Rest period](#)[25. Overtime](#)[25.1 Overtime not compensable](#)[26. Regulations](#)PART IV
MINIMUM WAGE[27. Regulations re: minimum wage](#)[28. Rep. by 2001 c33 s11](#)[29. Rep. by 1992 c17 s10](#)[30. Periodic review](#)[31. Payment of minimum wage](#)PART V
WAGE PROTECTION[32. Meaning of bank](#)[33. Payment of wages](#)[34. Place and time of payment](#)[34.1 Expense advance](#)[35. Particulars to be provided](#)[36. Illegal provisions](#)[36.1 Special clothing](#)[37. Priority of wage claim](#)[37.1 Definition](#)[37.2 Non-application](#)[37.3 Directors' liability for wages](#)[37.4 No relief by contract, etc.](#)[37.5 Civil remedies protected](#)PART VI
TIPS OR GRATUITIES[38. Tips or gratuities](#)

PART VII

PREGNANCY, ADOPTION AND PARENTAL LEAVE

[39. Definitions](#)[40. Pregnancy leave](#)[41. Special circumstances](#)[42. End of pregnancy leave](#)[43. Adoption leave](#)[43.1 Special circumstances](#)[43.2 End of adoption leave](#)[43.3 Parental leave](#)[43.4 Special circumstances](#)[43.5 End of parental leave](#)[43.6 Change of notice](#)[43.7 Employee's rights after leave](#)[43.8 Effect of leave on benefits](#)[43.9 Employee may not be dismissed](#)

PART VII.1

BEREAVEMENT AND SICK LEAVE

[43.10 Bereavement and sick leave](#)[43.11 Sick and family responsibility leave](#)

PART VII.2

TRAVEL COSTS

[43.12 Travel costs from remote sites](#)

PART VII.3

COMPASSIONATE CARE LEAVE

[43.13 Definitions](#)[43.14 Entitlement to leave](#)[43.15 Notice to employer](#)[43.16 Employee protection](#)

PART VII.4

UNPAID LEAVE FOR RESERVISTS

[43.17 Definitions](#)[43.18 Unpaid leave](#)[43.19 Notice of leave](#)[43.20 Exemption](#)[43.21 Employee protection](#)[43.22 Regulations](#)

PART VII.5

CRIME-RELATED CHILD DEATH OR DISAPPEARANCE LEAVE

[43.23 Definitions](#)[43.24 Entitlement to leave](#)[43.25 Notice](#)[43.26 Employee protection](#)[43.27 Regulations](#)

PART VII.6

LEAVE RELATED TO CRITICAL ILLNESS

[43.28 Definitions](#)

[43.29 Entitlement to leave](#)

[43.30 Notice](#)

[43.31 Employee protection](#)

[43.32 Regulations](#)

PART VII.7

FAMILY VIOLENCE LEAVE

[43.33 Definitions](#)

[43.34 Entitlement to leave](#)

[43.35 Notice](#)

[43.36 Employee protection](#)

[43.37 Regulations](#)

PART VII.8

COMMUNICABLE DISEASE EMERGENCY LEAVE

[43.38 Definitions](#)

[43.39 Communicable disease emergency leave](#)

[43.40 Employee protection](#)

[43.41 Regulations](#)

PART VIII

ADOPTION LEAVE

[44. Rep. by 1992 c17 s13](#)

PART IX

EMPLOYMENT OF CHILDREN

[45. Meaning of "child"](#)

[46. Employment of children](#)

[47. Regulations](#)

[48. Consent of parent or guardian](#)

PART X

NOTICE OF TERMINATION

[49. Interpretation](#)

[50. Temporary lay-off becomes termination](#)

[51. Collective agreements and written contracts of service](#)

[52. No termination without notice](#)

[53. Notice unnecessary](#)

[54. Notice unnecessary](#)

[55. Period of notice](#)

[56. Provisions respecting notice](#)

[57. Provisions relating to redundancy](#)

[58. Regulations](#)

PART XI

ADMINISTRATION

[59. Labour Standards Boards](#)

[60. Rep. by 2001 c33 s29](#)

[61. Director of Labour Standards](#)

[62. Powers of director](#)

[63. Records to be kept](#)

[64. Powers of entry, interview and inspection](#)

[65. Unpaid Wages Account](#)

[65.1 Clearance certificates](#)

[65.2 Fees previously collected](#)

[66. Regulations](#)

PART XII ENFORCEMENT

[67. Rep. by 2001 c33 s34](#)

[68. Review](#)

[69. Application for order of board](#)

[70. Rep. by 2001 c33 s37](#)

[71. Rep. by 2001 c33 s37](#)

[72. Rep. by 2001 c33 s37](#)

[73. Offence and penalty](#)

[74. Enforcement of judge's order](#)

[75. Application of Summary Proceedings Act](#)

[76. Directors, etc. of corporations](#)

[76. General offence](#)

[77. Civil remedies preserved](#)

[78. Discrimination](#)

[79. Proof of service](#)

[79. Calculation of wages owing](#)

[80. Reciprocal enforcement of orders](#)

Short title

1. This Act may be cited as the *Labour Standards Act*.

1977 c52 s1

[Back to Top](#)

Definitions

2. In this Act

(a) [Rep. by 2001 c33 s1]

(a.1) [Rep. by 2001 c33 s1]

(b) "contract of service" means a contract, whether or not in writing, in which an employer, either expressly or by implication, in return for the payment of a wage to an employee, reserves the right of control and direction of the manner and method by which the employee carries out the duties to be performed under the contract, but does not include a contract entered into by an employee qualified in or training for qualification in and working for an employer in the practice of

(i) accountancy, architecture, law, medicine, pharmacy, professional engineering, surveying, teaching, veterinary science, and

(ii) other professions and occupations that may be prescribed;

- (c) "director" means the Director of Labour Standards appointed under section 61 and includes an officer designated by the director to implement the powers conferred by section 62;
- (d) "employee" means a natural person who works under a contract of service for an employer;
- (e) "employer" means a person who is a party to a contract of service with an employee;
- (f) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (g) [Rep. 1992 c17 s1 & 1993 c53 s18]
- (h) "undertaking" includes a trade, industry, occupation or business carried on by an employer; and
- (i) "wage" means remuneration, salary, commission or return in a form permitted by this Act, or combination of forms, for work or services performed by an employee for an employer under a contract of service and, if the context so admits, includes payments provided for in this Act for vacation pay and holiday pay, but does not include tips and gratuities.

1977 c52 s2; 1984 c40 Sch B; 1989 c25 Sch B; [1992 c17 s1](#); [1993 c53 s18](#); [1994 c28 s14](#); [2001 c33 s1](#)

[Back to Top](#)

Employment statement

2.1 (1) An employer shall provide every employee with a statement in writing of the terms and conditions of his or her employment.

(2) An employer shall retain a copy of the statement referred to in subsection (1) and the employee shall be permitted to have access to it.

[2001 c33 s2](#)

[Back to Top](#)

Copy of Act

2.2 An employer shall display a copy of this Act and the regulations made under it in a prominent and visible place on his or her premises.

[2001 c33 s2](#)

[Back to Top](#)

Conditions

3. A term or condition in a contract of service that confers upon an employee conditions less favourable than the rights, benefits or privileges conferred upon the employee under this Act is void and of no effect.

1977 c52 s3

[Back to Top](#)

Preferential conditions

4. Nothing in this Act prevents a contract of service from conferring upon an employee terms or conditions more favourable to the employee than the rights, benefits and privileges conferred upon

the employee under this Act.

1977 c52 s4

[Back to Top](#)

Statutory deductions

5. All wages paid to an employee by an employer under this Act or by a regulation or order made under this Act are subject to all deductions that are required to be made from those wages under a statute of the province or of the Parliament of Canada.

1977 c52 s5

[Back to Top](#)

Continuation of employment

6. Where an employer transfers, assigns or conveys the undertaking of that employer to another person or firm, and that person or firm continues the undertaking so transferred, assigned or conveyed, the continued and uninterrupted employment of the employee by the person having so acquired the undertaking shall be considered to be continuous with the period of employment with the 1st named employer, and counts as against the new employer for the regulation of the rights, benefits and privileges of the employee under this Act.

1977 c52 s6

[Back to Top](#)

Confidentiality

6.1 (1) A person shall keep confidential all information that comes to his or her knowledge in the administration of Parts VII to VII.7 or relating to the exercise of his or her powers and duties under those Parts.

(2) Notwithstanding subsection (1), an employer or a person employed by an employer may disclose information that comes to his or her knowledge where

- (a) the employee to whom the information relates consents to the disclosure;
- (b) the disclosure is required by this Act or another Act or regulation; or
- (c) the disclosure is required by the employer for the administration of Parts VII to VII.7 or to exercise the powers and perform the duties conferred or imposed on the employer under those Parts.

[2018 c32 s1](#)

PART I VACATIONS WITH PAY

[Back to Top](#)

Definitions

7. In this Part

- (a) "annual vacation" means the vacation to which an employee is entitled under subsection 8(1) or (1.1);
- (b) "normal working hours" means the number of hours that an employee might reasonably expect to work in the type of work in which the employee is engaged, consideration being given to

- (i) this or another Act and the orders, rules and regulations made under those Acts, or
- (ii) a more favourable provision of a collective agreement, contract of service or custom; and
- (c) "vacation pay" means the wages to which an employee is entitled under this Part, whether or not the employee is entitled to annual vacation.

1977 c52 s7

[Back to Top](#)**Annual vacation with pay****8. (1) Where**

- (a) an employee works for an employer at least 90% of the normal working hours in a continuous 12 month period, beginning on the date of the start of employment or upon termination of a preceding 12 month period; and

- (b) the employment by that employee does not stop before the end of that 12 month period,

the employer shall permit the employee, within 10 months after the end of the continuous 12 month period, to take an annual vacation of not less than 2 weeks, and shall pay to the employee at the time provided in section 10 wages amounting to 4% of the total wages earned by that employee during the 12 month period.

(1.1) Notwithstanding subsection (1), where an employee meets the requirements of subsection (1) and has completed 15 years of continuous employment with the same employer, the employer shall permit the employee within 10 months after the end of the 15 year period to take an annual vacation of not less than 3 weeks and shall pay to the employee at the time provided in section 10 wages amounting to 6% of the total wages earned by that employee during the 12 month period.

(2) Where a public holiday occurs during the period of an annual vacation, the period of the annual vacation shall be lengthened by 1 working day for each public holiday.

(2.1) The employer shall, unless the employer and employee agree upon shorter periods, permit the employee to take the annual vacation

- (a) in one unbroken period of 2 weeks; or
- (b) in 2 unbroken periods of one week each,

if the employee, not later than the date on which the employee becomes entitled to the annual vacation, gives the employer written notice of the intention to take the vacation by either of the methods specified in paragraphs (a) and (b).

(3) The employer shall, unless the employer and employee agree upon shorter periods, permit the employee to take the annual vacation

- (a) in one unbroken period of 3 weeks;
- (b) in 2 unbroken periods of 2 weeks and one week respectively; or
- (c) in 3 unbroken periods of one week each,

if the employee, not later than the date on which the employee becomes entitled to the annual vacation, gives the employer written notice of the intention to take the vacation by either of the methods specified in paragraph (a), (b) or (c).

(4) Unless the employer and employee otherwise agree in writing, the employer shall give to the employee not less than 2 weeks written notice of the dates of the annual vacation, and upon the notice being given, the employee shall take the annual vacation during the period specified in the notice.

(5) Where an employer cancels, or changes the dates of the employee's annual vacation after having given the notice to the employee required by subsection (4), the employer shall reimburse the employee for reasonable expenses incurred by the employee with respect to the cancelled or changed vacation that are not otherwise recoverable by the employee.

1977 c52 s8; 1996 c29 s2; 2001 c33 s3

[Back to Top](#)

Vacation pay

9. (1) Where subsection 8(1) or (1.1) does not apply, the employee is not entitled as of right to an annual vacation, but the employer shall pay to the employee, on or before the times specified in subsection (2),

- (a) to an employee who has completed 15 years of continuous employment with the same employer, 6%; or
- (b) to an employee who has completed less than 15 years of continuous employment with the same employer, 4%

of the total wages earned by the employee for the hours worked by the employee within the continuous 12 month period, or until the cessation of employment of the employee within the 12 month period.

(2) The sums required to be paid by the employer under subsection (1) shall be paid within 1 week after the termination of the continuous 12 month period, or the date of cessation of employment.

(3) Payment is not required to be made by an employer under this section unless the employee has been employed by the employer for 5 consecutive work days or more.

(4) The pay record given by an employer to an employee shall include the amount of vacation pay that has been paid during the pay period beginning on the day after the last pay day and ending in the current pay day.

1977 c52 s9; 1992 c17 s2; 1996 c29 s3; 2001 c33 s4

[Back to Top](#)

Time of payment

10. An employer shall, at least 1 day before the annual vacation, or a part of it, of an employee begins, pay to the employee the vacation pay, or a part of it, to which the employee is entitled for the period of vacation taken or given.

1977 c52 s10

[Back to Top](#)

Excess vacation

11. Where an employee is permitted by the employer to take a period of vacation in excess of the annual vacation required to be given by this Part, that excess vacation does not negate in whole or in part a future annual vacation or vacation pay to which the employee may be entitled under this Part.

1977 c52 s11

[Back to Top](#)

Where notice of termination given

12. (1) Where an employer or employee gives notice of termination of the contract of service, the employer shall not, unless the parties otherwise agree, require the employee to take, nor shall the employee take, a part of an annual vacation to which the employee is entitled during the period that the employee is required by the contract of service to continue in the service of the employer after the giving of the notice of termination.

(2) The employer shall, upon termination of the contract of service, pay to the employee the vacation pay to which the employee is entitled in addition to the wages properly earned by the employee for the period following the notice of termination.

1977 c52 s12

[Back to Top](#)

Regulations

13. The Lieutenant-Governor in Council may make regulations for carrying out the purposes of this Part and, in particular, may make regulations establishing a system by which an annual vacation, or a part of it, with or without vacation pay, may be taken by employees during the 12 month period during which the annual vacation is accruing.

1977 c52 s13

PART II PUBLIC HOLIDAYS

[Back to Top](#)

Meaning of "public holiday"

14. (1) In this Part, "public holiday" means

- (a) New Year's Day;
- (b) Good Friday;
- (b.1) Remembrance Day;
- (c) Memorial Day;
- (d) Labour Day;
- (e) Christmas Day; and
- (f) other days that may be proclaimed by the Lieutenant-Governor in Council as a public holiday for the purpose of this Act.

(2) A collective agreement within the meaning of the *Labour Relations Act* may make provision for holidays that differ from the public holidays described in subsection (1) and the holiday set out in the collective agreement shall be considered to be a public holiday for the purposes of applying this Part in respect of employers and employees bound by the collective agreement.

(3) A provision in the collective agreement is void if it reduces or tends to reduce the number of public holidays in a year that an employee would be entitled to under this Part.

1977 c52 s14; [2001 c33 s5](#)[Back to Top](#)

Public holidays

15. (1) An employer shall not require an employee to work under a contract of service on a public holiday.

(2) An employer shall pay to an employee the wages to which the employee would be entitled for work performed during a public holiday notwithstanding that no work is performed by the employee during that public holiday.

(3) The wages to which an employee is entitled under subsection (2) shall be calculated by multiplying the employee's hourly rate of pay by the average number of hours worked in a day by the employee in the 3 weeks immediately preceding the holiday.

1977 c52 s15; [2001 c33 s6](#)

[Back to Top](#)

Additional day instead

16. Where a public holiday falls on a day that an employee is not required to work under the contract of service, the employer shall not require that employee to work during the 1st working day immediately following the public holiday, or during another day on which the employer and the employee shall mutually agree, and subsection 15(2) applies as if the day not worked were a public holiday for that employee.

1977 c52 s16

[Back to Top](#)

Consent of employer and employee

17. (1) Notwithstanding anything contained in this Part, an employer and employee may agree that a public holiday will be a working day for that employee, and upon the employee working during that day in accordance with the terms of the contract of service, the employer shall, notwithstanding the terms of that contract, and at the option of the employee,

- (a) pay to the employee twice the wages properly earned by the employee for that day under the contract of service as if that day were a normal working day;
- (b) permit the employee to enjoy 1 full day's holiday within 30 days after the public holiday with the same pay that the employee would be entitled to under subsection 15(2) if that day were a public holiday; or
- (c) permit the employee to add to the annual vacation to which the employee is entitled under Part I 1 extra full day with the same pay that the employee would be entitled to under subsection 15(2) if that day were a public holiday.

(2) Notwithstanding paragraph (1)(a), where an employer requires an employee to work on a public holiday for a number of hours that is less than the number of hours that the employee would work if it were a normal working day, the employer shall pay to the employee his or her normal wages for the number of hours worked, plus the wages the employee would have earned if the day were a normal working day.

1977 c52 s17; [1992 c17 s3](#)

[Back to Top](#)

Services in the public interest

18. (1) Notwithstanding section 15, an employer engaged in an undertaking that is responsible

- (a) for the operation of a public utility service;

- (b) for the provision of a service the continuation of which, in the opinion of the minister, is necessary or essential in the public interest; or
- (c) for a service traditionally carried on without regard to Sundays or public holidays, including industrial establishments in which operations once begun normally continue without cessation,

may require an employee to fulfil the terms of the contract of service during a public holiday.

(2) Where an employee is required to work under this section during a public holiday and has so worked, the employer shall, notwithstanding the terms of a contract of service and at the option of the employee,

- (a) pay to the employee twice the wages properly earned by the employee for that day under the contract of service as if that day were a normal working day; or
- (b) permit the employee to enjoy 1 full day's holiday within 30 days after the public holiday with pay to which the employee would be entitled if that day were a public holiday for that employee.

1977 c52 s18; [1992 c17 s4](#)

[Back to Top](#)

Some employees excluded

19. (1) Subsection 15(2) does not apply to an employee

- (a) where the public holiday occurs within 30 days following the beginning of the employee's employment with the employer;
- (b) [Rep. by 2001 c33 s7]
- (c) where the employee fails, without just cause or without the consent of the employer, to comply with the contract of service on the regular work day immediately preceding, and the regular work day immediately succeeding, the public holiday, or either of those work days.

(2) Paragraph (1)(b) does not apply to an employee who, in the 30 day period immediately preceding the public holiday, works the number of hours which may be prescribed by the Lieutenant-Governor in Council.

1977 c52 s19; [1992 c17 s5](#); [2001 c33 s7](#)

[Back to Top](#)

Limiting public holidays

20. A proclamation of a public holiday made by the Lieutenant-Governor in Council under paragraph 14(f) may be made applicable to all undertakings or the class of undertakings that may be specified in the order.

1977 c52 s20

PART III HOURS OF WORK

[Back to Top](#)

Definitions

21. In this Part

- (a) "standard working hours" means the number of prescribed hours in a week for employees or a class of employees in prescribed undertakings; and
- (b) "week" means a period of 7 continuous days designated and consistently used by an employer for the purpose of this Part, or a period of 7 continuous days beginning after midnight on a day that may be prescribed by the regulations.

1977 c52 s21; [1992 c17 s6](#)

[Back to Top](#)

Designation of week

21.1 (1) An employer may designate a period of 7 continuous days as a week for the purpose of this Part.

(2) Where an employer who has designated a period of 7 continuous days as a week for the purpose of this Part changes that designation and an employee of the employer believes that he or she has suffered a loss of wages as a result of the change of designation, the employee may make a complaint to the director.

(3) Where a complaint is made against an employer under subsection (2), the onus of proving that an employee of his or hers has not suffered a loss of wages as a result of the change of designation rests with the employer.

[1992 c17 s7](#)

[Back to Top](#)

Day of rest

22. (1) An employer shall grant to every employee a period of rest of not less than 24 consecutive hours during each week of employment.

(2) Without limiting anything contained in a statute of the province relating to specific undertakings, the rest period referred to in subsection (1) shall be a Sunday wherever possible.

(3) Subsection (1) does not apply in respect of

- (a) [Rep. by 2001 c33 s8]
- (b) employees or a class of employees employed in prescribed undertakings or a part of them;
- (c) employees of employers who have applied for and received from the minister a written exemption from subsection (1); or
- (d) employees engaged in work of an emergency nature that necessitates immediate remedial action,

and in case of dispute in relation to employees referred to in paragraph (d), the board shall, subject to the regulations, determine whether or not an employee is an employee to which that paragraph applies.

(4) An exemption mentioned in paragraph (3)(c) applies only for the period and subject to those conditions, including conditions relating to accumulation of periods of rest, that the minister may set out in the written exemption.

(5) The minister may exempt an employer from the application of subsection (1) and may vary or revoke that exemption.

1977 c52 s22; [2001 c33 s8](#); [2004 c47 s22](#)

[Back to Top](#)

Daily maximum hours

23. Except in the case of an emergency that constitutes an imminent hazard to life or property, an employer shall permit an employee to take and an employee shall take not less than 8 consecutive hours off work in each unbroken 24 hour period of employment.

1977 c52 s23

[Back to Top](#)

Rest period

24. (1) Subject to the regulations, an employer shall permit an employee to take an unbroken rest period of 1 hour immediately following each 5 consecutive hours employed under the contract of service.

(2) A collective agreement within the meaning of the *Labour Relations Act* or in a written contract of service between the employer and the employee may make provision for a rest period that differs from that provided for in subsection (1) both with respect to its duration and timing and a rest period set out in that collective agreement or written contract of service shall be considered to be a rest period for the purpose of this Part in respect of an employer and an employee bound by the collective agreement or written contract of service.

[1992 c17 s8](#)

[Back to Top](#)

Overtime

25. (1) Where an employee works in excess of the standard working hours as permitted by this Part, the employer shall pay to the employee the rate of wages for overtime that may be set out in the regulations by prescribed formula, which may differ for different classes of employees in different undertakings or a part of them.

(2) An employer may compensate an employee for overtime hours by giving one and a half hours of paid time off work for each hour of overtime worked instead of overtime pay where,

- (a) the employer and the employee agree to do so; and
- (b) the paid time off work is taken within 3 months of the work week in which the overtime was earned or, with the employee's agreement, within 12 months of that work week.

(3) Where the employment of an employee ends before the paid time off is taken under subsection (2), the employer shall pay the employee overtime pay for the overtime hours that were worked.

1977 c52 s25; [2001 c33 s9](#)

[Back to Top](#)

Overtime not compensable

25.1 Where an employee agrees with one or more other employees to a change in their work schedule and the employer of the employee grants the employee, after the employee has requested in writing to do so, a change in the employee's work schedule that results in the employee working in excess of the standard working hours as permitted by this Part, the employer is not required to pay the employee the rate of wages for overtime set by the regulations.

[2001 c33 s10](#)

[Back to Top](#)

Regulations

26. The Lieutenant-Governor in Council may make regulations for the purpose of this Part

- (a) fixing the number of hours in a week to comprise the standard working hours for the purpose of paragraph 21(a), and prescribing the same or different hours for employees or classes of employees employed in different specified undertakings;
- (b) fixing the day when a week is to begin for a specified undertaking, or part of it, for the purposes of paragraph 21(b);
- (c) fixing the maximum number of hours and days in each week to be worked by employees or classes of employees in particular specified undertakings, or a part of them;
- (d) setting the minimum rates of wages for overtime referred to in section 25 to be paid to employees or classes of employees who work in excess of the standard working hours in a particular specified undertaking;
- (e) exempting employees or classes or groups of employees of employers in specified undertakings or classes of undertakings from the application of all or a part of this Part;
- (f) regulating periods of work in each day to be carried out by employees or groups or classes of employees working for employers in specified undertakings or classes of undertakings; and
- (g) varying the rest period set out in section 24 and setting the same or different rest periods for different undertakings or groups or classes of employees in undertakings.

1977 c52 s26

**PART IV
MINIMUM WAGE**

[Back to Top](#)

Regulations re: minimum wage

27. The Lieutenant-Governor in Council may make regulations respecting minimum wages payable by an employer to an employee including regulations respecting

- (a) the undertakings and the areas to which minimum wages should be applied;
- (b) the classifications of employees to whom minimum wages are to be applied;
- (c) the minimum rates of wages for different undertakings or areas prescribed under paragraph (a) and for a classification prescribed under paragraph (b);
- (d) different minimum rates of wages based on commission piece-work or work measured in any manner, whether on a time basis or not;
- (e) special minimum rates of wages for apprentices or inexperienced employees;
- (f) the maximum amount that may be deducted from a prescribed minimum wage in cases where the employer provides to the employee board, lodging, laundry or other services; and
- (g) the minimum period that should be served by an employee who is called out by the employer to serve under the contract of service on a day or the minimum wages to be paid to that employee instead of services that should otherwise be provided by the employee during that day.

[2001 c33 s11](#)[Back to Top](#)**Rep. by 2001 c33 s11**

28. [Rep. by 2001 c33 s11]

[2001 c33 s11](#)[Back to Top](#)**Rep. by 1992 c17 s10**

29. [Rep. by 1992 c17 s10]

[1992 c17 s10](#)[Back to Top](#)**Periodic review**

30. Every 2 years from the date of coming into effect of regulations made under section 27 or within the lesser period that the Lieutenant-Governor in Council decides, the minister shall review the regulations respecting the minimum wages payable by an employer to an employee.

[2001 c33 s11](#)[Back to Top](#)**Payment of minimum wage**

31. (1) An employer to whom a regulation made under section 27 applies shall pay to an employee wages that are not below the rate set out in the regulation.

(2) An employer to whom the regulations made under section 27 applies shall post and keep posted a copy of the regulations in a conspicuous place where employees are engaged in their duties.

[1977 c52 s31](#); [1992 c17 s12](#); [2001 c33 s12](#)

PART V WAGE PROTECTION

[Back to Top](#)**Meaning of bank**

32. In this Part, "bank" means

- (a) a bank to which the *Bank Act* (Canada) applies;
- (b) another financial institution whose deposits are insured by the Canada Deposit Insurance Corporation; and
- (c) a credit union to which the *Credit Union Act* applies.

[2001 c33 s13](#)[Back to Top](#)

Payment of wages

33. (1) At least half monthly and within 7 days after the end of the pay period, an employer shall pay to an employee all wages earned by the employee in a pay period.

(2) Where an employee's contract of service is terminated, the employer shall pay to the employee within 1 week from the date of the termination of the contract of service the wages due to that employee up until the date of termination of that contract.

1977 c52 s33; [2001 c33 s14](#)

[Back to Top](#)

Place and time of payment

34. (1) An employer shall pay to an employee

- (a) at the employee's place of employment within the regular working hours of the employee or another time that the employer and employee may agree;
- (b) at the place of normal residence of the employee either by personal delivery or by prepaid postage addressed to the employee at that address; or
- (c) by deposit to the account of the employee within the bank of the employee,

the wages to which the employee is entitled.

(2) An employer shall pay the wages to which an employee is entitled

- (a) in lawful currency of Canada ;
- (b) by cheque or order drawn on a bank in which the employer maintains an account; or
- (c) in accordance with subsection (3).

(3) An employer may pay an employee's wages, with that employee's consent, by direct deposit into an account of a bank of the employee's choice.

1977 c52 s34; [2001 c33 s15](#)

[Back to Top](#)

Expense advance

34.1 (1) Where, in connection with his or her work, an employee is required to incur expenses, the employer shall advance to the employee the amount that he or she may reasonably anticipate will be incurred.

(2) An employee and an employer may agree not to be bound by subsection (1).

(3) Where an employee incurs expenses in excess of the amount advanced to him or her under subsection (1), or where the employee has paid for the expenses out of his or her own money, the employer shall reimburse the employee for the amount spent within 2 weeks of the employee submitting a claim for payment.

[2001 c33 s16](#)

[Back to Top](#)

Particulars to be provided

35. An employer shall provide to an employee at the time wages are paid to the employee a written statement setting out

- (a) the gross amount of wages expressed in Canadian currency payable under the contract of service for the period of time in respect of which the payment is made;
- (b) the relevant period referred to in paragraph (a);
- (c) the rates of wages and the number of hours worked at each rate during the relevant period;
- (d) the amount and purpose of each deduction made from the gross wage referred to in paragraph (a) specifying each amount and each purpose; and
- (e) the net amount of wages to which the employee is entitled for the period referred to in paragraph (b),

and shall ensure that the amount paid to the employee is the amount referred to in paragraph (e).

1977 c52 s35

[Back to Top](#)

Illegal provisions

36. (1) A provision in a contract of service is void and against public policy that requires an employee to purchase, lease or otherwise acquire property of the employer, or that contains conditions respecting the manner, place, time or method by which the employee is required to spend a part of the wages payable under that contract.

(2) Notwithstanding subsection (1), a contract of service may contain, as an essential condition of that contract, a provision requiring an employee to live within premises under the control of the employer, and permitting the employer to deduct from the wages payable to that employee reasonable rental payments or charges for that part of the premises so occupied.

(3) An employer shall not withhold or make a deduction from an employee's wages except

- (a) deductions required by an Act of the province or of Canada ;
- (b) amounts ordered to be deducted or withheld by an order of a court;
- (c) an overpayment of wages;
- (d) deductions related to a group benefit plan that the employee participates in;
- (e) savings plan deductions requested by the employee;
- (f) overpayment of or unused portion of required travel advances; or
- (g) deductions permitted under subsection (2).

1977 c52 s36; 2001 c33 s17

[Back to Top](#)

Special clothing

36.1 An employer shall not require an employee to pay for a uniform where the uniform

- (a) is unique to the employer's business operation; and

(b) is identified with the employer's business operation,

to an extent that would make the uniform of no practical use to the employee should the employee's employment be terminated.

[2001 c33 s18](#)

[Back to Top](#)

Priority of wage claim

37. (1) Notwithstanding another Act, a person to whom unpaid wages are owing by an employer has in respect of the wages a first priority and claim over the claims of all other creditors of the employer, including claims of the Crown, to the extent of \$7,500.

(1.1) Wages owing to an employee by an employer are considered to be held in trust by the employer in favour of the employee notwithstanding the wages are not held separately by the employer from other money of the employer.

(2) The right conferred by subsection (1) is ineffective unless the person to whom the wages are unpaid gives written notice of his or her claim to the director and upon receiving payment of all unpaid wages from the employer, the person or, where the person is represented by another person, that person shall immediately notify the director.

(3) A notice referred to in subsection (2) may be given by one person on behalf of another person where the person on whose behalf the notice is given has authorized it to be given.

[1977 c52 s37](#); [1986 c35 s1](#); [2001 c33 s19](#)

[Back to Top](#)

Definition

37.1 In this Part, "director" means a director of a corporation.

[2001 c33 s20](#)

[Back to Top](#)

Non-application

37.2 (1) This Part does not apply with respect to directors of corporations to which Part XXI of the *Corporations Act* applies or to which the *Co-operatives Act* applies.

(2) This Part does not apply with respect to directors of corporations,

(a) that have been incorporated in another jurisdiction;

(b) that have objects that are similar to the objects of corporations to which Part XXI of the *Corporations Act* applies or to which the *Co-operatives Act* applies; and

(c) that are carried on without the purpose of gain.

[2001 c33 s20](#)

[Back to Top](#)

Directors' liability for wages

37.3 (1) The directors of an employer are jointly and individually liable for wages as provided in this Part where,

- (a) the employer is insolvent, the employee has filed a claim for unpaid wages earned during a period not exceeding 2 months with the receiver appointed by a court with respect to the employer or with the employer's trustee in bankruptcy and the claim has not been paid;
- (b) the Director of Labour Standards has issued a determination that the employer is liable for wages, unless the amount set out in the order has been paid or the employer has applied to have it reviewed;
- (c) the Director of Labour Standards has issued a determination that a director is liable for wages, unless the amount set out in the order has been paid or the employer or the director has applied to have it reviewed; or
- (d) the Labour Relations Board has issued, amended or affirmed an order relating to a matter to which this Act applies, the order, as issued, amended or affirmed, requires the employer or the directors to pay wages and the amount set out in the order has not been paid.

(2) Notwithstanding subsection (1), the employer is primarily responsible for an employee's wages but proceedings against the employer under this Act do not have to be exhausted before proceedings may be commenced to collect wages from directors under this Part.

(3) The wages that directors are liable for under this Part are wages, not including termination pay as they are provided for under this Act.

(4) The vacation pay that directors are liable for is the greater of the minimum vacation pay provided in Part I and the amount contractually agreed to by the employer and the employee.

(5) The amount of holiday pay that directors are liable for is the greater of the amount payable for holidays at the rate as determined under this Act and the regulations and the amount for the holidays at the rate as contractually agreed to by the employer and the employee.

(6) The overtime wages that directors are liable for are the greater of the amount of overtime pay provided in section 25 and the amount contractually agreed to by the employer and the employee.

(7) A director of a corporation is not liable for unpaid wages under this section where the director exercised the degree of care, diligence and skill to ensure that wages owing were paid that a reasonably prudent person would have exercised in comparable circumstances.

(8) A director who has satisfied a claim for wages is entitled to contribution in relation to the wages from other directors who are liable for the claim.

[2001 c33 s20](#)

[Back to Top](#)

No relief by contract, etc.

37.4 (1) A provision in a contract, in the articles of incorporation or the by-laws of a corporation or in a resolution of a corporation does not relieve a director from the duty to act according to this Act or does not relieve him or her from liability for breach of it.

(2) An employer may indemnify a director, a former director and the heirs or legal representatives of a director or former director against all costs, charges and expenses, including an amount paid to satisfy an order under this Act, reasonably incurred by the director with respect to a civil or administrative action or proceeding to which he or she is a party by reason of being or having been a director of the employer where,

- (a) he or she has acted honestly and in good faith with a view to the best interests of the employer; and

- (b) in the case of a proceeding or action that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful.

[2001 c33 s20](#)

[Back to Top](#)

Civil remedies protected

37.5 A civil remedy that a person may have against a director or that a director may have against a person is not suspended or affected by this Part.

[2001 c33 s20](#)

PART VI TIPS OR GRATUITIES

[Back to Top](#)

Tips or gratuities

38. (1) Tips or gratuities are the property of the employee to whom or for whom they are given.

(2) An employee shall not be required to share a tip with an employer, a manager or supervisor of the employee or an employer's representative.

(3) Where a surcharge or other charge is paid instead of a tip or gratuity, the amount paid shall be considered to be a tip or gratuity for the purpose of subsection (1).

(4) Where a surcharge or other charge is paid instead of a tip or gratuity, or where the amount of the tip or gratuity is itemized on the record of a credit card or debit card payment, the employer may deduct an amount required to be deducted from income by an Act of the province or of Canada from the amount due the employee.

[2001 c33 s21](#)

PART VII PREGNANCY, ADOPTION AND PARENTAL LEAVE

[1992 c17 s13](#)

[Back to Top](#)

Definitions

39. In this Part

- (a) "adoption leave" means a leave of absence under section 43;
- (b) "parent" includes a person with whom a child is placed for adoption;
- (c) "parental leave" means a leave of absence under section 43.3; and
- (d) "pregnancy leave" means a leave of absence under section 40.

[1992 c17 s13](#)

[Back to Top](#)

Pregnancy leave

40. (1) A pregnant employee who has been employed under a contract of service with the same employer for a period of 20 consecutive weeks immediately before the expected birth date is entitled

to a leave of absence without pay.

(2) An employee may begin pregnancy leave no earlier than 17 weeks before the expected birth date.

(3) An employee shall give her employer

(a) at least 2 weeks written notice of the date the leave is to begin; and

(b) a certificate from a medical practitioner or nurse practitioner stating the estimated birth date.

[1992 c17 s13; 2018 c1 s1](#)

[Back to Top](#)

Special circumstances

41. (1) Subsection 40(3) does not apply in the case of an employee who stops working because of complications caused by her pregnancy or because of a birth, still-birth or miscarriage that happens earlier than the employee was expected to give birth.

(2) An employee referred to in subsection (1) shall, within 2 weeks of stopping work, give to her employer

(a) written notice of the date the pregnancy leave began or is to begin; and

(b) a certificate from a medical practitioner or nurse practitioner that

(i) in the case of an employee who stops working because of complications caused by her pregnancy, states the employee is unable to perform her duties because of complications caused by her pregnancy and states the expected birth date, or

(ii) in other cases, states the date of the birth, still-birth or miscarriage and the date the employee was expected to give birth.

[1992 c17 s13; 2018 c1 s2](#)

[Back to Top](#)

End of pregnancy leave

42. (1) The pregnancy leave of an employee who is entitled to take parental leave ends 17 weeks after the pregnancy leave begins.

(2) The pregnancy leave of an employee who is not entitled to take parental leave ends either 17 weeks after the pregnancy leave began or the day that is 6 weeks after the birth, still-birth or miscarriage whichever is the later.

(3) The pregnancy leave of an employee ends on a day earlier than the day provided for in subsection (1) or (2) if the employee gives the employer at least 4 weeks written notice of that day.

(4) An employee who is on pregnancy leave and who does not intend to take parental leave shall notify her employer not less than 4 weeks before the date on which she intends to return to work.

[1992 c17 s13](#)

[Back to Top](#)

Adoption leave

43. (1) An employee who has been employed under a contract of service with the same employer for at least 20 consecutive weeks and who is the parent of a child is entitled to a leave of absence without pay following the coming of the child into the care and custody of the parent for the 1st time.

(2) An employee shall give his or her employer at least 2 weeks written notice of the date the leave is to begin.

[1992 c17 s13](#)

[Back to Top](#)

Special circumstances

43.1 (1) Subsection 42(2) does not apply in the case of an employee who is the parent of a child and who stops working because the child comes into the care and custody of the employee for the 1st time sooner than expected.

(2) The adoption leave of an employee referred to in subsection (1) begins on the day the employee stops working.

(3) An employee referred to in subsection (1) shall give his or her employer written notice that the employee wishes to take adoption leave within 2 weeks after the employee stops working.

[1992 c17 s13](#)

[Back to Top](#)

End of adoption leave

43.2 Adoption leave ends 17 weeks after it began or on an earlier day if the employee gives his or her employer at least 4 weeks written notice of that day.

[1992 c17 s13](#)

[Back to Top](#)

Parental leave

43.3 (1) An employee who has been employed under a contract of service with the same employer for at least 20 consecutive weeks and who is the parent of a child is entitled to a leave of absence without pay following

(a) the birth of the child; or

(b) the coming of the child into the care and custody of the parent for the 1st time.

(2) [Rep. by 2019 c21 s1]

(3) The parental leave of an employee who takes pregnancy leave shall begin when the pregnancy leave ends unless the child has not yet come into the care and custody of the parent for the 1st time.

(4) An employee shall give his or her employer at least 2 weeks written notice of the date the leave is to begin.

[1992 c17 s13; 2019 c21 s1](#)

[Back to Top](#)

Special circumstances

43.4 (1) Subsection 43.3(4) does not apply in the case of an employee who is the parent of a child and who stops working because the child comes into the custody, care and control of a parent for the 1st time sooner than expected.

(2) The parental leave of an employee referred to in subsection (1) begins on the day the employee stops working.

(3) An employee referred to in subsection (1) shall give his or her employer written notice that the employee wishes to take leave within 2 weeks after the employee stops working.

[1992 c17 s13](#)

[Back to Top](#)

End of parental leave

43.5 (1) Parental leave ends on the earlier of

- (a) 61 weeks after it began; or
- (b) 96 weeks after the day the child is born or comes into the care and custody of the parent for the first time.

(2) Notwithstanding subsection (1), parental leave may end on an earlier day if the employee gives the employer at least 4 weeks' written notice of that day.

[1992 c17 s13; 2000 c25 s1; 2018 c1 s3; 2019 c21 s2](#)

[Back to Top](#)

Change of notice

43.6 (1) An employee who has given notice to begin pregnancy, adoption or parental leave may change the notice

- (a) to an earlier date where the employee gives the employer 2 weeks written notice before the earlier date; or
- (b) to a later date where the employee gives the employer at least 2 weeks written notice before the date leave was to begin.

(2) An employee who has given notice to end his or her pregnancy, adoption or parental leave may change the notice

- (a) to an earlier date where the employee gives the employer at least 4 weeks written notice before the earlier date; or
- (b) to a later date where the employee gives the employer at least 4 weeks written notice before the date leave was to end.

[1992 c17 s13](#)

[Back to Top](#)

Employee's rights after leave

43.7 Upon the ending of pregnancy, adoption or parental leave of an employee, the terms of the contract of service subsisting at the time pregnancy, adoption or parental leave began shall be so resumed that the wages, duties, benefits and position of the employee are not less beneficial than those that subsisted before the pregnancy, adoption or parental leave began.

[1992 c17 s13](#)[Back to Top](#)**Effect of leave on benefits**

43.8 Unless an employer and employee otherwise agree, the period of pregnancy, adoption or parental leave does not count towards the application of the rights, benefits and privileges conferred by this Act upon an employee, but the period worked upon resumption of employment after pregnancy, adoption or parental leave shall be considered for the purpose of this Act, to be continuous with the period worked before the pregnancy, adoption or parental leave.

[1992 c17 s13](#)[Back to Top](#)**Employee may not be dismissed**

43.9 (1) An employer shall not dismiss an employee or give notice of dismissal to an employee

- (a) for the reason only that the employee informs the employer that she is pregnant or the employee intends to take pregnancy, adoption or parental leave; or
- (b) because of absence by reason of pregnancy, adoption or parental leave permitted by this Part.

(2) Where an employee is dismissed by his or her employer contrary to subsection (1), the onus of proving that the reason for dismissal is unrelated to pregnancy, adoption or parental leave rests with the employer.

[1992 c17 s13](#)

PART VII .1
BEREAVEMENT AND SICK LEAVE

[1992 c17 s13](#)[Back to Top](#)**Bereavement and sick leave**

43.10 (1) An employee, having been employed under a contract of service with the same employer for a continuous period of at least 30 days, shall be granted by his or her employer a period of bereavement leave consisting of one day paid leave and 2 days unpaid leave in the event of the death of the spouse, a child, a grandchild, the mother, father, a brother or sister, a grandparent or a mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law or son-in-law of the employee.

(2) The wages to which an employee is entitled under subsection (1) shall be calculated by multiplying the employee's hourly rate of pay by the average number of hours worked in a day in the 3 weeks immediately preceding the bereavement leave.

(3) An employee who is not entitled to bereavement leave under subsection (1) shall be granted a period of bereavement leave consisting of 2 days unpaid leave in the event of the death of a relative referred to in that subsection.

(4) Where an employee who is entitled to one day paid bereavement leave is taking an annual vacation at the time he or she would otherwise have taken the day of bereavement leave, the employee is entitled to take one extra day of annual vacation.

[2001 c33 s22](#)[Back to Top](#)

Sick and family responsibility leave

43.11 (1) An employee, having been employed under a contract of service with the same employer for a continuous period of 30 days, shall be granted by his or her employer a period of 7 days unpaid sick leave or family responsibility leave in a year.

(2) An employee shall provide his or her employer with a certificate of a medical practitioner or nurse practitioner for a period of 3 or more consecutive days of sick leave.

(3) An employee shall provide his or her employer with a statement in writing of the nature of the family responsibility where the leave is of 3 or more consecutive days in duration.

(4) An unused portion of the period of leave provided for in this section expires at the end of the year in which it was granted.

[2001 c33 s23; 2018 c1 s4](#)

**PART VII.2
TRAVEL COSTS**

[1992 c17 s13](#)

[Back to Top](#)

Travel costs from remote sites

43.12 Where an employer terminates the employment of an employee or lays off an employee who was employed by the employer at a remote site, the employer shall provide transportation for the employee without cost to the employee to the nearest point at which regularly scheduled transportation services are available.

[1992 c17 s13; 2001 c33 s23](#)

**PART VII.3
COMPASSIONATE CARE LEAVE**

[2004 c39 s1](#)

[Back to Top](#)

Definitions**43.13** In this Part

- (a) "cohabiting partner" means either of 2 persons who are cohabiting and have cohabited continuously in a conjugal relationship outside marriage for not less than one year;
- (b) "family member", in relation to an employee, means
 - (i) a spouse or cohabiting partner of the employee,
 - (ii) a child of the employee or of the employee's spouse or cohabiting partner,
 - (iii) a parent of the employee or a spouse or common law partner of the parent, and
 - (iv) any other person who is a member of a class of persons prescribed for the purpose of this definition in the regulations; and
- (c) "week" means the period between midnight on Saturday and midnight on the immediately following Saturday.

[2004 c39 s1; 2019 c8 s16](#)

[Back to Top](#)

Entitlement to leave

43.14 (1) An employee who has been employed by the same employer for at least 30 days is entitled to a leave of absence without pay of up to 28 weeks to provide care or support to a family member of the employee where a medical practitioner or nurse practitioner issues a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks from

- (a) the day the certificate is issued; or
 - (b) the day the leave began, if leave began before the certificate was issued.
- (2) The leave of absence under subsection (1) shall be taken during the period
- (a) that starts with
 - (i) the first day of the week in which the certificate is issued, or
 - (ii) the first day of the week in which the employee was absent, if the leave began before the certificate was issued and the certificate was valid from any day in that week; and
 - (b) that ends with the last day of the week in which either of the following occurs:
 - (i) the family member dies, or
 - (ii) the expiration of 52 weeks following the first day of the week referred to in paragraph (a).

(3) Notwithstanding subparagraph (2)(b)(i), the director may decide that, in exceptional circumstances, an employee shall be provided with up to 3 additional days of unpaid leave immediately following the end of the week in which the death of the family member occurred, and an employer shall provide that leave.

(4) Where a shorter period than that referred to in subsection (1) is prescribed for the purpose of subsection 23.1(5) of the *Employment Insurance Act* (Canada),

- (a) the certificate referred to in subsection (1) has to state that the family member has a serious medical condition with a significant risk of death within that period; and
- (b) that shorter period applies for the purpose of subparagraph 2(b)(ii).

(5) When the shorter period referred to in subsection (4) has expired in respect of a family member, no further leave may be taken under this Part in respect of that family member until the minimum number of weeks prescribed for the purpose of subsection 12(4.3) of the *Employment Insurance Act* (Canada) has elapsed.

(6) A leave of absence under this section shall be taken in periods of at least one week in duration.

(7) The aggregate amount of leave that may be taken by 2 or more employees under this section in respect of the care or support of the same family member shall not exceed 28 weeks in the period referred to in subsection (2).

[2004 c39 s1; 2016 c47 s1; 2018 c1 s5](#)

[Back to Top](#)

Notice to employer

43.15 (1) An employee who intends to take a leave of absence under this Part shall give written notice to his or her employer at least 2 weeks before the leave is to begin of that intention, unless there is a valid reason why that notice cannot be given.

(2) An employee who gives notice under subsection (1) shall include in that written notice to the employer the length of the leave that the employee intends to take.

(3) Every employee who is taking a leave of absence under this Part shall give at least 2 weeks written notice to the employer of any change in the length of leave intended to be taken, unless there is a valid reason why that notice cannot be given.

(4) Where the employer makes a written request, an employee shall provide his or her employer with a copy of the medical practitioner or nurse practitioner's certificate referred to in subsection 43.14(1).

(5) If an employer makes a request under subsection (4), that request shall be made within 15 days of the employee's return to work.

[2004 c39 s1; 2018 c1 s6](#)

[Back to Top](#)

Employee protection

43.16 (1) An employer shall not dismiss an employee or give notice of dismissal to an employee because an employee intends to take, applies for or takes a leave of absence under this Part.

(2) Where an employee is dismissed by his or her employer contrary to subsection (1), the onus of proving that the reason for dismissal is unrelated to the compassionate care leave rests with the employer.

(3) An employer shall reinstate an employee at the end of his or her leave of absence under this Part on terms and conditions that are not less beneficial than those that subsisted before the leave began.

(4) Unless the employer and the employee otherwise agree, a period of leave under this Part does not count towards the application of the rights, benefits and privileges conferred by this Act upon an employee, but the period worked upon resumption of employment after leave shall be considered, for the purpose of this Act, to be continuous with the period worked before the leave.

[2004 c39 s1](#)

**PART VII .4
UNPAID LEAVE FOR RESERVISTS**

[2008 c15 s1](#)

[Back to Top](#)

Definitions

43.17 In this Part

(a) "reserves" means the component of the Canadian Forces referred to in the *National Defence Act* (Canada) as the reserve force; and

(b) "service" means deployment or training required for imminent deployment, and includes

(i) a period of time for treatment, recovery or rehabilitation in respect of a physical or mental health problem that results from deployment or training required for imminent

deployment, and

(ii) service as defined in the regulations made under section 43.22.

[2008 c15 s1](#)

[Back to Top](#)

Unpaid leave

43.18 (1) An employee who

- (a) is a member of the reserves;
- (b) has been employed by the same employer in civilian employment for a period of at least 6 consecutive months; and
- (c) is required to be absent from work for the purpose of service

is entitled to an unpaid period of leave for the purpose of that service.

(2) An employee is not entitled to a second or additional period of unpaid leave for the purpose of service unless at least one year has elapsed since the date the employee returned to work from the most recent leave of absence granted under this Part.

(3) The period of leave is the period necessary to accommodate the period of service and includes an extension of the service beyond the date given under subsection 43.19(2).

[2008 c15 s1](#)

[Back to Top](#)

Notice of leave

43.19 (1) An employee who wishes to take a period of leave under this Part shall give his or her employer at least 60 days notice in writing of his or her intention to take the period of leave.

(2) The notice required under subsection (1) shall give the date on which the leave will begin and the anticipated date on which his or her service will end.

(3) An employer may require an employee requesting a period of leave under this Part to provide a certificate from an official with the reserves stating that the employee is a member of the reserves and is required for service.

(4) Where, due to circumstances beyond the control of the employee, he or she cannot comply with the notice period required under subsection (1), the employee shall provide as much notice as is reasonable in the circumstances.

(5) Where the date on which his or her service is anticipated to end changes, the employee shall notify the employer as soon as practicable and shall, within at least 2 weeks or one pay period, whichever is longer, provide written notice to the employer of the new end date.

(6) Where an employee fails to give a written notice within the time period required under subsection (5), his or her employer may defer the date of re-employment for up to 2 weeks or one pay period, whichever is longer, after the day on which the employee informs the employer of the new end date.

(7) A period of deferment necessitated under subsection (6) shall be considered to be unpaid leave as described in section 43.18.

(8) Notwithstanding subsection (2) or (5), an employee may return to work on a date mutually agreed upon by the employee and the employer.

[2008 c15 s1](#)[Back to Top](#)

Exemption

43.20 (1) An employer, who has received from an employee a request for a grant of leave under this Part and who believes that granting the leave would cause him or her undue hardship, may apply to the director for an exemption from the requirement to grant the leave.

(2) Where the director determines that a grant of leave under this Part would cause undue hardship to the employer if his or her employee were to take leave, the employee is not entitled to the leave.

(3) A decision of the director under this section is final and binding on the employer and employee to whom it applies.

[2008 c15 s1](#)[Back to Top](#)

Employee protection

43.21 (1) An employer shall not dismiss an employee or give notice of dismissal to an employee because an employee intends to take, applies for or takes leave under this Part.

(2) Where an employee is dismissed by his or her employer contrary to subsection (1), the onus of proving that the reason for dismissal is unrelated to the leave rests with the employer.

(3) An employer shall reinstate an employee at the end of his or her leave under this Part on terms and conditions that are not less beneficial than those that existed before the leave began.

(4) Unless the employer and the employee otherwise agree, a period of leave under this Part does not count towards the application of the rights, benefits and privileges conferred by this Act upon an employee, but the period worked upon resumption of employment after leave shall be considered, for the purpose of this Act, to be continuous with the period worked before the leave.

[2008 c15 s1](#)[Back to Top](#)

Regulations

43.22 The Lieutenant-Governor in Council may make regulations

- (a) for the purpose of subparagraph 43.17(b)(ii); and
- (b) generally to give effect to this Part.

[2008 c15 s1](#)

PART VII.5 CRIME-RELATED CHILD DEATH OR DISAPPEARANCE LEAVE

[2013 c18 s1](#)[Back to Top](#)

Definitions

43.23 In this Part

- (a) "child" means a person under 18 years of age;

- (b) "cohabiting partner" means either of 2 persons who are cohabiting and have cohabited continuously in a conjugal relationship outside marriage for not less than one year;
- (c) "crime" means an offence under the Criminal Code other than an offence prescribed by regulations under paragraph 209.4(f) of the *Canada Labour Code*;
- (d) "parent" means
 - (i) a parent of a child,
 - (ii) the spouse or cohabiting partner of a parent of a child,
 - (iii) a person with whom a child has been placed for the purpose of adoption,
 - (iv) a foster parent of a child, or
 - (v) a person who has the care or custody of a child, and is considered to be like a close relative, whether or not that person is related to the child by blood or adoption; and
- (e) "week" means the period between midnight on Saturday and midnight on the immediately following Saturday.

[2013 c18 s1](#)

[Back to Top](#)

Entitlement to leave

43.24 (1) An employee who has been employed by the same employer for at least 30 days is entitled to a leave of absence from employment without pay of up to 104 weeks if the employee is the parent of a child who has died and it is probable, considering the circumstances, that the child died as a result of a crime.

(2) An employee who has been employed by the same employer for at least 30 days is entitled to a leave of absence from employment without pay of up to 52 weeks if the employee is the parent of a child who has disappeared and it is probable, considering the circumstances, that the child disappeared as a result of a crime.

(3) Notwithstanding subsections (1) and (2), an employee who takes a leave of absence in accordance with this Part shall limit the duration of that leave of absence to that which is reasonably necessary in the circumstances.

(4) An employee who wishes to take a leave of absence under this Part shall provide the employer with reasonable verification of the necessity of the leave as soon as possible.

(5) Notwithstanding subsections (1) and (2), an employee is not entitled to a leave of absence under this section if that employee is charged with the crime necessitating that leave of absence.

[2013 c18 s1](#)

[Back to Top](#)

Notice

43.25 (1) An employee who intends to take a leave of absence under this Part shall give written notice to his or her employer at least 2 weeks before the leave of absence is to begin of that intention, unless there is a valid reason why that notice cannot be given.

(2) An employee who gives notice under subsection (1) shall include in that written notice to the employer the length of the leave of absence that the employee intends to take.

(3) Every employee who is taking a leave of absence under this Part shall give at least 2 weeks' written notice to the employer of any change in the length of leave intended to be taken, unless there is a valid reason why that notice cannot be given.

[2013 c18 s1](#)

[Back to Top](#)

Employee protection

43.26 (1) An employer shall not dismiss an employee or give notice of dismissal to an employee because an employee intends to take, applies for or takes a leave of absence under this Part.

(2) Where an employee is dismissed by his or her employer contrary to subsection (1), the onus of proving that the reason for dismissal is unrelated to the crime-related child death or disappearance leave rests with the employer.

(3) An employer shall reinstate an employee at the end of his or her leave of absence under this Part on terms and conditions that are not less beneficial than those that subsisted before the leave of absence began.

(4) Unless the employer and the employee otherwise agree, a period of leave under this Part does not count towards the application of the rights, benefits and privileges conferred by this Act upon an employee, but the period worked upon resumption of employment after leave shall be considered, for the purpose of this Act, to be continuous with the period worked before the leave.

[2013 c18 s1](#)

[Back to Top](#)

Regulations

43.27 The Lieutenant-Governor in Council may make regulations

- (a) respecting terms and conditions which may be imposed on the availability and duration of leave under this Part;
- (b) setting out time frames within which leave under this Part may be accessed;
- (c) respecting early termination of leave under this Part; and
- (d) generally, to give effect to this Part.

[2013 c18 s1](#)

PART VII.6 LEAVE RELATED TO CRITICAL ILLNESS

[2013 c18 s2; 2018 c1 s7](#)

[Back to Top](#)

Definitions

43.28 In this Part

- (a) "cohabiting partner" means either of 2 persons who are cohabiting and have cohabited continuously in a conjugal relationship outside marriage for not less than one year;
- (b) "critically ill adult" has the same meaning as in the regulations made under the *Employment Insurance Act* (Canada);

- (c) "critically ill child" has the same meaning as in the regulations made under the *Employment Insurance Act* (Canada);
- (d) "family member" means
 - (i) a spouse or cohabiting partner of the employee ,
 - (ii) a child of the employee or of the employee 's spouse or cohabiting partner,
 - (iii) a parent of the employee or a spouse or cohabiting partner of the parent, and
 - (iv) any other person who is a member of a class of persons prescribed for the purpose of this definition in the regulations; and
- (e) "week" means the period between midnight on Saturday and midnight on the immediately following Saturday.

[2013 c18 s2; 2018 c1 s7](#)

[Back to Top](#)

Entitlement to leave

43.29 (1) An employee who has been employed by the same employer for at least 30 days is entitled to a leave of absence from employment without pay of up to 37 weeks to provide care or support to a critically ill child who is a family member where a medical practitioner or nurse practitioner issues a certificate

- (a) stating that the child is a critically ill child and requires the care or support of the employee; and
- (b) setting out the period during which the child requires that care or support.

(2) An employee who has been employed by the same employer for at least 30 days is entitled to a leave of absence from employment without pay of up to 17 weeks to provide care or support to a critically ill adult who is a family member where a medical practitioner or nurse practitioner issues a certificate

- (a) stating that the adult is a critically ill adult and requires the care or support of the employee; and
- (b) setting out the period during which the adult requires that care or support.

(3) Notwithstanding subsections (1) and (2), an employee who takes a leave of absence in accordance with this Part shall limit the duration of that leave of absence to that which is reasonably necessary in the circumstances.

(4) An employee who wishes to take a leave of absence under this Part shall give the employer a copy of the medical practitioner or nurse practitioner's certificate referred to in subsection (1) or (2) as soon as possible.

[2013 c18 s2; 2018 c1 s7](#)

[Back to Top](#)

Notice

43.30 (1) An employee who intends to take a leave of absence under this Part shall give written notice to his or her employer at least 2 weeks before the leave of absence is to begin of that intention, unless there is a valid reason why that notice cannot be given.

(2) An employee who gives notice under subsection (1) shall include in that written notice to the employer the length of the leave of absence that the employee intends to take.

(3) Every employee who is taking a leave of absence under this Part shall give at least 2 weeks' written notice to the employer of any change in the length of leave intended to be taken, unless there is a valid reason why that notice cannot be given.

[2013 c18 s2; 2018 c1 s7](#)

[Back to Top](#)

Employee protection

43.31 (1) An employer shall not dismiss an employee or give notice of dismissal to an employee because an employee intends to take, applies for or takes a leave of absence under this Part.

(2) Where an employee is dismissed by his or her employer contrary to subsection (1), the onus of proving that the reason for dismissal is unrelated to the critically ill child care leave or critically ill adult care leave rests with the employer.

(3) An employer shall reinstate an employee at the end of his or her leave of absence under this Part on terms and conditions that are not less beneficial than those that subsisted before the leave of absence began.

(4) Unless the employer and the employee otherwise agree, a period of leave under this Part does not count towards the application of the rights, benefits and privileges conferred by this Act upon an employee, but the period worked upon resumption of employment after leave shall be considered, for the purpose of this Act, to be continuous with the period worked before the leave.

[2013 c18 s2; 2018 c1 s7](#)

[Back to Top](#)

Regulations

43.32 The Lieutenant-Governor in Council may make regulations

- (a) respecting terms and conditions which may be imposed on the availability and duration of leave under this Part;
- (b) setting out time frames within which leave under this Part may be accessed;
- (c) respecting early termination of leave under this Part; and
- (d) prescribing classes of persons for the purpose of paragraph 43.28(d); and
- (e) generally, to give effect to this Part.

[2013 c18 s2; 2018 c1 s7](#)

PART VII.7 FAMILY VIOLENCE LEAVE

[Back to Top](#)

Definitions

43.33 In this Part,

- (a) "family violence" means an act or omission described in section 3 of the *Family Violence Protection Act* ; and

(b) "parent" means

- (i) a parent of a child,
- (ii) the spouse of a parent of a child or a person living with a parent of a child,
- (iii) a person with whom a child has been placed for the purpose of adoption,
- (iv) a foster parent of a child, or
- (v) a person who has the care or custody of a child, and is considered to be like a close relative, whether or not that person is related to the child by blood or adoption.

[2018 c32 s2](#)

[Back to Top](#)

Entitlement to leave

43.34 (1) An employee, having been employed with the same employer for a continuous period of 30 days, shall be granted by his or her employer a period of family violence leave of 3 days paid leave and 7 days unpaid leave in a year where the employee or a person to whom the employee is a parent or caregiver has been directly or indirectly subjected to, a victim of, impacted or seriously affected by family violence or has witnessed family violence by

- (a) a person who is or has been a family member;
- (b) a person who is or has been in an intimate relationship or who is living or has lived with the employee;
- (c) a person who is the parent of a child with the employee;
- (d) a person who is or has been a caregiver to the employee; or
- (e) any other person who is a member of a class of persons prescribed in the regulations.

(2) Notwithstanding subsection (1), an employee shall not be granted a leave of absence under this Part unless it is

- (a) to allow the employee or a person to whom the employee is a parent or caregiver to seek and receive medical attention, counselling or other services from a health professional for physical, psychological or emotional harm or an injury or disability that is a result of the family violence;
- (b) to allow the employee or a person to whom the employee is a parent or caregiver to seek and receive services provided by a transition house, a policing agency, the government of Canada, the government of a province or municipality or any organization that provides services to persons who have been directly or indirectly subjected to, a victim of, impacted or seriously affected by family violence or have witnessed family violence;
- (c) to allow the employee to move his or her place of residence;
- (d) to allow the employee or a person to whom the employee is a parent or caregiver to seek and receive legal services or assistance including services or assistance with respect to his or her participation in or the enforcement of a legal proceeding relating to or as a result of the family violence; or
- (e) for a purpose prescribed in the regulations.

(3) An employee who wishes to take a leave of absence under this Part may be required to provide the employer with reasonable verification of the necessity of the leave in accordance with

the regulations.

(4) The wages to which an employee is entitled under subsection (1) shall be calculated by multiplying the employee's hourly rate of pay by the average number of hours worked in a day in the 3 weeks immediately preceding the family violence leave.

(5) An unused portion of the period of leave provided for in this section expires at the end of the year in which it was granted.

[2018 c32 s2](#)

[Back to Top](#)

Notice

43.35 (1) An employee who intends to take family violence leave under this Part shall give written notice to his or her employer as soon as possible before the leave is to begin of that intention, unless there is a valid reason why that notice cannot be given.

(2) An employee who gives notice under subsection (1) shall include in that written notice to the employer the length of the leave of absence that the employee intends to take.

[2018 c32 s2](#)

[Back to Top](#)

Employee protection

43.36 (1) An employer shall not dismiss an employee or give notice of dismissal to an employee because an employee intends to take, applies for or takes a leave of absence under this Part.

(2) Where an employee is dismissed by his or her employer contrary to subsection (1), the onus of proving that the reason for dismissal is unrelated to the family violence leave rests with the employer.

(3) An employer shall reinstate an employee at the end of his or her leave of absence under this Part on terms and conditions that are not less beneficial than those that subsisted before the leave of absence began.

(4) Unless the employer and the employee otherwise agree, a period of leave under this Part does not count towards the application of the rights, benefits and privileges conferred by this Act upon an employee, but the period worked upon resumption of employment after leave shall be considered, for the purpose of this Act, to be continuous with the period worked before the leave.

[2018 c32 s2](#)

[Back to Top](#)

Regulations

43.37 The Lieutenant-Governor in Council may make regulations

- (a) prescribing classes of persons for the purpose of paragraph 43.34(1)(e);
- (b) prescribing a purpose for which an employee may be granted a leave of absence under this Part;
- (c) respecting the verification required under subsection 43.34(3), including the types of documents and records that may be used as verification and from whom they will be accepted; and
- (d) generally, to give effect to this Part.

PART VII.8
COMMUNICABLE DISEASE EMERGENCY LEAVE

[2020 cC-37.03 s3](#)

[Back to Top](#)

Definitions

43.38 In this Part,

- (a) "Chief Medical Officer of Health" means Chief Medical Officer of Health as defined in the *Public Health Protection and Promotion Act* ;
- (b) "cohabiting partner" means either of 2 persons who are cohabiting and have cohabited continuously in a conjugal relationship outside marriage for not less than one year;
- (c) "designated communicable disease" means a communicable disease designated in the regulations; and
- (d) "spouse" includes a cohabiting partner.

[2020 cC-37.03 s3](#)

[Back to Top](#)

Communicable disease emergency leave

43.39 (1) An employee is entitled to a leave of absence from employment without pay where the employee will not be performing the duties of his or her position because of one or more of the following reasons related to a designated communicable disease:

- (a) the employee is under individual medical investigation, supervision or treatment related to a designated communicable disease;
- (b) the employee is acting in accordance with an order under the *Public Health Protection and Promotion Act* related to a designated communicable disease;
- (c) the employee is in isolation or quarantine or is subject to a control measure, including self-isolation, and the quarantine, isolation or control measure was implemented as a result of information or directions related to a designated communicable disease issued to the public, in whole or in part, or to one or more individuals, by the Chief Medical Officer of Health or the Government of the province whether through print, electronic, broadcast or other means;
- (d) the employee is under a direction given by his or her employer in response to a concern of the employer that the employee may expose other individuals in the workplace to a designated communicable disease;
- (e) the employee is providing care or support to an individual referred to in subsection (4) for a reason related to a designated communicable disease that concerns that individual including a school or child care service closure;
- (f) the employee is directly affected by travel restrictions related to a designated communicable disease and, under the circumstances cannot reasonably be expected to travel back to the province; and
- (g) other reasons prescribed in the regulations.

(2) An employer may require an employee who takes leave under subsection (1) to provide evidence reasonable in the circumstances, at a time that is reasonable in the circumstances, that the employee is entitled to the leave, but shall not require an employee to provide a certificate from a medical practitioner or nurse practitioner as evidence.

(3) An employee is entitled to take leave under subsection (1) starting on the date prescribed in the regulations and for as long as

- (a) he or she is not performing the duties of his or her position because of a reason referred to in paragraphs (1)(a) to (g); and
- (b) the communicable disease is designated by the regulations for the purpose of this Part.
- (4) Paragraph (1)(e) applies with respect to the following individuals:
 - (a) the employee's spouse;
 - (b) a parent, step-parent or foster parent of the employee or the employee's spouse;
 - (c) a child, step-child or foster child of the employee or the employee's spouse;
 - (d) a child who is under legal guardianship of the employee or the employee's spouse;
 - (e) a brother, step-brother, sister or step-sister of the employee;
 - (f) a grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse;
 - (g) a brother-in-law, step-brother-in-law, sister-in-law or step-sister-in-law of the employee;
 - (h) a son-in-law or daughter-in-law of the employee or the employee's spouse; and
 - (i) any individual prescribed in the regulations as a family member for the purposes of this section.

(5) This section or a provision of it does not apply to a class of employees exempted from the application of this section by the regulations.

[2020 cC-37.03 s3](#)

[Back to Top](#)

Employee protection

43.40 (1) An employer shall not dismiss an employee or give notice of dismissal to an employee because an employee intends to take, applies for or takes leave under this Part.

(2) Where an employee is dismissed by his or her employer contrary to subsection (1), the onus of proving that the reason for dismissal is unrelated to the leave rests with the employer.

(3) An employer shall reinstate an employee at the end of his or her leave under this Part on terms and conditions that are not less beneficial than those that existed before the leave began.

(4) Unless the employer and the employee otherwise agree, a period of leave under this Part does not count towards the application of the rights, benefits and privileges conferred by this Act upon an employee, but the period worked upon resumption of employment after leave shall be considered, for the purpose of this Act, to be continuous with the period worked before the leave.

[2020 cC-37.03 s3](#)

[Back to Top](#)

Regulations

43.41 (1) The Lieutenant-Governor in Council may make regulations

- (a) designating a communicable disease for the purposes of paragraph 43.38(c);
 - (b) prescribing reasons related to a designated communicable disease for the purposes of paragraph 43.39(1)(g);
 - (c) prescribing the date on which the entitlement to leave under subsection 43.39(1) starts or is considered to have started for the purposes of subsection 43.39(3);
 - (d) prescribing family members for the purposes of paragraph 43.39(4)(i);
 - (e) exempting a class of employees from the application of section 43.39 or any provision of it, and prescribing one or more terms or conditions of employment or one or more requirements or prohibitions respecting leave for communicable disease emergencies that shall apply to employees in the class and their employers;
 - (f) providing that a term, condition, requirement or prohibition prescribed under paragraph (e) applies in place of, or in addition to, a provision of section 43.39; and
 - (g) providing for any transitional matter that the Lieutenant-Governor in Council considers necessary or advisable in connection with the implementation of this Part.
- (2) A regulation made under this section may provide that
- (a) it has effect as of the date specified in the regulation; or
 - (b) that an employee who does not perform the duties of his or her position because of a prescribed reason related to a designated communicable disease is considered to have taken leave beginning on the first day the employee does not perform the duties of his or her position on or after the date specified in the regulation.
- (3) Regulations made under this section may be made with retroactive effect.

[2020 cC-37.03 s3](#)

**PART VIII
ADOPTION LEAVE**

[Back to Top](#)

Rep. by 1992 c17 s13

44. [Rep. by 1992 c17 s13]

[1992 c17 s13](#)

**PART IX
EMPLOYMENT OF CHILDREN**

[Back to Top](#)

Meaning of "child"

45. In this Part, "child" means a person under 16 years of age.

[1977 c52 s43](#)

[Back to Top](#)

Employment of children**46.** An employer shall not

- (a) employ a child to do work that is or is likely to be
 - (i) unwholesome or harmful to the child's health or normal development, or
 - (ii) prejudicial to the child's attendance at school or to the child's capacity to benefit from instruction given at school;
- (b) employ a child to work
 - (i) for more than 8 hours a day,
 - (ii) for more than 3 hours on a school day unless a certificate covering that day has been issued under section 8 of the *School Attendance Act*,
 - (iii) on a day for a period that, when added to the time required for attendance at school on that day, totals more than 8 hours,
 - (iv) between the hours of 10 p.m. of 1 day and 7 a.m. of the following day,
 - (v) in circumstances that would prevent the child from obtaining a rest period of at least 12 consecutive hours a day, or
 - (vi) occupations that are prescribed as hazardous occupations or undertakings;
- (c) employ a child who is under the age of 14 years unless the work is prescribed work within prescribed undertakings; or
- (d) employ a child while a strike by employees or a lockout of employees by the employer is in progress.

1977 c52 s44; 1987 c41 s11

[Back to Top](#)**Regulations****47.** The Lieutenant-Governor in Council may make regulations for the purposes of this Part

- (a) prohibiting the employment of children in an occupation or undertaking specified in the regulations;
- (b) prescribing hazardous occupations or undertakings for the purposes of section 46;
- (c) setting the circumstances and conditions under which children may be employed in prescribed occupations or undertakings, and setting the terms for contracts of service and prescribing conditions as to the minimum wage payable for that employment;
- (d) prescribing, for the purposes of section 46, work and undertakings, or both, in which a child under 14 years of age may be employed; and
- (e) exempting employers or undertakings or a class of employers or undertakings from the application of this Part or the regulations.

1977 c52 s45

[Back to Top](#)

Consent of parent or guardian

48. (1) A person shall, before entering upon a contract of service with a child, obtain the written consent of the parent or guardian of that child, which shall be kept by the employer as part of the record of the employment of the child, and the age of the child shall be specified in the written consent.

(2) Where an employer of a child

- (a) fails to obtain a written consent referred to in subsection (1) that specifies the age of the child; or
- (b) fails to keep the written consent as part of the record of employment of the child,

the employer is guilty of an offence and liable on summary conviction to a fine of not less than \$100, or more than \$500 or to imprisonment for a term not exceeding 1 month, or to both a fine and imprisonment.

1977 c52 s46

PART X NOTICE OF TERMINATION

[Back to Top](#)

Interpretation

49. (1) In this Part

- (a) "temporary lay-off" means a lay-off of not more than 13 weeks in a period of 20 consecutive weeks; and
- (b) "termination of employment" means a lay-off of a person for a period longer than a temporary lay-off and "terminate" and "notice of termination" have corresponding meanings.

(2) For the purposes of paragraph (1)(a), a day during the period of 20 consecutive weeks for which an employee receives pay, including pay the employee receives for a public holiday occurring during that period, shall not be counted in the calculation of the 13 week lay-off period set out in paragraph (a).

1984 c29 s1

[Back to Top](#)

Temporary lay-off becomes termination

50. Where an employer temporarily lays off an employee and the lay-off exceeds a temporary lay-off the employee shall, for the purposes of this Part, be considered to have been terminated at the beginning of the temporary lay-off.

1984 c29 s1

[Back to Top](#)

Collective agreements and written contracts of service

51. (1) Where a period of notice of temporary lay-off or of termination of employment is provided for in a collective agreement within the meaning of the *Labour Relations Act* or in a written contract of service between the employer and the employee that differs from the period of notice required to be given by the employer or employee under this Part, the period provided for in the

collective agreement or in the contract of service is the period of notice required to be given by the employer or employee.

(2) An agreement respecting a period of notice of termination of employment referred to in subsection (1) is effective only if the period of notice required to be given by the collective agreement or the contract of service is the same for the employer and the employee.

[1977 c52 s47](#); [1992 c17 s14](#)

[Back to Top](#)

No termination without notice

52. (1) An employer or employee shall not terminate a contract of service unless written notice of termination is given by or on behalf of the employer or employee within the period required by section 55.

(2) An employer shall not temporarily lay off an employee unless written notice of the temporary lay-off is given by or on behalf of the employer to the employee within the period required by section 55.

(3) [Rep. by 2001 c33 s24]

[1977 c52 s48](#); [1984 c29 s2](#); [1992 c17 s15](#); [2001 c33 s24](#)

[Back to Top](#)

Notice unnecessary

53. (1) Section 52 and subsection 57(2) do not apply where

- (a) the employee has wilfully refused to obey a lawful instruction of the employer, or has committed misconduct or been so neglectful of duty that the interest of the employer is adversely affected, or has otherwise been in breach of a material condition of the contract of service that in the opinion of the director or the Labour Relations Board considering and deciding a complaint made under this Act warrants summary dismissal;
- (b) the employer pays to the employee wages equal to the normal wages covering the period of notice that the employer would otherwise be required to give under this Part;
- (c) the employee is laid off for a period not exceeding 1 week;
- (d) the employee is employed for a firm non-renewable term or for a specific task, where the term or task does not exceed 12 months and the employment is not terminated before the completion of the term or task;
- (e) the employee rejects an offer by the employer of reasonable alternative employment of a similar nature requiring similar skill, effort and ability that would enable the employee to earn during a similar number of working hours a total wage comparable to that earned by the employee for services rendered under the contract of service being terminated;
- (f) the employee has reached the age of retirement according to the established practice of the undertaking in which the employee is employed;
- (g) the employer is required to terminate the contract of service on account of
 - (i) destruction of or major breakdown to plant machinery or equipment, or
 - (ii) climatic or economic conditions that are beyond the foreseeable control of the employer and that necessitate declaration of redundancy; or

- (h) the contract of service between the employer and the employee has existed for less than 30 days.

(2) For the purpose of paragraph (1)(b), "normal wages" includes the amount for overtime wages that might have been earned by the employee on the basis of the overtime practised in the period of 1 month before his or her termination of employment under his or her contract of service.

1977 c52 s49; 1992 c17 s16; 2001 c33 s25

[Back to Top](#)

Notice unnecessary

54. (1) Section 52 does not apply where

- (a) the employer has mistreated the employee or acted in a manner that has or might endanger the health or well-being of the employee, or has otherwise been in breach of a material condition of the contract of service that in the opinion of the director or the Labour Relations Board considering and deciding a complaint made under this Act warrants no notice being given;
- (b) the employee pays to the employer an amount equal to the amount that the employee would normally earn under the contract of service covering the period of notice that the employee would otherwise be required to give under this Part;
- (c) the employee is employed for a firm non-renewable term or for a specific task when the term or task does not exceed 12 months and the employment is not terminated before the completion of that term or task; or
- (d) the contract of service between the employer and the employee has existed for less than 1 month.

(2) Where an employee terminates a contract of service without giving the notice required by this Part in circumstances not permitted by subsection (1), the employer may, with the consent of the employee, deduct from unpaid wages due to the employee the amount that the employee is permitted to pay under paragraph (1)(b), but where that consent is not given, the employer shall deposit with the director the amount in respect of which consent is not given, and the director shall determine the issue in accordance with the powers conferred on the director under this Act.

(3) For the purpose of paragraph (1)(b), "normal earnings" includes the amount for overtime wages that might have been earned by the employee on the basis of the employment of overtime practised in the month before his or her termination of employment under the contract of service.

1977 c52 s50; 1992 c17 s17; 2001 c33 s26

[Back to Top](#)

Period of notice

55. (1) The period of notice required to be given by the employer and employee under section 52 is

- (a) one week, where the employee has been continuously employed by the employer for a period of 3 months or more but less than 2 years;
- (b) 2 weeks, where the employee has been continuously employed by the employer for a period of 2 years or more but less than 5 years;
- (c) 3 weeks, where the employee has been continuously employed by the employer for a period of 5 years or more but less than 10 years;

- (d) 4 weeks, where the employee has been continuously employed by the employer for a period of 10 years or more but less than 15 years; and
- (e) 6 weeks, where the employee has been continuously employed by the employer for a period of 15 years or more.

(2) For the purpose of subsection (1) "continuously employed" includes the employment of seasonal workers who are engaged under a contract of service of 2 or more consecutive seasons of at least 5 months in each season during which the employee is occupationally engaged.

[2001 c33 s27](#)

[Back to Top](#)

Provisions respecting notice

56. (1) A notice of termination of a contract of service or a notice of temporary lay-off given under this Part has no effect if the contract of service continues beyond the period of expiry specified in the notice of termination or temporary lay-off.

(2) A notice of termination of a contract of service or a notice of temporary lay-off or a notice of intention to terminate a contract of service given under this Part may be given conditionally upon the happening of a future event if the period of the notice so given is not less than the period required by this Part.

[1992 c17 s18](#)

[Back to Top](#)

Provisions relating to redundancy

57. (1) Without limiting the provisions respecting notice of termination required to be given under this Part by an employer to each employee, where an employer intends to terminate the contracts of service of 50 or more employees within a 4 week period, the employer shall, in accordance with subsection (3), give to each employee written notice of intention to terminate the contract of service.

(2) The employer shall,

- (a) for the duration of the notice period set out in subsection (3), continue to employ the employees on whom notice of intention to terminate has been served under subsection (1); or
- (b) pay the employee wages equal to the normal wages covering the period of notice that the employer would otherwise be required to give under this section.

(3) The period of notice of intention to terminate the contracts of service required by subsection (1) is as follows:

- (a) 8 weeks' notice of the intention when the employer intends to terminate the contracts of service of 50 or more but fewer than 200 employees;
- (b) 12 weeks' notice of the intention when the employer intends to terminate the contracts of service of 200 or more employees but fewer than 500 employees; and
- (c) 16 weeks' notice of the intention when the employer intends to terminate the contracts of service of 500 or more employees.

(4) Where notices of intention to terminate contracts of service are given by an employer under this section, the employer shall, immediately after the notices are given, notify the minister in writing of the number of persons to whom the notice is given and the period of notice, and shall provide the minister with the reasons for the giving of the notices.

(5) Nothing in this section prevents an employee from giving an employer notice of termination of employment under this Part.

(6) Where an employer fails to give the notices of intention to terminate the contracts of service of employees required by this section, or fails to notify the minister in accordance with subsection (4), notice of termination of employment of 50 or more employees of the employer within a 4 week period shall not be given to those employees by the employer and no action by the employer shall be taken to terminate the services of those employees.

(7) This section does not apply in respect of employees whose contracts of service have existed for less than 1 month.

1977 c52 s53; [2001 c33 s28](#)

[Back to Top](#)

Regulations

58. The Lieutenant-Governor in Council may make regulations for the purposes of this Part

- (a) enabling employers and employees, or representatives of employers and employees, to contract periods of notice of termination that differ from the periods provided for in this Part in those undertakings that may be prescribed and for payment to employers and employees where no notices are given;
- (b) exempting from section 57 those undertakings or contracts of service, or classes of undertakings or contracts of service, that may be prescribed, including seasonal undertakings of the nature prescribed, and prescribing circumstances, including impossibility or unforeseeability, in which the obligation to provide the notices of intention to terminate required by that section are not required to be given; and
- (c) providing for releasing employers and employees engaged in prescribed undertakings or occupations from the obligation to give notice of termination required by this Part.

1977 c52 s54

PART XI ADMINISTRATION

[Back to Top](#)

Labour Standards Boards

59. (1) The Lieutenant-Governor in Council may periodically appoint a Labour Standards Board to advise it on matters coming within the scope of this Act.

(2) A board appointed under subsection (1) shall consist of an equal number of representatives of employees and employers together with one other independent person who shall be the chairperson.

(3) The members of the board shall be paid the remuneration that the Lieutenant-Governor in Council may fix, together with reasonable expenses actually incurred in the discharge of their duties.

[2001 c33 s29](#)

[Back to Top](#)

Rep. by 2001 c33 s29

60. [Rep. by 2001 c33 s29]

[Back to Top](#)

Director of Labour Standards

61. There shall be appointed, as officers of the department, in the manner provided by law,

- (a) a Director of Labour Standards who, in addition to carrying out the functions and duties specifically conferred upon the director under this Act, has the powers and shall carry out the duties conferred upon the director by the Lieutenant-Governor in Council; and
- (b) those officers and inspectors that may be necessary for the purpose of helping the director carry out his or her powers, functions and duties under this Act or otherwise for securing the proper observance of this Act.

1977 c52 s57; 1984 c40 Sch B; 1989 c25 Sch B; [2001 c33 s30](#)

[Back to Top](#)

Powers of director

62. (1) The director and other officers that may be designated by the director may under the control and supervision of the minister

- (a) receive representations and complaints, or either, from or on behalf of employers, employees and other persons that this Act, or an order or regulation made under this Act, has not been or is not being complied with;
- (b) investigate either on direction by or on behalf of the minister or upon representations or complaints made under paragraph (a), and, where the matter investigated or complained of relates directly or indirectly to a provision of this Act or an order or regulation made under this Act to be fulfilled by an employer, employee or director of a corporation, may consult with the persons affected by or associated with the investigation or complaint with a view to achieving a settlement;
- (c) make determinations respecting complaints received under paragraph (a) or following an investigation under paragraph (b) and immediately make written intimation of the determination to those persons determined by the director to be in breach of this Act, or regulations or orders made under this Act;
- (c.1) receive and investigate complaints under Part II of the *Pay Equity and Pay Transparency Act* and make a determination of whether Part II of that Act has been contravened;
- (d) accept from employers or directors of corporations unpaid wages, tips or gratuities or surcharges paid instead of tips or gratuities due to the employees and remit them to the employees;
- (e) where unpaid wages, tips or gratuities or surcharges paid instead of tips or gratuities are not received by the director under paragraph (d), demand evidence that the wages, tips or gratuities or surcharges instead of tips or gratuities have been paid to each employee in accordance with a determination made and intimated; and
- (f) prosecute, under the *Summary Proceedings Act*, offenders of this Act after having received the consent of the Minister of Justice, which consent may be general or limited to those classes of cases that may be specified in the consent.

(2) Where the director or an officer designated by the director conducts an investigation under paragraph (1)(b), the director or officer shall provide an affected person with the opportunity to be heard either orally, in person or represented by counsel, or by making a written submission to the director or officer.

(3) A complaint to the director may not be made after the expiry of 2 years from the happening of the event giving rise to the complaint but, where an employee's contract of service is terminated, the complaint shall be made not later than 6 months of the date the employee's contract is terminated.

(4) A determination of the director under this section may be filed with the Trial Division and, when filed, the determination is enforceable as an order of that court.

[1977 c52 s58; 1986 c35 s5; 1992 c17 s19; 2001 c33 s31; 2013 c16 s25; 2022 cP-3.02 s19](#)

[Back to Top](#)

Records to be kept

63. (1) An employer shall keep complete, continuous and accurate records setting out in respect of each employee

- (a) the name, address and date of birth of the employee;
- (b) the rate of wages of the employee, the number of hours worked by the employee in each day, the amount paid to the employee showing all deductions made from wages paid;
- (c) the date of
 - (i) the beginning of the employment of the employee, and
 - (ii) if temporarily laid-off or terminated, the date of temporary lay-off or termination, and, if appropriate, the date notice of intention to terminate was given;
- (d) particulars respecting the annual vacation of the employee showing the period taken, the date and the amount of wages paid under section 9;
- (e) the date on which each rest period required to be given under section 22 has been given to the employee;
- (f) where the employee's employment is for a fixed period or term or for a specific task, the date of expiry of that period or term or the anticipated completion date of the specific task; and
- (g) those other matters, particulars and information that may be prescribed.

(2) An employer shall keep the records required to be kept under subsection (1) for a period of 4 years from the date of the last entry in the record respecting the employee.

(3) The records required to be kept under subsection (1) shall be made available to the director, or another officer designated by the director, within 7 days of a demand served personally on the employer or 10 days from the date the demand was sent by registered mail.

(4) An employer who

- (a) fails to keep records required by subsection (1);
- (b) knowingly makes a false entry in those records; or
- (c) fails to make the records available when required to do so under subsection (3)

is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and not more than \$500 or to imprisonment for a term of 1 month, or to both a fine and imprisonment.

(5) In a proceeding for the recovery of wages from an employer, the onus of proving that the wages were paid lies upon the employer

(a) where the employer is convicted of an offence under this section; or

(b) where the court or the Labour Relations Board is satisfied that the employer has failed to comply with this section.

[1977 c52 s59](#); [1992 c17 s20](#); [2001 c33 s32](#)

[Back to Top](#)

Powers of entry, interview and inspection

64. (1) The director, and an officer or inspector appointed under section 61, may, at reasonable times upon production of evidence of identity, enter upon the premises of an employer where it is reasonably necessary to determine compliance with this Act

(a) to inspect and examine, and take for the purpose of making copies of the records required to be kept under section 63 or a part of those records, as well as books of account and other documents and records maintained by the employer, and to make those copies; and

(b) without interfering with employees in the performance of their duties for the employer to interview the employees working within the premises entered for the purpose of obtaining facts or information concerning an employee of the employer.

(2) Where the director believes on reasonable grounds that a person has contravened this Act or regulations, the director or an officer or inspector appointed under section 61 may with a warrant issued under subsection (3) at a reasonable time enter upon the premises of an employer and may investigate, inquire into and examine the affairs of the person in respect of whom the investigation is being made and into the books, documents, correspondence and records in relation to the person.

(3) A Provincial Court judge who is satisfied by information upon oath or affirmation that there are reasonable grounds for believing that there is on the premises of an employer anything that there are reasonable grounds to believe will give evidence with respect to an offence under this Act may issue a warrant authorizing the director or an officer or inspector, appointed under section 61, named in the warrant to enter and search those premises and to make those inquiries and copies of books, documents, correspondence and records that are considered necessary, subject to those conditions that may be specified in the warrant.

(4) The owner or person in charge of the premises referred to in this section and a person found there shall give the person named in the warrant reasonable help to enable the person named in the warrant to carry out his or her duties and functions under this section and shall provide the information that the person named in the warrant may reasonably require.

(5) Where an action or proceeding is taken against the director or an officer or inspector appointed or designated under this Act for anything done under this Act or the regulations, a verdict or judgment shall not be given against the director, officer or inspector where the court before which the action or proceeding is taken is satisfied that there was probable cause for the action of the director, officer or inspector and that it was not malicious.

[1977 c52 s60](#); [1979 c38 s7](#); [1985 c11 s49](#); [2004 c36 s21](#)

[Back to Top](#)

Unpaid Wages Account

65. (1) For the purpose of carrying out the power conferred by paragraph 62(d), the director shall open an account known as the Unpaid Wages Account into which all money paid by employers to the director or to those officers designated by the director to receive unpaid wages from employers

shall be deposited and a remittance of wages to an employee entitled to those wages shall be recorded in that account.

(2) The Unpaid Wages Account shall once in each calendar year be audited by the auditor general for the financial year immediately preceding the date of the audit.

(3) As soon as possible after crediting wages to the Unpaid Wages Account, the director shall remit the sum received to the employee in respect of whom it is paid, but if, after making all reasonable inquiries, the director is unable to ascertain the whereabouts of the employee and no claim is made by the employee for payment within a period of 2 years from the date the money was credited to the Unpaid Wages Account, the money becomes the property of the Crown and forms part of the Consolidated Revenue Fund.

1977 c52 s61

[Back to Top](#)

Clearance certificates

65.1 (1) The minister shall establish a system to provide information respecting the status of an employer under this Act, and may determine the information that may be provided.

(2) A person may request a clearance certificate from the minister via electronic means.

(3) A request under subsection (2) shall be accompanied by the fee prescribed in subsection (4) and the information required by the minister to identify the employer concerning whom the clearance certificate is requested.

(4) The application fee for processing a clearance certificate is \$75.

(5) In this section, "clearance certificate" means a certificate provided by the minister indicating the status of an employer under this Act on the date the certificate is issued.

[2016 c30 s1](#)

[Back to Top](#)

Fees previously collected

65.2 (1) Notwithstanding subsection 65.1(4), the application fee for processing a clearance certificate from April 1, 2013 to March 31, 2016 is \$50.

(2) An application fee for processing a clearance certificate which was collected in the time period referred to in subsection (1) is considered to have been validly imposed and collected.

[2016 c30 s1](#)

[Back to Top](#)

Regulations

66. The Lieutenant-Governor in Council may make regulations

(a) prescribing books, accounts and records to be maintained by employers, and the information to be entered in records so kept in addition to or as an alternative to the information required by section 63;

(b) [Rep. by 2001 c33 s33]

(c) providing for additional duties to be carried out by the director and officers and inspectors appointed under this Act, and conferring those additional powers that are considered necessary and appropriate for the implementation of those duties;

- (d) for the purpose of paragraphs 62(b) and (d), regulating the procedure to be adopted by the director, officers or inspectors designated by the director under that section in investigating complaints and accepting wages due to or by the employees, and prescribing penalties, not to exceed 10% of sums payable by employers to employees, in circumstances where employers admit contraventions of this Act respecting the payment of wages to employees;
- (e) [Rep. by 2001 c33 s33]
- (f) prescribing hazardous occupations in which minors between 16 years and under 18 years shall not be employed;
- (g) prescribing information to be supplied to the director by employers who consent to pay employees sums found by the director to be due to employees, including proof and time of payment;
- (h) governing the Unpaid Wages Account constituted under section 65 and prescribing the form and content of it; and
- (i) [Rep. by 2001 c33 s33]
- (j) providing for a matter that is required to be prescribed under this Act.

[1977 c52 s62](#); [1992 c17 s21](#); [2001 c33 s33](#)

PART XII ENFORCEMENT

[Back to Top](#)

Rep. by 2001 c33 s34

67. [Rep. by 2001 c33 s34]

[2001 c33 s34](#)

[Back to Top](#)

Review

68. The Labour Relations Board may

- (a) consider, review and decide upon those matters falling within the scope and intent of this Act that may be referred to it by
 - (i) the director, or
 - (ii) a person aggrieved by a determination of the director; and
- (b) make orders upon employers, employees or directors of corporations respecting a matter referred to it under paragraph (a) including orders as to the payment of wages, tips, gratuities or surcharges instead of tips or gratuities, payable to employees and orders requiring compliance with an obligation imposed upon employers, employees or directors of corporations under this Act.

[2001 c33 s35](#)

[Back to Top](#)

Application for order of board

69. (1) Without limiting the power of the director to make a determination under paragraph 62(1)(c), the director may

- (a) following receipt of a complaint made under paragraph 62(1)(a); or
- (b) following an investigation made under paragraph 62(1)(b),

submit the complaint or question arising from the investigation to the Labour Relations Board for a decision and an order that it considers necessary or appropriate having regard to the nature of the complaint or question submitted.

(2) Where the director submits a complaint or a question arising from an investigation to the Labour Relations Board, the director shall not be considered to be acting on behalf of a complainant in doing so.

(3) A person aggrieved and affected by a determination of the director under paragraph 62(1)(c) may, within 30 days after the receipt of the determination, file an application for a review of that determination with the Labour Relations Board.

(4) Where an application for review under subsection (3) relates to the payment by the applicant of wages, tips or gratuities or surcharges instead of tips or gratuities due to an employee under this Act, the applicant shall deposit with the Labour Relations Board at the time of making the application

- (a) the amount that is determined by the director to be payable by the applicant, which shall be held in trust by the Labour Relations Board; or
- (b) a bond or other security in a form and in an amount satisfactory to the Labour Relations Board,

and where the Labour Relations Board decides that the wages, tips or gratuities or surcharges instead of tips or gratuities are payable to the employee, the sum, bond or other security so deposited shall be applied by the Labour Relations Board towards the satisfaction of an order made by it.

(5) Where, on the coming into force of this section, an adjudicator has begun to consider, review, hear and decide upon a matter but has not given a decision, the adjudicator remains seized with the matter until it gives its decision.

(6) Where, on the coming into force of this section, an application has been made to an adjudicator but the adjudicator has not begun to consider, review, hear and decide upon the matter that is the subject of the application, the application shall be considered to have been made to the Labour Relations Board.

[2001 c33 s36](#)

[Back to Top](#)

Rep. by 2001 c33 s37

70. [Rep. by 2001 c33 s37]

[2001 c33 s37](#)

[Back to Top](#)

Rep. by 2001 c33 s37

71. [Rep. by 2001 c33 s37]

[2001 c33 s37](#)

[Back to Top](#)

Rep. by 2001 c33 s37

72. [Rep. by 2001 c33 s37]

[2001 c33 s37](#)

[Back to Top](#)

Offence and penalty

73. (1) A person is guilty of an offence who fails to comply with

(a) a valid determination made by the director under section 62 in respect of which no application for review has been made to the Labour Relations Board; or

(b) a valid order of the Labour Relations Board with respect to a matter under this Act.

(2) A person who is guilty of an offence under subsection (1) is liable on summary conviction

(a) where the person is a natural person, to a fine of not less than \$100 and not more than \$500 and in default of payment to imprisonment for a term not exceeding 3 months; or

(b) where the person is a corporation, to a fine of not less than \$200 and not more than \$1,000.

(3) Where a person is guilty of a 2nd or subsequent offence under subsection (1) that person is liable on summary conviction to double the fine or to double the term of imprisonment provided for in that subsection and applicable in the case of that person.

(4) A copy of an order made by the Labour Relations Board and certified by that board, with an affidavit of service of the order upon a person charged under this section is, in the absence of evidence to the contrary, proof that the order was made, that the contents of the order are accurate and that the order was served upon the accused.

1977 c52 s68; [1992 c17 s28](#); [2001 c33 s38](#)

[Back to Top](#)

Enforcement of judge's order

74. (1) Where a person or corporation is convicted of an offence under section 73, the provincial court judge shall order the person or corporation to comply with the determination of the director or a designated officer or the order of the Labour Relations Board or immediately to ensure that the determination of the director or designated officer or the order of the Labour Relations Board is carried out immediately.

(2) An order made by a Provincial Court judge under subsection (1) may be enforced against the person in respect of whom it is made as if it were a judgment of the Trial Division in a civil action and execution may follow by filing the order of the Provincial Court judge with the Trial Division.

1977 c52 s69; 1979 c38 s7; [1992 c17 s29](#); [2001 c33 s39](#); [2013 c16 s25](#)

[Back to Top](#)

Application of Summary Proceedings Act

75. (1) Section 5 of the *Provincial Offences Act* does not apply to a person who contravenes the provisions of Parts I to XI of this Act.

(2) Sections 736 and 737 of the *Criminal Code* shall not be applied in disposing of a prosecution for an offence under this Act.

1977 c52 s70; 1979 c35 Schs A&B; [2019 c8 s16](#)

[Back to Top](#)

Directors, etc. of corporations

76. Where a corporation has committed an offence under this Act, a director, officer or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of an offence and liable on summary conviction to the fine provided for a natural person under section 73 whether or not the corporation has been prosecuted or convicted.

1977 c52 s71

[Back to Top](#)

General offence

76.1 A person who fails to comply with this Act or the regulations is guilty of an offence and is liable, on summary conviction, where no other penalty is provided for in this Act or the regulations, to a fine of not less than \$200 nor more than \$2,000, and in default of payment to imprisonment for a term not exceeding 3 months.

[2001 c33 s40](#)

[Back to Top](#)

Civil remedies preserved

77. Nothing in this Act prevents an employee from recovering from an employer in a court as much of the wages due to the employee under the contract of service that has not been paid by the employer.

1977 c52 s72

[Back to Top](#)

Discrimination

78. (1) An employer is guilty of an offence who discharges or threatens to discharge an employee contrary to this Act, or discriminates against an employee because the employee

- (a) has testified or is about to testify in a proceeding or help in an investigation made or taken under this Act;
- (b) has given information to the board or to the director or an officer or inspector appointed under this Act to acquire information regarding the wages payable to that employee or other employees of the employer or the terms of the contract of service of that employee or other employees;
- (c) has initiated or taken part in a proceeding, investigation or complaint initiated or made under this Act; or
- (d) has been dismissed by a former employer.

(2) A person is guilty of an offence who seeks to have an employer dismiss an employee because that employee has previously been dismissed by that person.

(3) A person who is guilty of an offence under subsection (1) is liable on summary conviction, in respect of each employee to which the offence relates,

- (a) to a fine of not less than \$100 and not more than \$1,000 or to imprisonment for a period not exceeding 3 months, or to both a fine and imprisonment where the person is a natural person; or
- (b) to a fine of not less than \$300 and not more than \$3,000 where the person is a corporation.

(4) Where an employer is convicted of an offence under subsections (1) and (2), the court, where the offence relates to discriminatory dismissal or reduction in wages, shall in addition to another penalty imposed by this Act order the employer to pay compensation for loss of employment or reduction in wages to the employee in an amount not exceeding the amount that in the opinion of the court would be equivalent to the wages that would have accrued to the employee up to the date of conviction but for the discharge or reduction, and, in the case of the discharge of an employee, the court may order the employer to reinstate the employee under the original contract of service from the date and for the period that in the opinion of the court is appropriate.

(5) An employer who fails to comply with an order made under subsection (4) is guilty of an offence and liable on summary conviction to a fine of not less than \$10 and not more than \$100 for each day during which the failure continues.

(6) In addition to the penalties set out in subsection (3) the court may order that exemplary damages be paid to an employee by a person found guilty of an offence under subsection (2).

1977 c52 s73

[Back to Top](#)

Proof of service

79. Where a written notice, direction, order, determination or other document is required or permitted by this Act to be served or sent to a person, production of an affidavit of personal service or a receipt from the postal authority that the notice, direction, order, determination or document was left at a post office for delivery by registered mail is, in the absence of evidence to the contrary, proof that the notice, direction, order, determination or document was served on or delivered to the person to whom it was addressed.

1992 c17 s30

[Back to Top](#)

Calculation of wages owing

79.1 (1) Where

- (a) the director makes a determination under paragraph 62(c); or
- (b) the Labour Relations Board makes an order with respect to a matter under this Act,

that unpaid wages, tips or gratuities, or surcharges paid instead of tips or gratuities, are owed to an employee, the director or Labour Relations Board may order the employer of the employee by whom they are owed to calculate the amounts owing within the time stated in the order.

(2) Where an employer who has been ordered to calculate unpaid wages, tips or gratuities, or surcharges paid instead of tips or gratuities, fails to make the calculations within the time stated in the order, the director or an officer or another person appointed by the director or the Labour Relations Board for the purpose may perform the calculations at the employer's expense.

(3) An employer shall pay all the expenses related to a calculation made under subsection (2) and where the employer fails to pay the expenses, they may be recovered by the director in a court as a debt due the Crown.

1992 c17 s31; 2001 c33 s41

[Back to Top](#)**Reciprocal enforcement of orders**

80. (1) In this section, "order" includes a judgment and, in the case of a province or territory of Canada whose labour standards legislation contains a provision substantially similar to subsection 62(4), includes an order for the payment of money owing under that legislation.

(2) The provinces or territories of Canada the Lieutenant-Governor in Council may recognize are reciprocating provinces and territories for the purpose of this section and the authorities designated by the Lieutenant-Governor in Council with respect to those provinces and territories are the authorities who may make application under this section.

(3) The designated authority of a reciprocating province or territory may apply to the director for enforcement of an order for the payment of money issued under the labour standards legislation of that province or territory.

(4) The application shall be accompanied by a copy of the order, certified as a true copy,

(a) by the court in which the order was filed, if the labour standards legislation of the reciprocating province or territory provides for the filing of the order in a court; or

(b) by the designated authority, if the labour standards legislation of the reciprocating province or territory does not provide for the filing of the order in a court.

(5) The director may file a copy of the order in a court and, upon its filing, the order is enforceable as a judgment or order of the court,

(a) at the instance and in favour of the director; or

(b) at the instance and in favour of the designated authority.

(6) The director or the designated authority

(a) is entitled to the costs of enforcing the order as if it were an order of the court in which the copy of it was filed; and

(b) may recover those costs in the same manner as sums payable under the order may be recovered.

[2001 c33 s42](#)

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