### **EMPLOYMENT STANDARDS ACT, 2000**

### PART I DEFINITIONS (S. 1)

- 1 Definitions
  - § 1:1 Commentary and Related Provisions
  - § 1:2 Case Law—Section 1(1) "Definitions"
  - § 1:3 —Section 1(2) "Person in receipt of training"
  - § 1:4 —Section 1(3) "Agreements in writing"

### PART II INFORMATION CONCERNING RIGHTS AND OBLIGATIONS (S. 2)

- 2 Director to prepare poster
  - § 2:1 Commentary and Related Provisions

### PART III HOW THIS ACT APPLIES (SS. 3-8)

- 3 Who Act applies to
  - § 3:1 Commentary and Related Provisions
  - § 3:2 Case Law
- 3.1 Crown bound
- 4 Separate persons treated as one employer
  - § 4:1 Commentary and Related Provisions
  - § 4:2 Case Law
- 5 No contracting out
  - § 5:1 Commentary and Related Provisions
  - § 5:2 Case Law
- 5.1 No treating as if not employee
  - § 5.1:1 Commentary and Related Provisions
- 6 Settlement by trade union binding
  - § 6:1 Commentary and Related Provisions
- 7 Agents
  - § 7:1 Commentary and Related Provisions
- 8 Civil proceedings not affected
  - § 8:1 Commentary and Related Provisions
  - § 8:2 Case Law

### PART IV CONTINUITY OF EMPLOYMENT (SS. 9, 10)

- 9 Sale, etc., of business
  - § 9:1 Commentary and Related Provisions
  - § 9:2 Case Law

- 10 New building services provider
  - § 10:1 Commentary and Related Provisions
  - § 10:2 Case Law

### PART V PAYMENT OF WAGES (SS. 11-14)

- 11 Payment of wages
  - § 11:1 Commentary and Related Provisions
  - § 11:2 Case Law
- 12 Statement re wages
  - § 12:1 Commentary and Related Provisions
- 12.1 Statement re wages on termination
  - § 12.1:1 Commentary and Related Provisions
  - § 12.1:2 Case Law
- 13 Deductions, etc.
  - § 13:1 Commentary and Related Provisions
  - § 13:2 Case Law
- 14 Priority of claims
  - § 14:1 Commentary and Related Provisions
  - § 14:2 Case Law

### PART V.1 EMPLOYEE TIPS AND OTHER GRATUITIES (SS. 14.1–14.5)

- 14.1 [Repealed 2017, c. 22, Sched. 1, s. 7.]
- 14.2 Prohibition re tips or other gratuities
- 14.3 Statute or court order
- 14.4 Pooling of tips or other gratuities
- 14.5 Transition—collective agreements
  - § 14.5:1 Commentary and Related Provisions

### PART VI RECORDS (SS. 15-16)

- 15 Records
  - § 15:1 Commentary and Related Provisions
  - § 15:2 Case Law
- 15.1 Record re vacation time and vacation pay
  - § 15.1:1 Commentary and Related Provisions
  - § 15.1:2 Case Law
- 16 Availability
  - § 16:1 Commentary and Related Provisions
  - § 16:2 Case Law

### PART VII HOURS OF WORK AND EATING PERIODS (SS. 17–21.1)

- 17 Limit on hours of work
  - § 17:1 Commentary and Related Provisions
  - § 17:2 Case Law

- 17.1 [Repealed 2019, c. 4, Sched. 9, s. 4.]
  - § 17.1:1 Commentary and Related Provisions
  - § 17.1:2 Case Law
- 17.2 [Repealed 2019, c. 4, Sched. 9, s. 5.]
  - § 17.2:1 Commentary and Related Provisions
  - § 17.2:2 Case Law
- 17.3 [Repealed 2019, c. 4, Sched. 9, s. 6.]
  - § 17.3:1 Commentary and Related Provisions
- 18 Hours free from work
  - § 18:1 Commentary and Related Provisions
  - § 18:2 Case Law
- 19 Exceptional circumstances
  - § 19:1 Commentary and Related Provisions
- 20 Eating periods
  - § 20:1 Commentary and Related Provisions
  - § 20:2 Case Law
- 21 Payment not required
  - § 21:1 Commentary and Related Provisions
- 21.1 Director to prepare document
  - § 21.1:1 Commentary and Related Provisions

### PART VII.0.1 WRITTEN POLICY ON DISCONNECTING FROM WORK (SS. 21.1.1, 21.1.2)

- 21.1.1 Interpretation
- 21.1.2 Written policy on disconnecting from work
  - § 21.1.2:1 Commentary

### PART VII.1 THREE HOUR RULE (S. 21.2)

- 21.2 Three hour rule
  - § 21.2:1 Commentary and Related Provisions

### PART VIII OVERTIME PAY (SS. 22–22,2)

- 22 Overtime threshold
  - § 22:1 Commentary and Related Provisions
  - § 22:2 Case Law
- 22.1 [Repealed 2019, c. 4, Sched. 9, s. 9.]
- 22.2 [Repealed 2019, c. 4, Sched. 9, s. 9.]

### PART IX MINIMUM WAGE (SS. 23-23.1)

- 23 Minimum wage
  - § 23:1 Commentary and Related Provisions
  - § 23:2 Case Law
- 23.0.1 Change to minimum wage during pay period
  - § 23.0.1:1 Commentary
- 23.1 Determination of minimum wage

- § 23.1:1 Commentary and Related Provisions
- § 23.1:2 Case Law

### PART X PUBLIC HOLIDAYS (SS. 24-32)

- 24 Public holiday pay
  - § 24:1 Commentary and Related Provisions
  - § 24:2 Case Law
- 25 Two kinds of work
  - § 25:1 Commentary and Related Provisions
  - § 25:2 Case Law
- 26 Public holiday ordinarily a working day
  - § 26:1 Commentary and Related Provisions
  - § 26:2 Case Law
- 27 Agreement to work, ordinarily a working day
  - § 27:1 Commentary and Related Provisions
- 28 Requirement to work on a public holiday: certain operations
  - § 28:1 Commentary and Related Provisions
  - § 28:2 Case Law
- 29 Public holiday not ordinarily a working day
  - § 29:1 Commentary and Related Provisions
  - § 29:2 Case Law
- 30 Agreement to work where not ordinarily a working day
  - § 30:1 Commentary and Related Provisions
- 31 Premium pay hours not overtime hours
  - § 31:1 Commentary and Related Provisions
- 32 If employment ends
  - § 32:1 Commentary and Related Provisions

### PART XI VACATION WITH PAY (SS. 33-41.1)

- 33 Right to vacation
  - § 33:1 Commentary and Related Provisions
  - § 33:2 Case Law
- 34 Alternative vacation entitlement year
  - § 34:1 Commentary and Related Provisions
  - § 34:2 Case Law
- 35 Timing of vacation
  - § 35:1 Commentary and Related Provisions
  - § 35:2 Case Law
- 35.1 Timing of vacation, alternative vacation entitlement year
  - § 35.1:1 Commentary and Related Provisions
- 35.2 Vacation pay
  - § 35.2:1 Commentary and Related Provisions
  - § 35.2:2 Case Law
- 36 When to pay vacation pay

- § 36:1 Commentary and Related Provisions
- § 36:2 Case Law
- 37 Payment during labour dispute
  - § 37:1 Commentary and Related Provisions
- 38 If employment ends
  - § 38:1 Commentary and Related Provisions
  - § 38:2 Case Law
- 39 Multi-employer plans
  - § 39:1 Commentary and Related Provisions
  - § 39:2 Case Law
- 40 Vacation pay in trust
  - § 40:1 Commentary and Related Provisions
  - § 40:2 Case Law
- 41 Approval to forego vacation
  - § 41:1 Commentary and Related Provisions
- 41.1 Vacation statements
  - § 41.1:1 Commentary and Related Provisions

### PART XI.1 WRITTEN POLICY ON ELECTRONIC MONITORING (S. 41.1.1)

- 41.1.1 Written policy on electronic monitoring
  - § 41.1.1:1 Commentary

### PART XII EQUAL PAY FOR EQUAL WORK (SS. 41.2–42.3)

- 41.2 Interpretation
  - § 41.2:1 Commentary and Related Provisions
- 42 Equal pay for equal work
  - § 42:1 Commentary and Related Provisions
  - § 42:2 Case Law
- 42.1 [Repealed 2018, c. 14, Sched. 1, s. 9.]
  - § 42.1:1 Commentary and Related Provisions
  - § 42.1:2 Case Law
- 42.2 [Repealed 2018, c. 14, Sched. 1, s. 10.]
  - § 42.2:1 Commentary and Related Provisions
- 42.3 [Repealed 2018, c. 14, Sched. 1, s. 11.]
  - § 42.3:1 Commentary

### PART XIII BENEFIT PLANS (SS. 43, 44)

- 43 Definition
  - § 43:1 Commentary and Related Provisions
- 44 Differentiation prohibited
  - § 44:1 Commentary and Related Provisions
  - § 44:2 Case Law

### PART XIV LEAVES OF ABSENCE (SS. 45-53.1)

- 45 Definitions
  - § 45:1 Commentary and Related Provisions
  - § 45:2 Case Law

### PREGNANCY LEAVE

- 46 Pregnancy leave
  - § 46:1 Commentary and Related Provisions
  - § 46:2 Case Law
- 46.1 Definition
  - § 46.1:1 Commentary and Related Provisions
- 47 End of pregnancy leave
  - § 47:1 Commentary and Related Provisions

#### PARENTAL LEAVE

- 48 Parental leave
  - § 48:1 Commentary and Related Provisions
  - § 48:2 Case Law
- 49 End of parental leave
  - § 49:1 Commentary and Related Provisions

### FAMILY MEDICAL LEAVE

- 49.1 Family medical leave
  - § 49.1:1 Commentary

### ORGAN DONOR LEAVE

- 49.2 Organ donor leave
  - § 49.2:1 Commentary

### FAMILY CAREGIVER LEAVE

- 49.3 Family caregiver leave
  - § 49.3:1 Commentary

#### CRITICAL ILLNESS LEAVE

- 49.4 Critical illness leave
  - § 49.4:1 Commentary

### CHILD DEATH LEAVE

- 49.5 Child death leave
  - § 49.5:1 Commentary

xxii

#### CRIME-RELATED CHILD DISAPPEARANCE LEAVE

- 49.6 Crime-related child disappearance leave
  - § 49.6:1 Commentary

### DOMESTIC OR SEXUAL VIOLENCE LEAVE

- 49.7 Domestic or sexual violence leave
  - § 49.7:1 Commentary

### SICK LEAVE

- 50 Sick leave
  - § 50:1 Commentary and Related Provisions
  - § 50:2 Case Law

### FAMILY RESPONSIBILITY LEAVE

- 50.0.1 Family responsibility leave
  - § 50.0.1:1 Commentary and Related Provisions

#### BEREAVEMENT LEAVE

- 50.0.2 Bereavement leave
  - § 50.0.2:1 Commentary and Related Provisions

### EMERGENCY LEAVE: DECLARED EMERGENCIES AND INFECTIOUS DISEASE EMERGENCIES

- 50.1 Emergency leave: declared emergencies and infectious disease emergencies
  - § 50.1:1 Commentary
  - § 50.1:2 Case Law
- 50.1.1 Reimbursement of certain payments made under s. 50.1
  - § 50.1.1:1 Commentary

### RESERVIST LEAVE

- 50.2 Reservist leave
  - § 50.2:1 Commentary and Related Provisions

### GENERAL PROVISIONS CONCERNING LEAVES

- 51 Rights during leave
  - § 51:1 Commentary and Related Provisions
  - § 51:2 Case Law
- 51.1 Leave and vacation conflict
  - § 51.1:1 Commentary and Related Provisions
- 52 Length of employment
  - § 52:1 Commentary and Related Provisions

- § 52:2 Case Law
- 52.1 Leave taken in entire weeks
- Reinstatement
  - § 53:1 Commentary and Related Provisions
  - § 53:2 Case Law
- 53.1 Leaves apply separately

### PART XV TERMINATION AND SEVERANCE OF EMPLOYMENT (SS. 53.2-67)

#### INTERPRETATION

- 53.2 Meaning of "establishment"
  - § 53.2:1 Commentary

### TERMINATION OF EMPLOYMENT

- 54 No termination without notice
  - § 54:1 Commentary and Related Provisions
  - § 54:2 Case Law
- 55 Prescribed employees not entitled
  - § 55:1 Commentary and Related Provisions
  - § 55:2 Case Law
- 56 What constitutes termination
  - § 56:1 Commentary and Related Provisions
  - § 56:2 Case Law
- 57 Employer notice period
  - § 57:1 Commentary and Related Provisions
  - § 57:2 Case Law
- 58 Notice, 50 or more employees
  - § 58:1 Commentary and Related Provisions
  - § 58:2 Case Law
- 59 Period of employment: included, excluded time
  - § 59:1 Commentary and Related Provisions
  - § 59:2 Case Law
- 60 Requirements during notice period
  - § 60:1 Commentary and Related Provisions
  - § 60:2 Case Law
- 61 Pay instead of notice
  - § 61:1 Commentary and Related Provisions
  - § 61:2 Case Law
- 62 Deemed active employment
  - § 62:1 Commentary and Related Provisions

#### SEVERANCE OF EMPLOYMENT

- 63 What constitutes severance
  - § 63:1 Commentary and Related Provisions
  - § 63:2 Case Law
- 64 Entitlement to severance pay
  - § 64:1 Commentary and Related Provisions
  - § 64:2 Case Law
- 65 Calculating severance pay
  - § 65:1 Commentary and Related Provisions
  - § 65:2 Case Law
- 66 Instalments
  - § 66:1 Commentary and Related Provisions
  - § 66:2 Case Law

### ELECTION RE RECALL RIGHTS

- 67 Where election may be made
  - § 67:1 Commentary and Related Provisions
  - § 67:2 Case Law

### PART XV.1 NON-COMPETE AGREEMENTS (SS. 67.1, 67.2)

- 67.1 Definitions
- 67.2 Prohibition
  - § 67.2:1 Commentary

### PART XVI LIE DETECTORS (SS. 68-71)

- 68 Definitions
  - § 68:1 Commentary and Related Provisions
- 69 Right to refuse test
  - § 69:1 Commentary and Related Provisions
- 70 Prohibition: testing
  - § 70:1 Commentary and Related Provisions
- 71 Consent to test by police
  - § 71:1 Commentary and Related Provisions
  - § 71:2 Case Law

### PART XVII RETAIL BUSINESS ESTABLISHMENTS (SS. 72, 73)

- 72 Application
  - § 72:1 Commentary and Related Provisions
- 73 Right to refuse work
  - § 73:1 Commentary and Related Provisions
  - § 73:2 Case Law

### PART XVIII REPRISAL (S. 74)

- 74 Prohibition
  - § 74:1 Commentary and Related Provisions
  - § 74:2 Case Law

### PART XVIII.1 TEMPORARY HELP AGENCIES AND RECRUITERS (SS. 74.1–74.18)

#### LICENSING

- 74.1 Types of licences
- 74.1.1 Licence to operate as temporary help agency
- 74.1.2 Licence to act as recruiter
- 74.1.3 Application for licence
- 74.1.4 Issuance of licence
- 74.1.5 Refusal to issue or renew licence
- 74.1.6 Revocation or suspension of licence
- 74.1.7 Notice requirements re: licences
- 74.1.8 Terms and conditions of licence
- 74.1.9 Licence not transferable
- 74.1.10 Expiry of licence
- 74.1.11 Voluntary cancellation
- 74.1.12 Public record
- 74.1.13 Application for review
- 74.1.14 Further application
- 74.1.15 Director's authorization

### INTERPRETATION AND APPLICATION

- 74.2 Definitions
  - § 74.2:1 Case Law
- 74.2.1 [Repealed 2019, c. 5, Sched. 3, s. 6.]
- 74.3 Employment relationship
  - § 74.3:1 Case Law
- 74.4 Work assignment

### OBLIGATIONS AND PROHIBITIONS

- 74.4.1 Agency to keep records re: work for client, termination
- 74.4.2 Client to keep records re: work for client
- 74.4.3 Recruiters to keep records
- 74.5 Information re agency
- 74.6 Information re assignment
- 74.7 Information, rights under this Act
- 74.8 Prohibitions
  - § 74.8:1 Case Law

xxvi

- 74.9 Void provisions
- 74.10 Public holiday pay
  - § 74.10:1 Case Law
- 74.10.1 Termination of assignment
  - § 74.10.1:1 Commentary
- 74.11 Termination and severance
  - § 74.11:1 Commentary and Related Provisions
- 74.11.1 Transition

### REPRISAL BY CLIENT

- 74.12 Reprisal by client prohibited
  - § 74.12:1 Commentary

### REPRISAL BY RECRUITER

74.12.1 Reprisal by recruiter prohibited

### **ENFORCEMENT**

| 74.12.1[1]                                  | [Repealed 2017, c. 22, Sched. 1, s. 46.]       |  |  |  |
|---|--|--|--|--|
| 74.13                                       | Meeting under s. 102                           |  |  |  |
| 74.13.1                                     | Time for response                              |  |  |  |
| 74.14                                       | Order to recover fees                          |  |  |  |
| 74.15                                       | Recovery of prohibited fees by client          |  |  |  |
| 74.16                                       | Order for compensation, temporary help agency  |  |  |  |
| 74.17                                       | Order re client reprisal                       |  |  |  |
| 74.18                                       | Agency and client jointly and severally liable |  |  |  |
| 74.19                                       | Order re: recruiter reprisal                   |  |  |  |
| § 74.19:1 Commentary and Related Provisions |  |  |  |  |

### PART XIX BUILDING SERVICES PROVIDERS (SS. 75–78)

- 75 New provider
  - § 75:1 Commentary and Related Provisions
  - § 75:2 Case Law
- 76 Vacation pay
  - § 76:1 Commentary and Related Provisions
- 77 Information request, possible new provider
  - § 77:1 Commentary and Related Provisions
  - § 77:2 Case Law
- 78 Use of information
  - § 78:1 Commentary and Related Provisions

### PART XX LIABILITY OF DIRECTORS (SS. 79–83)

- 79 Definition
  - § 79:1 Commentary and Related Provisions

- § 79:2 Case Law
- 80 Application of Part
  - § 80:1 Commentary and Related Provisions
  - § 80:2 Case Law
- 81 Directors' liability for wages
  - § 81:1 Commentary and Related Provisions
  - § 81:2 Case Law
- 82 No relief by contract, etc.
  - § 82:1 Commentary and Related Provisions
- 83 Civil remedies protected
  - § 83:1 Commentary and Related Provisions
  - § 83:2 Case Law

### PART XXI WHO ENFORCES THIS ACT AND WHAT THEY CAN DO (SS. 84-95)

- 84 Minister responsible
  - § 84:1 Commentary and Related Provisions
  - § 84:2 Case Law
- 85 Director
  - § 85:1 Commentary and Related Provisions
- 86 Employment standards officers
  - § 86:1 Commentary and Related Provisions
- 87 Delegation
  - § 87:1 Commentary and Related Provisions
  - § 87:2 Case Law
- 88 Powers and duties of Director
  - § 88:1 Commentary and Related Provisions
- 88.1 Director may reassign an investigation
  - § 88.1:1 Commentary and Related Provisions
- 88.2 Recognition of employers
- 88.3 Delegation of powers under s. 88.2
- 89 Powers and duties of officers
  - § 89:1 Commentary and Related Provisions
  - § 89:2 Case Law
- 90 Officers not compellable
  - § 90:1 Commentary and Related Provisions
  - § 90:2 Case Law
- 91 Investigation and inspection powers
  - § 91:1 Commentary and Related Provisions
  - § 91:2 Case Law
- 91.1 [Repealed 2021, c. 25, Sched. 6, s. 4.]
  - § 91.1:1 Commentary and Related Provisions
- 92 Warrant
  - § 92:1 Commentary and Related Provisions

- 93 Posting of notices
  - § 93:1 Commentary and Related Provisions
- Powers under the Canada Labour Code
  - § 94:1 Commentary and Related Provisions
- 95 Service of documents
  - § 95:1 Commentary and Related Provisions
  - § 95:2 Case Law

### PART XXII COMPLAINTS AND ENFORCEMENT (SS. 96–115)

#### **COMPLAINTS**

- 96 Complaints
  - § 96:1 Commentary and Related Provisions
  - § 96:2 Case Law
- 96.1 [Repealed 2017, c. 22, Sched. 1, s. 53.]
  - § 96.1:1 Commentary
- 97 When civil proceeding not permitted
  - § 97:1 Commentary and Related Provisions
  - § 97:2 Case Law
- 98 When complaint not permitted
  - § 98:1 Commentary and Related Provisions
  - § 98:2 Case Law

### ENFORCEMENT UNDER COLLECTIVE AGREEMENT

- 99 When collective agreement applies
  - § 99:1 Commentary and Related Provisions
  - § 99:2 Case Law
- 100 If arbitrator finds contravention
  - § 100:1 Commentary and Related Provisions
- 101 Arbitration and s. 4
  - § 101:1 Commentary and Related Provisions
  - § 101:2 Case Law

### ENFORCEMENT BY EMPLOYMENT STANDARDS OFFICER

- 101.1 Settlement by employment standards officer
  - § 101.1:1 Commentary and Related Provisions
- 101.2 [Repealed 2000, c. 41, s. 101.2(7).]
  - § 101.2:1 Commentary and Related Provisions
- Meeting may be required
  - § 102:1 Commentary and Related Provisions
- 102.1 Time for response
  - § 102.1 Commentary

- 103 Order to pay wages
  - § 103:1 Commentary and Related Provisions
  - § 103:2 Case Law
- 104 Orders for compensation or reinstatement
  - § 104:1 Commentary and Related Provisions
  - § 104:2 Case Law
- 105 Employee cannot be found
  - § 105:1 Commentary and Related Provisions
- 106 Order against director, Part XX
  - § 106:1 Commentary and Related Provisions
  - § 106:2 Case Law
- 107 Further order, Part XX
  - § 107:1 Commentary and Related Provisions
- 108 Compliance order
  - § 108:1 Commentary and Related Provisions
- 109 Money paid when no review
  - § 109:1 Commentary and Related Provisions
- 110 Refusal to issue order
  - § 110:1 Commentary and Related Provisions
- 111 Time limit on recovery, employee's complaint
  - § 111:1 Commentary and Related Provisions
  - § 111:2 Case Law

### **SETTLEMENTS**

- 112 Settlement
  - § 112:1 Commentary and Related Provisions
  - § 112:2 Case Law

### NOTICES OF CONTRAVENTION

- 113 Notice of contravention
  - § 113:1 Commentary and Related Provisions
  - § 113:2 Case Law

### LIMITATION PERIOD

- 114 Limitation period re orders and notices
  - § 114:1 Commentary and Related Provisions
  - § 114:2 Case Law
- 115 Meaning of "substantially the same"
  - § 115:1 Commentary and Related Provisions

### PART XXIII REVIEWS BY THE BOARD (SS. 115.1–124)

### REVIEWS OF ORDERS

- 115.1 Interpretation
- 116 Review
  - § 116:1 Commentary and Related Provisions
  - § 116:2 Case Law
- Money held in trust pending review
  - § 117:1 Commentary and Related Provisions
  - § 117:2 Case Law
- Rules of practice
  - § 118:1 Commentary and Related Provisions
  - § 118:2 Case Law
- 119 Powers of Board
  - § 119:1 Commentary and Related Provisions
  - § 119:2 Case Law
- 120 Settlement through labour relations officer
  - § 120:1 Commentary and Related Provisions
  - § 120:2 Case Law

#### REFERRAL OF MATTER UNDER PART XIII

- 121 Referral
  - § 121:1 Commentary and Related Provisions

#### REVIEW OF NOTICE OF CONTRAVENTION

- 122 Review of notice of contravention
  - § 122:1 Commentary and Related Provisions
  - § 122:2 Case Law

### GENERAL PROVISIONS RESPECTING THE BOARD

- 123 Persons from Board not compellable
  - § 123:1 Commentary and Related Provisions
  - § 123:2 Case Law
- 124 When no decision after six months
  - § 124:1 Commentary and Related Provisions

### PART XXIV COLLECTION (SS. 125–130)

- 125 Third party demand
  - § 125:1 Commentary and Related Provisions
- 125.1 Security for amounts owing
  - § 125.1:1 Commentary
- 125.2 Warrant

- § 125.2:1 Commentary
- 125.3 Lien on real property
  - § 125.3:1 Commentary
- 126 Filing of order
  - § 126:1 Commentary and Related Provisions

#### COLLECTORS

- 127 Director may authorize collector
  - § 127:1 Commentary and Related Provisions
- 128 Collector's powers
  - § 128:1 Commentary and Related Provisions
- 129 Settlement by collector
  - § 129:1 Commentary and Related Provisions

#### RECIPROCAL ENFORCEMENT OF ORDERS

- 130 Definitions
  - § 130:1 Commentary and Related Provisions

### PART XXV OFFENCES AND PROSECUTIONS (SS. 131–139)

### **OFFENCES**

- 131 Offence to keep false records
  - § 131:1 Commentary and Related Provisions
- 132 General offence
  - § 132:1 Commentary and Related Provisions
  - § 132:2 Case Law
- 133 Additional orders
  - § 133:1 Commentary and Related Provisions
  - § 133:2 Case Law
- 134 Offence re order for reinstatement
  - § 134:1 Commentary and Related Provisions
- 135 Additional orders re other contraventions
  - § 135:1 Commentary and Related Provisions
- 136 Offence re directors' liability
  - § 136:1 Commentary and Related Provisions
- Offence re permitting offence by corporation
  - § 137:1 Commentary and Related Provisions
  - § 137:2 Case Law
- 137.1 Prosecution of employment standards officer
  - § 137.1:1 Commentary and Related Provisions
- 138 Where prosecution may be heard
  - § 138:1 Commentary and Related Provisions
- 138.1 Publication re convictions

xxxii

- § 138.1:1 Commentary and Related Provisions
- 139 Limitation period
  - § 139:1 Commentary and Related Provisions
  - § 139:2 Case Law

### PART XXVI MISCELLANEOUS EVIDENTIARY PROVISIONS (S. 140)

- 140 Copy constitutes evidence
  - § 140:1 Commentary and Related Provisions

### PART XXVII REGULATIONS (S. 141)

- 141 Regulations
  - § 141:1 Commentary and Related Provisions

### PART XXVIII TRANSITION, AMENDMENT, REPEALS, COMMENCEMENT AND SHORT TITLE (S. 142)

- 142 Transition
  - § 142:1 Commentary

### PART XXIX INCORPORATION OF THE PROTECTING A SUSTAINABLE PUBLIC SECTOR FOR FUTURE GENERATIONS ACT, 2019 (SS. 143–146)

- 143 [Repealed 2019, c. 12, s. 42(2).]
- 144 Repeals
- 145 Commencement
- 146 Short title

### ONT. REG. 285/01—WHEN WORK DEEMED TO BE PERFORMED, EXEMPTIONS AND SPECIAL RULES

1 Definitions

### WHEN WORK DEEMED TO BE PERFORMED

1.1 When work deemed to be performed

### EXEMPTIONS RE VARIOUS PARTS OF ACT

2 Exemptions from Parts VII to XI of Act

### EXEMPTION FOR THE CROWN AND CERTAIN PUBLIC BODIES

2.1 Crown, etc., exemption

### SPECIAL RULES RE CERTAIN LEAVES

- 3 Professional duty
- 3.0.1 [Repealed O. Reg. 498/18, s. 4.]

### EXEMPTION RE CERTAIN DEDUCTIONS, ETC.

3.1 Fees, s. 28 of Ontario Municipal Employees Retirement System
Act, 2006

### EXEMPTIONS RE HOURS OF WORK AND EATING PERIODS

4 Exemptions from Part VII of Act

### EXEMPTIONS RE THREE HOUR RULE

4.1 Exemptions from Part VII.1 of Act

### RULES RE MINIMUM WAGE

- 5 Room and board
- 5.1 [Repealed O. Reg. 526/17, s. 8.]
- 6 Minimum wage for wilderness guides

#### EXEMPTIONS RE MINIMUM WAGE

7 Exemptions from Part IX of Act

### EXEMPTIONS RE OVERTIME PAY

8 Exemptions from Part VIII of Act

### **EXEMPTIONS RE PUBLIC HOLIDAYS**

- 9 Exemptions from Part X of Act
- 9.1 [Repealed O. Reg. 498/18, s. 8.]

### EXEMPTION RE RETAIL BUSINESS ESTABLISHMENTS

10 Application of s. 73 of Act

### **EXEMPTIONS RE TEMPORARY HELP AGENCIES**

10.1 Exemptions from Part XVIII.1 of Act

### SPECIAL RULES RE HOMEMAKERS

11 Homemakers

### SPECIAL RULES RE HOMEWORKERS

12 Homeworkers

### SPECIAL RULES AND EXEMPTIONS RE OVERTIME PAY

- 13 Road building
- 14 Hotels, motels, tourist resorts, restaurants and taverns
- 15 Fresh fruit and vegetable processing

xxxiv

### TABLE OF CONTENTS

- 16 Sewer and watermain construction
- 17 Local cartage
- 18 Highway transport

#### SPECIAL RULES RE DOMESTIC WORKERS

19 Domestic workers

### SPECIAL RULES RE RESIDENTIAL CARE WORKERS

- 20 Residential care workers
- 21 Free time
- 22 When work deemed not to be performed
- 23 Exemptions

### SPECIAL RULES RE FRUIT, VEGETABLE & TOBACCO HARVESTERS

- 24 Application
- 25 Minimum wage
- 25.1 Three hour rule
- 26 Vacation or vacation pay
- 27 Public holidays

### SPECIAL RULES RE COMMISSION AUTOMOBILE SALES SECTOR

- 28 Commission automobile sales sector
- 29 [Repealed O. Reg. 443/08, s. 3.]

### DIRECTOR'S APPROVALS

- 30 [Repealed O. Reg. 50/05, s. 1.]
- 31 [Repealed O. Reg. 50/05, s. 1.]
- 32 Certain approved agreements irrevocable

#### EXEMPTION RE CERTAIN EXISTING ARRANGEMENTS

- 32.1 Existing arrangements for long shifts
- 33 Commencement

### ONT. REG. 286/01—BENEFIT PLANS

- 1 Definitions
- 2 Pension plans, permitted differentiation re employee's sex
- 3 Pension plans, permitted differentiation re marital status
- 4 Pension plans, permitted differentiation re employee's age
- 5 Life insurance plans, permitted differentiation re employee's sex
- 6 Life insurance plans, permitted differentiation re marital status
- 7 Life insurance plans, permitted differentiation re age
- 8 Disability benefit plans, permitted differentiation re age, sex or leave of absence

- 9 Health benefit plans, permitted differentiation re sex or marital status
- 10 Participation in benefit plan during leave of absence
- 11 Former exclusion from certain benefit plans
- 12 Compliance not to be achieved by reductions
- 13 Change to normal pensionable date under certain plans
- 14 Revocation
- 15 Commencement

### ONT. REG. 287/01—BUILDING SERVICES PROVIDERS

- 1 Prescribed services for a building
- 2 Prescribed employees
- 3 Information about employees
- 4 Revocation
- 5 Commencement

### ONT. REG. 288/01—TERMINATION AND SEVERANCE OF EMPLOYMENT

1 Definitions

### TERMINATION OF EMPLOYMENT

- 2 Employees not entitled to notice of termination or termination pay
- 3 Notice, 50 or more employees
- 4 Manner of giving notice
- 5 Notice of termination where seniority rights apply
- 6 Temporary work, 13-week period
- 7 Inclusion of vacation time in notice period
- 8 Period of employment

### SEVERANCE OF EMPLOYMENT

- 9 Employees not entitled to severance pay
- 10 Revocation
- 11 Commencement

### ONT. REG. 289/01—PENALTIES AND RECIPROCAL ENFORCEMENT

- 1 Prescribed penalties re notices of contravention
- 2 Reciprocal enforcement of orders
- 3 Commencement

### TABLE OF CONTENTS

# ONT. REG. 159/05—TERMS AND CONDITIONS OF EMPLOYMENT IN DEFINED INDUSTRIES—MINERAL EXPLORATION AND MINING

- 1 Definitions
- 2 Scope
- 3 Terms and conditions of employment
- 4 Days free from work

## ONT. REG. 160/05—TERMS AND CONDITIONS OF EMPLOYMENT IN DEFINED INDUSTRIES—LIVE PERFORMANCES, TRADE SHOWS AND CONVENTIONS

- 1 Definitions
- 2 Scope
- 3 Terms and conditions of employment
- 4 Hours free from work

### ONT. REG. 390/05—TERMS AND CONDITIONS OF EMPLOYMENT IN DEFINED INDUSTRIES—PUBLIC TRANSIT SERVICES

- 1 Definition
- 2 Scope
- 3 Terms and conditions of employment
- 4 Hours free from work
- 5 Eating periods

### ONT. REG. 491/06—TERMS AND CONDITIONS OF EMPLOYMENT IN DEFINED INDUSTRIES—AMBULANCE SERVICES

- 1 Definitions
- 2 Scope
- 3 Terms and conditions of employment
- 4 Hours free from work
- 5 Eating periods

# ONT. REG. 502/06—TERMS AND CONDITIONS OF EMPLOYMENT IN DEFINED INDUSTRIES—AUTOMOBILE MANUFACTURING, AUTOMOBILE PARTS MANUFACTURING, AUTOMOBILE PARTS WAREHOUSING AND AUTOMOBILE MARSHALLING

- 1 Definitions
- 2 Scope
- 3 Hours free from work
- 4 [Repealed O. Reg. 502/18, s. 2.]

# ONT. REG. 398/09—TERMS AND CONDITIONS OF EMPLOYMENT IN DEFINED INDUSTRIES—TEMPORARY HELP AGENCY INDUSTRY

- 1 Definition
- 2 Scope
- 3 Transitional terms and conditions of employment
- 4 Determination of temporary lay-off
- 5 Deemed termination date
- 6 Mass termination provisions, notice
- 7 Severance
- 8 Length of employment
- 9 Commencement

### ONT. REG. 125/16—TIPS AND OTHER GRATUITIES

- 1 Credit card charges
- 2 Commencement

### ONT. REG. 535/17—FAMILY MEDICAL LEAVE AND CRITICAL ILLNESS LEAVE

- 1 Condition re family member
- 2 Revocation
- 3 Commencement

### ONT. REG. 477/18—NON-APPLICATION OF ACT

- 1 Major junior ice hockey player
- 2 Commencement

### ONT. REG. 228/20—INFECTIOUS DISEASE EMERGENCY LEAVE

- 1 Interpretation and application
- 2 Designated diseases
- 3 Entitlement start date
- 3.1 Prescribed leave, orders continued under the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020
- 4 Prescribed leave, deemed leave
- 5 When employee not on leave
- 6 Reduction in hours, wages not a layoff
- 7 Reduction in hours, wages not a constructive dismissal
- 8 Complaint deemed not to have been filed
- 9 Reduction in hours of work, wages
- 10 Assignment employees
- 11 Prescribed date, entitlement to paid leave
- 12 Commencement

#### ONT. REG. 637/21—SECTION 50.1.1 OVERPAYMENT RECOVERY

- 1 Overpayment recovery process
- 2 Order to repay overpayment
- 3 Limitation period
- 4 Review
- 5 Collections
- 6 Commencement

### ONT. REG. 99/23—LICENSING—TEMPORARY HELP AGENCIES AND RECRUITERS

- 0.1 Definition
- 1 Meaning of "recruiter"
- 2 Information and statements
- 3 Fees
- 3.1 Exemption re fees
- 4 Security
- 4.1 Exemption re security requirements
- 4.2 Change in status—certain recruiter licences
- 4.3 Issuance of licence
- 5 Refusal to issue or renew licence
- 6 Process for certain licence refusals
- 7 Process for certain licence revocations and suspensions
- 8 Public record
- 9 Operation during application for review period—temporary help agencies
- 10 Operation during application for review period—recruiters
- 11 Application for review operates as stay
- 12 Section 74.2 definitions
- 13 Transition—temporary help agencies
- 14 Transition—recruiters
- 15 Omitted (provides for coming into force of provisions of this Regulation).

### EMPLOYMENT PROTECTION FOR FOREIGN NATIONALS ACT, 2009

### **INTERPRETATION**

- 1 Interpretation
- 2 Acting as recruiter

### APPLICATION

- 3 Application
  - § EPFN3:1 Commentary
  - § EPFN3:2 Case Law

- 4 Separate persons treated as one employer
  - § EPFN4:1 Commentary
  - § EPFN4:2 Case Law
- 5 No contracting out
- 6 Civil proceedings not affected

### PROTECTIVE MEASURES

- 7 Prohibition against charging fees
  - § EPFN7:1 Commentary
  - § EPFN7:2 Case Law
- 7.1 Prohibition against using recruiters that charge fees
- 8 Prohibition against cost recovery by employers
  - § EPFN8:1 Commentary
- 9 Prohibitions against taking, retaining property
  - § EPFN9:1 Commentary
- 10 Prohibitions against reprisal
  - § EPFN10:1 Commentary
- 11 Duty to provide documents to foreign nationals
  - § EPFN11:1 Commentary
- 12 Director's duty to publish documents
  - § EPFN12:1 Commentary
- 13 Director's authority to publish names of offenders, etc.

### RECORD KEEPING

- 14 Employer's duty to keep records
- 15 Recruiter's duty to keep records
- 16 Prohibition re record keeping

#### LIABILITY OF DIRECTORS AND RECRUITERS

- 17 Restricted application of ss. 18, 18.1 and 19
- 18 Directors' liability to repay fees, etc.
- 18.1 Recruiters' liability to repay fees, etc.
- 19 Indemnification, etc., of directors

### COMPLAINTS AND ENFORCEMENT

- 20 Complaints
  - § EPFN20:1 Case Law
- 21 Effect of filing complaint
- 22 Meetings required by employment standards officer
- 23 Settlement
- 24 Authority to make orders
- 25 Time limits on recovery
- 26 Refusal to issue order
- 27 Notice of contravention

### TABLE OF CONTENTS

- 28 Limitation period re orders, notices of contravention
- 29 OLRB review of order, etc.
- 30 OLRB review of notice of contravention
- 31 General provisions respecting the Board
- 32 Prescribed arrangements re collective agreements
  - § EPFN32:1 Commentary

### ADMINISTRATION AND ENFORCEMENT

- 33 Powers and duties of Director
- 34 Powers and duties of employment standards officers
- 35 Investigation and inspection powers
- 36 Warrants
- 37 Prohibitions re investigations and inspections
- 38 Posting of notices
- 39 Service of documents
- 40 Collections
  - § EPFN40:1 Commentary

### OFFENCES AND PROSECUTIONS

- 41 General offence
- 42 Limitation period, prosecution
- 43 Onus in prosecution for reprisal
- 44 Additional orders re reprisals, property
- 45 Additional orders re other contraventions
- 46 Offence re directors' liability
- 47 Offence re permitting offence by corporation
- 48 Where prosecution may be heard, etc.
  - § EPFN48:1 Commentary

### **GENERAL**

- 49 Copy constitutes evidence
- 50 Regulations
- 51 Amendments to the Employment Standards Act, 2000
- 52 Commencement
- 53 Short title

### O. REG. 348/15, EMPLOYER RECOVERY OF COSTS

- 1 Exception to prohibition against cost recovery
- 2 Commencement

### O. REG. 47/10, PENALTIES

- 1 Penalties re notices of contravention
- 2 Commencement

### **APPENDICES**

| Appendix A.   | OLRB Notices to the Community, COVID-19   |
|---------------|---|
| Appendix B.   | OLRB Rules, Policies and Procedures   |
| Appendix B1.  | Ontario Labour Relations Board Policy on<br>Openness and Privacy  |
| Appendix B2.  | Ontario Labour Relations Board After<br>Hours Practice  |
| Appendix B3.  | Ontario Labour Relations Board<br>Accessibility Policy  |
| Appendix B4.  | Ontario Labour Relations Board<br>Complaints Resolution Policy  |
| Appendix B5.  | Ontario Labour Relations Board Procedures<br>on Access to Documents and Exhibits<br>Contained in Board Adjudication Files—<br>(Applicable to Proceedings Commenced<br>Before June 30, 2019) |
| Appendix B6.  | Tribunal Adjudicative Records Act, 2019   |
| Appendix B7.  | Ontario Labour Relations Board Travel<br>Policy   |
| Appendix B8.  | Ontario Labour Relations Board Summons to Witness   |
| Appendix B9.  | Ontario Labour Relations Board Notice to<br>the Community—Interpretation Services   |
| Appendix B10. | Ontario Labour Relations Board Notice to<br>the Community—Scheduling of<br>Continuation Dates   |
| Appendix B11. | Ontario Labour Relations Board Filing<br>Guide  |
| Appendix B12. | Ontario Labour Relations Board—Rules of Procedure   |
| Appendix B13. | Form A-103  |
| Appendix B14. | Form-103A   |
| Appendix B15. | Form A-104  |
| Appendix B16. | Form A-114  |
| Appendix B17. | Form A-115  |
| Appendix B18. | Ontario Labour Relations Board<br>Information Bulletin No. 24   |

Appendix B19. Ontario Labour Relations Board Information Bulletin No. 24A

Appendix B20. Ontario Labour Relations Board Information Bulletin No. 28

### Appendix C. Tribunal Adjudicative Records Act, 2019

Appendix C1. Tribunal Adjudicative Records Act, 2019

Appendix C2. Ont. Reg. 211/19—General

Appendix D. Bankruptcy and Insolvency Act

### Appendix E. Wage Earner Protection Program Act

Appendix E1. Wage Earner Protection Program Act

Appendix E2. Can. Reg. 2008-222—Wage Earner Protection Program Regulations

Appendix WP. Words and Phrases Judically Considered

### **Table of Cases**

Index