

INDEX

The commentary and legislation entries in the index are referenced to section numbers.

British Columbia <i>Employment Standards Act</i>	ESA
396/95 — Employment Standards Regulation	BC Reg. 396/95
254/2016 — Reservists' Leave Regulation	BC Reg. 254/2016
Pay Transparency Act	PTA
225/2023 — Pay Transparency Regulation	BC Reg. 225/2023
Temporary Foreign Worker Protection Act	TFWPA

For example:

In the entry,

“• parental leave, VI.B; ESA 51(1)(d)”

VI.B refers to section VI.B of the commentary

and

ESA 51(1)(d) refers to section 51(1)(d) of the British Columbia *Employment Standards Act*.

A

Adjustment of minimum wages

- annual adjustment, BC Reg. 396/95 16(3), 17(2), 18.2(4)
- resident caretakers, BC Reg. 396/95 17(1)

Adoptive parents

- parental leave, VI.B; ESA 51(1)(d)
- • children of different backgrounds, where, VI.B
- • each adoptive parent entitled to 37 consecutive weeks, VI.B

Appeals

- amendment of determination being appealed, where, XI.K
- decision of Tribunal being final and conclusive, XI.K; ESA 110
- dismissal of appeal, XI.K; ESA 114(1)
- disposition on appeal, ESA 112-116
- exclusive jurisdiction of Tribunal, ESA 110
- grounds for appeal, XI.K; ESA 112(1)
- information to be submitted by appellant, ESA 112(2)(a)(i)

Index

Appeals (*cont'd*)

- judicial review, XI.K; ESA 112
- • breach of principles of natural justice, XI.K; ESA 112(1)(b)
- • exceeding its jurisdiction, XI.K
- reargue merits of claim, not, XI.K
- reconsideration of Director's decision, ESA 116
- • application by Director, XI.K; ESA 116(2)
- • application by party, ESA 116(2)
- • disposition by Tribunal, XI.K
- • • referral back to original panel or new panel, ESA 116(1)(b)
- • factors weighing against reconsideration, XI.K
- • single opportunity for reconsideration, ESA 116(3)
- record provided to Tribunal by Director, ESA 112(5)
- referral of matter back to Director for investigation or to parties for settlement, XI.K; ESA 114(2)
- suspension of effect of determination pending appeal, XI.K; ESA 113(1)
- • deposit with Director of amount to be paid under determination, XI.K; ESA 113(2)
- • suspension only granted in extraordinary circumstances, XI.K
- time limits for filing appeal, ESA 112(3)
- variation of determination to be done within 30 days of appeal request, XI.K; ESA 112(3)(a)
- • Director to provide any additional documents to Tribunal, XI.K; ESA 112(5)
- • records of conversations with person that provided evidence, XI.K; ESA 112(5)
- written reasons for Tribunal's orders, XI.K
- written reasons for Director's determination, XI.K
- written request for appeal, XI.K

Assignment of wages, *see also*

Deductions from wages

- cancellation of assignments, III.D; ESA 24
- credit obligations, III.D; ESA 22(4)
- employer having discretion whether or not to make deduction, III.D
- • employer required to honour payroll deductions requested by employee, III.D; ESA 22(1)

Index

Assignment of wages (*cont'd*)

- • specified purposes, III.D; ESA 22
- employer's duty to make assigned payments, III.D; ESA 23
- written assignments, ESA 22

Associated corporations *see also*

Enforcement

- associated corporations and corporate officers, liability of, XI.F; ESA 95, 96
- • associated corporations jointly and severally liable, XI.F.i; ESA 95
- • • single entity, treated as, XI.F.i
- • • • four factors, existence of, XI.F.i
- • • • corporate officers and directors, XI.F.ii; ESA 96

Averaging of hours of work agreement, *see also* Overtime hours and Overtime wages, banking of

- agreements to average hours of work, IV.E; ESA 37
- • agreement not operating as waiver of employment obligations under ESA, IV.E; ESA 37(14)
- • agreements permitting 12 hours per day and average of 40 hours per week, IV.E; ESA 37(4), (5)
- • • excess hours over 12 hours per day paid at double regular wage rate, IV.E; ESA 37(4)
- • • excess hours over 40 hours paid at rate of 1½ times of regular wage rate, IV.E; ESA 37(5)
- • determining entitlement to overtime wages, IV.E
- • parties bound by agreement until expiry, IV.E; ESA 37(11)
- • requirements for valid agreement, IV.E; ESA 37(2)
- • work schedule adjustment upon written request, IV.E; ESA 37(10)
- • work schedule specified for each day covered by agreement, IV.E; ESA 37(2)(a)(iv)
- • • employer required to pay 1½ times of regular wage rate for excessive hours, IV.E; ESA 37(6)(a)
- calculation of employee's average weekly hours, IV.E; ESA 37(7)
- • paid overtime hours not included, IV.E; ESA 37(7)(b)
- hours off from work, IV.E
- • thirty-two consecutive hours off work, IV.E; ESA 37(9)(a)
- • • where period in agreement more than one week, IV.E; ESA 37(9)
- • • where period of one week, IV.E; ESA 37(8)

Index

Averaging of hours of work agreement (*cont'd*)

- retention of copy of agreement, IV.E; ESA 37(13)

B

Bereavement leave

- duration of up to three days, VI.H; ESA 53
- “immediate family” defined, VI.H; ESA 1(1)
- unpaid leave, VI.H; ESA 53

C

Charity

- definition, BC Reg. 396/95 1(1)
- liability of directors and officers, XI.F.ii; ESA 96

Children

- conditions of employment, BC Reg. 396/95 45.1-45.4
- • adult supervision required, BC Reg. 396/95 45.4
- • entertainment business, live, BC Reg. 396/95 45.5
- • • chaperones, BC Reg. 396/95 45.19
- • • hours free from work, BC Reg. 396/95 45.18
- • • limits on daily hours, BC Reg. 396/95 45.17
- • entertainment business, recorded, BC Reg. 396/95 45.5-45.14
- • • chaperones, BC Reg. 396/95 45.13
- • • hours free from work, BC Reg. 396/95 45.11
- • • income protection, BC Reg. 396/95 45.14
- • • limits on daily hours, BC Reg. 396/95 45.8
- • • minimum age, 2 BC Reg. 396/95 45.7
- • • no split shifts and maximum limit on breaks, BC Reg. 396/95 45.9
- • • time before recording device and breaks, BC Reg. 396/95 46.10
- • • work week, BC Reg. 396/95 45.12
- • limits on working hours, BC Reg. 396/95 45.3
- hiring of, II.C; ESA 9, 9.1
- • burden of proof on employer to prove age of child in case of alleged contravention, II.C; ESA 126(4)
- • “hazardous industry”, ESA 9.1(1)
- • “hazardous work”, ESA 9.1(1)

Index

Children (*cont'd*)

- hiring of children in hazardous industry or for hazardous work, ESA 9.1; B.C. Reg. 396/95 45.25-45.26
- hiring of children under 14 requiring Director's permission, II.C; ESA 9(2)(b)
- • light work exclusion, BC Reg. 396/95 45.21
- hiring of children 14 or 15 years old requiring parent's written consent, II.C; ESA 9(2)(b)

Clothing, special

- requirement by employer of special clothing, III.E; ESA 25
- • employer to supply and clean clothing, III.E; ESA 25(1)
- • majority of employees agreeing to clean and maintain clothing, where, III.E; ESA 25(2)
- • cost of cleaning, III.E; ESA 25(2)(b)
- • • deduction from employee's pay for special clothing considered wages, III.E; ESA 25(3)
- • • records retained of agreement and amounts reimbursed to employees, III.E; ESA 25(2)(c)
- • • reimbursement of employees, III.E; ESA 25(2)(b)
- "special clothing" defined, III.E; ESA 1(1)
- • Employment Standards Interpretation Guidelines, III.E
- • uniform or clothing bearing company's logo, III.E
- special clothing vs. employer's dress code, III.E

Compassionate care leave, *see also*

Family responsibility leave

- duration of up to 27 weeks, VI.D; ESA 52(2)
- expiration of leave, VI.D; ESA 52(5)
- employer obligations, VI.D; ESA 54
- "family member" defined, VI.D; ESA 52.1
- further leave, VI.D; ESA 52(7)
- • further medical certificate, VI.D; ESA 52(7)
- leave taken in weekly blocks, VI.D; ESA 52(6)
- seriously ill family member, VI.D
- • medical practitioner certificate, VI.D; ESA 52(2), (3)
- • significant risk of death, VI.D; ESA 52(2)
- unpaid leave, VI.D; ESA 52(2)

Index

- Complaints and investigations**, *see also* Determinations and consequences and Settlement agreements
- complaints delivered to Employment Standards Branch, X.A.i; ESA 74(2)
 - complaints filed by employee or former employee or third party, X.A.i; ESA 74
 - • where employee on temporary lay-off deemed to be termination, X.A.i; ESA 74(3)-(3.1)
 - complaints filed with Director, X.A.i
 - • alleged regulatory contraventions, X.A.i; ESA (74)(1)(b)
 - • alleged statutory contraventions, X.A.i; ESA 74(1)(a)
 - • extension of time, X.B; ESA 74(5)
 - • out of time, X.B; ESA 74(3)-(4)
 - confidentiality of complainants to be specified, X.A.i; ESA 75
 - • Director rarely disclosing identity of person, X.A.i
 - contempt proceeding, ESA 84.2
 - determinations and consequences, ESA 79
 - expediting complaints, X.A.ii
 - hearings, maintenance of order in, X.B; ESA 84.1
 - identity of complainant to be kept confidential upon request, X.A.i; ESA 75
 - • *Freedom of Information and Protection of Privacy Act* not applying, X.A.i; ESA 75(2)
 - • unless disclosure necessary, X.A.i; ESA 75(1)(b)
 - immunity protection, ESA 84.3
 - information to be provided by complainant, X.A.i
 - investigations by Director, X.B; ESA 76
 - • discretion whether to investigate complaint, X.B; ESA 76(3)
 - • • ensuring basic compliance with employment standards, X.B; ESA 76(2)
 - • • situations where Director refusing to investigate or adjudicate complaint, X.B; ESA 76(3)
 - • • Tribunal not interfering with Director's exercise of discretion, X.B; ESA 76(3)(g)
 - • initiated by Director, ESA 73.1
 - • opportunity for party under investigation to respond, X.B; ESA 77
 - • • reasonable efforts to contact party, X.B
 - • oral hearing not required, ESA 77.1

Index

Complaints and investigations (*cont'd*)

- • powers and protections provided to Director, X.B; ESA 84-86
- • • power to engage peace officers, X.B; ESA 84.1(1)
- • • power to give directions to maintain order at oral hearing, X.B; ESA 84.1
- • • power to summons witnesses, X.B; ESA 84
- • • • failure to appear resulting in finding of contempt, X.B; ESA 84.2
- • • powers of entry and inspections, X.B; ESA 85
- • • • entry into premises during regular hours, X.B; ESA 85(1)(a)
- • • • inspections, X.B; ESA 85
- • • • removal of records, X.B; ESA 85(1)(d)
- • • • requiring disclosure, X.B; ESA 84, 85(1)(e)
- • • • requiring production of records, X.B; ESA 85(1)(f)
- • • private residence, 82, X.B; ESA 85(2)
- • • • consent of occupant or warrant required, X.B; ESA 85(2)
- • • same powers as judge, X.B; ESA 84.3
- • • same protection and privileges as given to judge, X.B; ESA 84.3
- non-compliance by employer, ongoing, X.A.ii
- retaliation by employer not permitted, ESA 83
- • employee not to be mistreated because of complaint or investigation, X.G; ESA 83
- • employer having right to discipline employee for proper cause, X.A.i
- Self-Help Kit to be utilized by complainant prior to filing complaint, X
- • Employment Standards Branch Fact Sheet, X
- • “Request for Payment” form, X
- settlement agreements, X.C; ESA 78
- time limit of six months, X.B; ESA 74(3)
- written report, X.B; ESA 78.1, 78.2
- **Constructive dismissal**, VIII.E, *see also* Termination of employment, “substantial alterations” to employment relationship
- **COVID-19-related leave**
- circumstances entitling leave, VI.F; ESA 52.12(2), (3)
- • proof of circumstances required, VI.F; ESA 52.12(4)
- • • medical note not required, VI.F; ESA 52.12(5)
- • “COVID-19 emergency” defined, BC Reg. 396/95 45.01(1)

Index

COVID-19-related leave (*cont'd*)

- “eligible person” defined, ESA 52.12(1)
 - employees entitled to leave until section repealed VI.F; ESA 52.12
 - exclusions during COVID-19 emergency, BC Reg. 396/95 45.01
 - lay-off period extension, I.D
 - maximum amount of time not needed, request for, VI.F
 - notice not required, VI.F
 - prescribed matters, BC Reg. 396/95 45.02-45.03
 - retroactive application of section 52.12, VI.F
 - “temporary lay-off” defined, BC Reg. 396/95 45.01(2)
 - temporary lay-off period extended, VIII.B
 - • variance application after Aug. 30, 2020, VIII.B
 - vaccination, leave for, VI.F; ESA 52.13
 - variance applications approved by Director due to COVID-19 pandemic, significant increase of, IX
- Critical illness or injury leave, VI.E; ESA 52.11**

D

Deductions from wages, *see also* Payment of wages

- business costs, ESA 21
- • employers prevented from having employee shoulder business costs, ESA 21(2)
- • prohibited from deducting from monies owed, pay advances, mileage or toll fees already paid to employee, III.C; ESA 21(1)
- • prohibited from withholding money to pay employer’s business costs, III.C; ESA 21(1)
- deductions required by law, III.C; ESA 21
- • prohibited from deducting for any purpose, III.C; ESA 21(1)
- failure to comply, III.C
- • money required to be paid deemed to be wages, II.C; ESA 21(3)
- failure to reimburse employee for payment required by employer, III.C
- overpayment of wages, III.C

Definitions

- administrative penalty, TFWPA 1(1)
- annual report, PTA 1(1)
- applicable period, ESA 52.121(1)

Index

Definitions (*cont'd*)

- assignment of wages, ESA 1(1)
- associate chair, BC Reg. 396/95 48
- bonus pay, BC Reg. 225/2023 1(1)
- bus operator, BC Reg. 396/95 1(1)
- Canadian forces, ESA 52.2(1)
- certificate of registration, TFWPA 1(1)
- chaperone, BC Reg. 396/95 45.13
- charity, BC Reg. 396/95 1(1)
- child, ESA 52.3(1), 52.5(1)
- collective agreement, ESA 1(1)
- conditions of employment, ESA 1(1)
- construction, ESA 1(1)
- COVID-19 emergency, BC Reg. 396/95 45.01
- crime, ESA 52.3(1)
- day, ESA 1(1)
- determination, ESA 1(1), TFWPA 1(1)
- director, ESA 1(1), TFWPA 1(1), PTA 1(1)
- domestic or sexual violence, ESA 52.5(1)
- domestic worker, ESA 1(1)
- eligibility period, ESA 52.121(1)
- eligible cost, BC Reg. 396/95 37.16
- eligible person, re COVID-19 leave, ESA 52.12(1)
- eligible person, re domestic or sexual violence leave, ESA 52.5(1)
- employee, ESA 1(1), BC Reg. 225/2023 1(1)
- employer, ESA 1(1), TFWPA 1(1)
- employment agency, ESA 1(1)
- employment year, BC Reg. 396/95 1(1)
- family, TFWPA 1(1)
- family member, ESA 52.1, 52.11(1), 52.5(1); B.C. Reg. 137/2019
- farm labour contractor, ESA 1(1)
- farm worker, BC Reg. 396/95 1(1)
- first aid attendant, BC Reg. 396/95 1(1)
- fish camp worker, BC Reg. 396/95 1(1)

Index

Definitions (*cont'd*)

- fisher, BC Reg. 396/95 1(1)
- foreign national, TFWPA 1(1)
- foreign worker, TFWPA 1(1)
- foreign worker recruiter, TFWPA 1(1)
- former Act, ESA 1(1)
- gender category, BC Reg. 225/2023 1(1)
- gratuity, ESA 1(1)
- “hazardous industry”, ESA 9.1(1)
- “hazardous work”, ESA 9.1(1)
- high technology company, BC Reg. 396/95 37.8(1)
- high technology professional, BC Reg. 396/95 37.8(1)
- home care worker, BC Reg. 396/95 1(1)
- hourly rate of pay, BC Reg. 225/2023 1(1)
- immediate family, ESA 1(1)
- immigration services, TFWPA 1(1)
- Indigenous governing entity, PTA 1(1)
- Indigenous peoples, PTA 1(1)
- independent contractor, I.A.iv
- independent school, BC Reg. 396/95 1(1)
- insolvency Act, ESA 1(1)
- internship, I.A.ii
- intimate partner, ESA 52.5(1)
- Labour Relations Board, ESA 1(1)
- licence, TFWPA 1(1)
- licensee, TFWPA 1(1)
- live entertainment industry, BC Reg. 396/95 45.15(1)
- live-in camp leader, BC Reg. 396/95 1(1)
- live-in home support worker, BC Reg. 396/95 1(1)
- livestock brand inspector, BC Reg. 396/95 34.2(1)
- local government, TFPWA 1(1)
- long haul truck driver, BC Reg. 396/95 1(1)
- manager, BC Reg. 396/95 1(1)
- mining employer, BC Reg. 396/95 37.13

Index

Definitions (*cont'd*)

- newspaper, BC Reg. 396/95 1(1)
- newspaper carrier, BC Reg. 396/95 1(1)
- night attendant, BC Reg. 396/95 1(1)
- online platform worker, ESA 1(1)
- overtime hours, BC Reg. 225/2023 1(1)
- overtime pay, BC Reg. 225/2023 1(1)
- overtime wages, ESA 1(1)
- pay, PTA 1(1)
- pay period, ESA 1(1)
- pay transparency report, PTA 1(1)
- payroll record, ESA 1(1)
- penalty, ESA 1(1)
- personal information, PTA 1(1)
- practicum, I.A.ii
- prime lending rate, BC Reg. 396/95 1(1)
- producer, ESA 1(1)
- publicly advertised job opportunity, PTA 1(1)
- recorded entertainment industry, BC Reg. 396/95 45.5(1)
- recording device, BC Reg. 396/95 45.5(1)
- recruitment services, TFWPA 1(1)
- reference category, BC Reg. 225/2023 1(1)
- registered employer, TFWPA 1(1)
- regular salary, BC Reg. 396/95 37.62
- regular wage, ESA 1(1)
- reporting employer, PTA 1(1)
- reporting period, BC Reg. 225/2023 1(1)
- representative member, ESA 1(1)
- reservist, ESA 52.2(1)
- resident caretaker, BC Reg. 396/95 1(1)
- residential care worker, BC Reg. 396/95 1(1)
- right of recall, ESA 1(1)
- school day, BC Reg. 396/95 45.8(1)
- settlement agreement, ESA 1(1)

Index

Definitions (*cont'd*)

- settlement services, TFWPA 1(1)
- short haul truck driver, BC Reg. 396/95 1(1)
- silviculture contractor [proposed], ESA 1(1)
- silviculture worker, BC Reg. 396/95 1(1)
- sitter, BC Reg. 396/95 1(1)
- special clothing, ESA 1(1)
- spouse, ESA 1(1)
- statutory holiday, ESA 1(1)
- talent agency, ESA 1(1); BC Reg. 396/95 1(1)
- taxi driver, BC Reg. 396/95 1(1)
- teacher, BC Reg. 396/95 1(1)
- technical creative film person, BC Reg. 396/95 1(1)
- temporary lay-off, ESA 1(1); BC Reg. 396/95 45.01(2)
- tender vessel worker, BC Reg. 396/95 1(1)
- termination of employment, ESA 1(1)
- termination pay, ESA 1(1)
- textile worker, BC Reg. 396/95 1(1)
- time bank, ESA 1(1)
- trade union, ESA 1(1)
- tribunal, ESA 1(1), TFWPA 1(1)
- wages, ESA 1(1)
- week, ESA 1(1)
- week of layoff, ESA 62
- wilderness guide, BC Reg. 396/95 1(1)
- work, ESA 1(1)

Determinations and consequences, *see also* Appeals, Complaints and investigations and Enforcement

- civil action not permitted for ESA rights, X.G
- • retaliatory discharge forbidden, X.G; ESA 83
- consequences where employer contravening ESA or Regulations, X.D; ESA 79
- • compliance ordered, X.D; ESA 79(1)(a)
- • economic remedy, X.D; ESA 79(1)(d)
- • • factors taken into account, X.D

Index

Determinations and consequences (*cont'd*)

- • penalties for contravention of specified sections, additional, X.C; ESA 79(2)
- • reinstatement power of Director, X.D; ESA 79(2)(b)
- • terms and conditions that Director considering appropriate, X.D; ESA 79(4)
- • work schedule specified where excessive hours of work, X.D; ESA 79(3)
- dismissal of complaint if requirements of ESA or Regulations met, X.B; ESA 79(8)
- “make whole” remedy of section 79(2) award, X.D
- notification of determination, X.F; ESA 81
- • information to be included in copy of determination, X.F; ESA 81 (1)
- • posting of determination relating to limitation on hours of work, X.F; ESA 81(2)
- • written reasons, request for, X.F; ESA 81(1.1)
- • • Director to comply with request, X.F; ESA 81(1.3)
- • • request within seven days of receiving determination, X.F; ESA 81(1.2)
- service of notice of requirement on employer X.D; ESA 79(5)
- wage repayment, X.E
- • alternative action by employee, X.E; ESA 82
- • • consent of Director required to commence other proceedings, X.E; ESA 82
- • twelve-month limit on amount of wages recoverable, X.E; ESA 80(1)
- • • extension of time, ESA 80(3)
- • • twelve month period, X.E; ESA 80(1)
- • • vacation pay and banked overtime recoverable beyond six month period, X.E

Domestic violence leave, VI.K; ESA 52.5

Domestic workers

- “domestic worker” defined, II.D; ESA 1(1)
- domestic worker treated as “employee” under ESA, II.D
- register of domestic workers working in residences, II.D; BC Reg. 396/95 13
- • contact information to be registered with Director, II.D; BC Reg. 396/95 13(1)
- • registry information to be provided within 30 days of hiring, II.D; BC Reg. 396/95 13(2)
- room and board rates, II.D; BC Reg. 396/95 14
- written employment contracts required for domestic workers, II.D; ESA 14(1)

Index

Domestic workers (*cont'd*)

- • conditions of employment to be outlined, II.D; ESA 14(2), (3)

E

Employee, *see* Who covered by Act

- online platform worker, ESA 3.1(a)

Employee rights, informing of, I.C; ESA 6

- deportation of foreign workers by employment agency, I.A.iii
- duties of farm labour contractors, BC Reg. 396/95 6, 6.1
- licensing of employment agencies, BC Reg. 396/95 2
- • cancellation or suspension of, BC Reg. 396/95 2(3)
- licensing of farm labour contractors, BC Reg. 396/95 5
- • administrative fee, BC Reg. 396/95 6.2
- • appeals from cancellation, refusal, BC Reg. 396/95 12
- • cancellation or suspension of licence, BC Reg. 396/95 4, 7
- records, BC Reg. 396/95 3
- security of farm labour contractor, calculation, BC Reg. 396/95 5.1
- transportation costs liability, ESA 30.1(1), BC Reg. 396/95 6.2
- unpaid wages liability, ESA 30

Employment Standards Tribunal, *see also* Appeals

- appeals, *see* Appeals
- composition of, ESA 102
- continued, ESA 102
- employees of, ESA 105
- jurisdiction, ESA 110
- organization of, ESA 106
- powers of, ESA 109

Enforcement, *see also* Determinations and consequences

- appeals, XI.K
- demands on third parties, XI.C; ESA 89, 90
- • banks and financial institutions holding money for named person, XI.C; ESA 89(4)
- • • accounts subject to demand, XI.C
- • demand issued and served on third party, XI.C; ESA 89(1)

Index

Enforcement (*cont'd*)

- • • third party required to make payment within 15 days after becoming indebted, XI.C; ESA 89(2)
- • failure to comply with demand, XI.C; ESA 90(1)
- • • collection mechanisms in Part 11 available to compel payment, XI.C
- • • Director able to enforce as unpaid wages, XI.C; 90(1)
- • third party denies indebted to party named in determination, where, XI.C; ESA 90(2)
- • • third party required to pay monies owing under determination to Director, XI.C; ESA 89(1)
- filing of determination, settlement agreement or order with Supreme Court, XI.D; ESA 91(1)
- • Director able to register writ of seizure and sale or certificate of judgment against land, XI.D
- • enforceable as judgment of court, XI.D; ESA 91(2)-(3.1)
- • withdrawal from registry where cancelled or suspended, XI.D; ESA 91(4)
- interest, payment of, XI.V; ESA 88
- • amount of interest based on prime-lending rate for three-month periods, XI.B; 88(1)
- • interest accruing up to date of payment, XI.B
- • • no interest accruing for first 38 days, XI.B; ESA 88(2)
- • interest not accruing on penalty payments, XI.B
- • interest to be paid for wages from earlier of two dates, XI.B; ESA 88(1)
- • no interest accruing for first 38 days, XI.B; ESA 88(2)
- liability of associated corporations and corporate officers, XI.F
- • associated corporations jointly and severally liable, XI.F.i; ESA 95
- • • single entity, treated as, XI.F.i
- • • • four factors, existence of, XI.F.i
- • directors or officers of corporation personally liable, XI.F.ii; ESA 96(1)
- • • charity, liability not applicable to, XI.F.ii; BC Reg. 396/95 45
- • • definition of “director or officer” expanded, ESA 96(4)
- • • exceptions, XI.F.ii; ESA 96(2)
- • • • corporation under receivership or becoming insolvent, XI.F.ii; ESA 96(2)
- • • • vacation pay accruing after left office, XI.F.ii; ESA 96(2)(c)
- • • two months’ unpaid wages, XI. F.ii; 91(1)

Index

Enforcement (*cont'd*)

- • penalty imposed against employee, officer or director permitting contravention, XI.F.ii; ESA 98(3)
- liens, XI.A; ESA 87
- • lien for unpaid wages having priority over other charges, XI.A; ESA 87(3)
- • • exception for real property mortgage where money advanced prior to lien, XI.A; ESA 87(5)
- • lien in favour of Director, XI.A
- • unpaid wages constituting lien against property of employer, XI.A; ESA 87(2)
- monetary penalties, XI.H; ESA 98
- • penalty imposed against employee, officer or director permitting contravention, XI.H; ESA 98(2)
- • penalty to be paid regardless of conviction, XI.H; ESA 98(3)(a)
- • penalties being mandatory, XI.H; ESA 98(3)
- • • first violation, XI.H; BC Reg. 396/95 29
- • • second violation, XI.H; BC Reg. 396/95 29
- • • third violation, XI.H; BC Reg. 396/95 29
- • security to ensure compliance in future, XI.H; ESA 100
- • • regardless of whether employer convicted of offence, XI.H; ESA 100(2)
- moneys paid to Director in trust, ESA 99
- offences, XI.J; ESA 125
- • contravention of Parts 2 to Part 8, XI.J; ESA 125
- • corporations, XI.J; ESA 125(2)
- • • employee, officer or director, liability of, XI.J; ESA 125(2)
- • employer culpable, XI.J
- • fine of up to \$2,000 and imprisonment for six months, XI.J
- • publication of violators' names, XI.I; ESA 101
- sale of business or assets, XI.G; ESA 97
- • employees not taken on entitled to compensation for termination, XI.G
- • employment of employees deemed to continue with new employer, XI.G; ESA 97
- seizure of assets, XI.E; ESA 92-94
- • Director seizing assets of person required to pay, XI.E; ESA 92(1)
- • • assets "necessarily incidental" to person's business, XI.E
- • holding of assets, XI.E; ESA 92(2)

Index

Enforcement (*cont'd*)

- • release of assets, XI.E; ESA 93
- • no authority to sell assets until appeal process expired, XI.E
- • wrongful removal of seized assets, XI.E; ESA 94
- violators' names, publication of, XI.I; ESA 101
- • information able to be disclosed, XI.I; ESA 101
- • • *Freedom of Information and Privacy Act*, XI.I; ESA 101(2)
- • public inspection, XI.I; ESA 101(2)(b)

Exclusions, *see also* Who covered by Act

- during COVID-19 emergency, BC Reg. 396/95 45.01

F

Family responsibility leave, *see also* Compassionate care leave

- banking of days not permitted, VI.C
- care for members of immediate family, VI.C
- care, health or education of child, VI.C; ESA 52(a)
- duration of up to five days, VI.C; ESA 52
- emergency not required for leave, VI
- employer obligations, VI.C
- employers entitled to give longer periods of leave, VI
- “immediate family” defined, VI.C; ESA 1(1)
- no statutory notice requirement, VI.C
- • reasonable notice where possible, VI.C
- proof of valid reason, VI.C
- unpaid leave, VI.C; ESA 52

Farm labour contractors, *see* Employment agencies and farm labour contractors, Farm workers

Farm workers

- definition, ESA 1(1)
- exclusion via regulations, I.D
- farm labour contractors, ESA 30, 30.1
- • administrative fee, ESA 30.1(2)
- • transportation costs, ESA 30.1(1)
- • unpaid wages, ESA 30
- minimum wage, III.A; BC Reg. 396/95 18

Index

Foreign Workers

- deductions from wages, I.A.iii
- end of employment, I.A.iii
- no charge for hiring, I.A.iii
- *Temporary Foreign Worker Protection Act*, I.A.iii

G

Gratuity

- defined, ESA 1(1)
- generally, III.H, ESA 30.3
- redistribution of, ESA 30.4
- tip pooling, III.H

H

Hiring process

- children, hiring of, II.C; ESA 9
- • burden of proof on employer to prove age of child in case of alleged contravention, II.C; ESA 126(4)
- • hiring of children under 14 requiring Director's permission, II.C; ESA 9(2)(a)
- • hiring of children 14 or 15 years old requiring parent's written consent, II.C; ESA 9(2)(b); BC Reg. 396/95 45.04
- farm labour contractors, ESA 11(2)
- • licensed, ESA 13
- misrepresentations in employment, II.A
- • employers prohibited from making false misrepresentations to prospective employees, II.A; ESA 8
- • Director encouraging that position be confirmed in writing, II.A
- • hiring process, during, II.A
- • inducement to take position, II.A
- • intent of employer irrelevant, II.A
- payments for employment information, II.B; ESA 10
- • fees for resume preparation or teaching interview skills, II.B
- • fees not to be paid to other persons for assisting in finding employment, II.B; ESA 11
- • no charge to be requested for hiring or providing information, II.B; ESA 10
- • • payment for advertisements able to be requested, II.B; ESA 10(2), 11(3)

Index

- • • • where agency posting resumes on Web site, II.B
- • • payment for information from agency permitted, II.B
- • no fees to be paid by employment agency or farm labour contractors, II.B; ESA 11(3)

Holidays, *see* Statutory holidays

Hours free from work

- eight consecutive hours off between shifts, IV.D; ESA 36(2)
- excessive hours detrimental to health not permitted, IV.D; ESA 39
- • whether employee justified in refusing work, 36- IV.D
- • • four criteria considered by Director, IV.D
- rest periods for residential care workers, BC Reg. 396/95 22
- thirty-two consecutive hours per week free from work, IV.D; ESA 36
- • employer to pay 1 ½ times regular wage where employee working during period, IV.D; ESA 36(1)(b)
- • obligation of employer, IV.D

Hours of work, *see* Averaging of hours of work agreement, Hours free from work, Minimum daily hours, and Overtime hours

I

Illness or injury leave, ESA 49.1; BC Reg. 396/95 45.031

Independent contractor

- employees vs. independent contractors, I.A.iv
- • determination by Director, I.A.iv
- • • number of factors considered, I.A.iv
- • “independent contractor” not defined in ESA, I.A.iv
- • tests at common law for determination by Director, I.A.iv
- • • control test, I.A.iv
- • • economic reality test, I.A.iv
- • four-fold test, I.A.iv
- • organizational or integration test, I.A.iv
- • permanency test, I.A.iv

Illness or injury leave

- distinct from critical illness/injury, VI.F
- regulation re, B.C. Reg. 396/95 45.031

Interest and penalties, *see also* Enforcement

Index

Interest and penalties (*cont'd*)

- administrative penalties, BC Reg. 396/95 29
- investigation without complaint, BC Reg. 396/95 26
- interest on money owing by employer, BC Reg. 396/95 25
- interest on money received by Director, BC Reg. 396/95 27

Interns

- definition not in ESA, I.A.ii
- treat as any other employee, I.A.ii

Investigation, *see* Complaints and investigations

J

Jury duty, *see also* Leaves of absence generally

- employer's obligations to employees, VI.M; ESA 54-56

L

Lay-offs, temporary, *see also* COVID-19-related leave

- COVID-19, extension of layoff period due to, I.D, VII.B
- • variance application, VIII.B
- definition, VIII.B; 106, 190
- duration of up to 13 weeks in any 20-week period, VIII.B
- • COVID-19 emergency exclusion, BC Reg. 396/95 45.01(2)
- right of lay-off, where, VIII.B
- termination deemed where laid off beyond temporary period, VIII.B
- • compensation entitlement, VIII.B
- • termination date is beginning of lay-off, VIII.B; ESA 63(5)

Leaves of absence generally

- employer continuing to contribute to benefit plan, VI.N; ESA 56(2)
- • wage increases, entitlement to, VI.N; ESA 56(3)
- • where leave not authorized, VI.N; ESA 56(4)
- employer's obligations to employees, VI.N; ESA 54
- • burden on employer to call employee back into work, VI.M
- • comparable position, factors determining whether, VI.M
- • exceptions, VI.M
- • no preferential right of recall, VI.M; ESA 54(5)

Index

Leaves of absence generally (*cont'd*)

- • prohibited from changing conditions of employment, VI.M; ESA 54(2)(b)
- • prohibited from placing employee in position not comparable, ESA 54(3)
- • prohibited from terminating employment, VI.M; ESA 54(2)(a)
- • prohibited from withholding leave, VI.M
- employment deemed continuous, VI.N; ESA 56
- • pension, medical and other plan beneficial to employee, VI.N; ESA 56(2)
- vacation entitlement and pay, VI.N, B; ESA 56(1)

Leave of absence for illness or injury, VI.E, VI.E; ESA 52.11

Leave respecting death of a child

- entitlement to unpaid leave, VI.J; ESA 52.4(1)
- • beginning of leave period, VI.J; ESA 52.4(3)
- • employee charged with crime, VI.J; ESA 52.4(2)
- • end of leave period, VI.J; ESA 52.4(5)
- • leave may be taken in intervals or all at once, VI.J; ESA 52.4(4)
- proof, VI.J; ESA 52.4(6)

Leave respecting disappearance of a child

- entitlement to unpaid leave, VI.I; ESA 52.3(2)
- • beginning of leave period, VI.I; ESA 52.3(4)
- • employee charged with crime, VI.I, ESA 52.3(3)
- • end of leave period, VI.I, ESA 52.3(6)
- • leave taken in intervals or all at once, VI.I, ESA 52.3(5)
- proof, VI.I, ESA 52.3(7)

Leave respecting domestic or sexual violence, VI.K, ESA 52.5

Light work, BC Reg. 396/95 45.21-45.24

M

Manager

- exclusion via regulations, BC Reg. 396/95 33
- duties performed by person determining whether treated as manager, I.A.v
- factors examined by Director, I.A.v
- “manager” defined in regulations, I.A.v; BC Reg. 396/95 1(1)
- manager excluded from certain provisions, I.A.v
- • hours of work and overtime, I.A.v; BCReg. 396/95 34(1)(f)

Index

Manager (*cont'd*)

- • statutory holidays, I.A.v; BC Reg. 396/95 36
- status of person determined by role in employer's organization, I.A.v

Meal breaks

- employee not to work more than five hours without meal break, IV.A; 122
- • meal breaks must be at least ½ hour, IV.A; 122
- paid breaks implied where employer routinely paying wages for breaks, IV.A
- penalty where employer not providing break, IV.A
- unpaid time, IV.A
- working during meal break to be counted as time worked, IV.A; 122

Minimum daily hours

- minimum remuneration, IV.C; ESA 34
- • employee requesting to leave work before minimum daily hours, where, IV.C
- • • burden on employer to prove employee requesting to leave early, IV.C
- • paid for entire period where working beyond minimum daily hour requirements, IV.C; ESA 34(4)
- • paid for minimum number of hours where reporting for work, IV.C; ESA 34(1)
- • • exceptions, IV.C; ESA 34(2)(a), (b)
- • • • paid only for time actually worked, IV.C
- • • paid for four hours where employee scheduled to work for eight hours, IV.C; ESA 34(2)
- • • • paid for two hours where work suspended, IV.C; ESA 34(2)(b)
- • • • whether or not starting to work, IV.C
- • • paid for two hours whether or not employee starting to work, ESA 34(1)
- • • worker unfit to work, IV.C; ESA 34(2)(a)

Minimum wage

- delivery services workers, BC Reg. 396/95 18.2(1)-(4)
- • annual adjustment, BC Reg. 396/95 18.2(4)
- • engaged time, BC Reg. 396/95 18.2(2)
- • shortfall payment by employer, BC Reg. 396/95 18.2(3)
- employers required to keep adequate payroll records, III.A.
- employers required to pay minimum wage, III.A.; ESA 16
- • minimum daily wage, BC Reg. 396/95 16
- • minimum hourly wage, BC Reg. 396/95 15

Index

Minimum wage (*cont'd*)

- • • employers not to reduce earning of one pay period to make up for shortfall, III.A.
- • other types of employment having different minimum wage rates, BC Reg. 396/95 16-18.1
- • • farm workers, BC Reg. 396/95 18
- • • home support workers, BC Reg. 396/95 16(1)
- • • live-in camp leaders, BC Reg. 396/95 16(2)
- • • • annual adjustment, BC Reg. 396/95 16(3), 17(2)
- • • resident caretakers, BC Reg. 396/95 17(1)
- • standard minimum wage amounts, III.A
- • • exception for commissioned salespeople, III.A
- • training wage, III.A
- Fair Wages Commission, III.A

Misrepresentations in employment, *see* Hiring process

O

Online platform workers

- considered employees, ESA 3.1(a)
- operators deemed employers, ESA 3.1(b)

Overtime hours, *see also* Averaging of hours of work agreement, Overtime wages, banking of

- burden of proof on employee initially where dispute over overtime hours, IV.F
- overtime wages where time worked exceeding 8 hours per day or 40 hours per week, IV.F; ESA 35, 40(1)
- • double wage requirement where working more than 12 hours per day, IV.F; ESA 40(1)(b)
- • overtime wages of 1½ times regular wage rate, IV.F; ESA 40(1)(a), (2)
- • two entitlements to overtime not dependent on one another, IV.F
- responsibility on employer to control employees' hours of work, IV.F; ESA 39
- weekly overtime, calculation of, IV.F; ESA 40(3)
- • section 40 "caps" number of hours, IV.F; ESA 40

Overtime wages, banking of

- closing of time bank by employer, IV.F.ii; ESA 42(3.1), (3.2)
- overtime hours to be paid out or used at same rate as earned IV.F.ii

Index

Overtime wages, banking of (*cont'd*)

- time banks to be established for employees, IV.F.ii; ESA 42
- • overtime worked by employee credited to time bank, IV.F.ii; ESA 42(2)
- • pay out of overtime wages or permit time off with pay, IV.F.ii ESA 42(3)
- • written request required for time bank, IV.F.ii; ESA 42(1)
- where employee terminated or closing of time bank, IV.F.ii; ESA 42(5)

P

Parental leave, *see also* Pregnancy leave

- additional period of care, VI.B; ESA 51(2)
- adoptive parents, VI.B
- • each adoptive parent entitled to 62 consecutive weeks, VI.B; ESA 51(1)(c)
- agreement to take leave at other time, VI.B; ESA 51(1)(a)
- birth and adoptive parents, VI.B
- • adoptive parents, VI.B
- • birth fathers, VI.B
- both parents entitled to parental leave, VI.B
- • multiple births, VI.B
- • whether taken together or not, VI.B
- combination of pregnancy leave and parental leave limited to 78 weeks, VI.B; 51(4)
- • additional leave where child with special needs, VI.B; ESA 51(2)
- duration of up to 62 consecutive weeks of unpaid leave, VI.B; ESA 51(1)
- employer obligations, VI.B; ESA 54
- family responsibility leave, ESA 52
- foster parents not included, VI.B
- notice requirements, VI.B; ESA 51(3)
- • four weeks' written notice by birth parent, VI.B; ESA 51(3)(b)
- • • medical practitioner's certificate requested by employer, VI.B; ESA 51(3)(c)
- • no time limitation for adoptive parents, VI.B
- • short notice not extinguishing right to leave, VI.B
- pregnancy leave, following, VI.B; ESA 51(1)(a)
- pregnancy leave not taken, where, VI.B; ESA 51(1)(b)
- request to end leave early, VI.B
- • employer may approve or deny, VI.B

Index

Parental leave (*cont'd*)

- • • employer cannot impose additional qualifications, VI.B
- unpaid leave, VI.B; ESA 51(1), 52

Pay Transparency Act

- consultation and cooperation with indigenous peoples, PTA 9(1)-(3)
- definitions, BC Reg. 225/2023 1(1)
- differences by gender
- • hourly rates, overtime pay and hours, bonus pay (mean and median), BC Reg. 225/2023 5-12
- general, PTA 10(1)-13(4)
- information
- • collected by reporting employers, BC Reg. 225/2023 2
- • included in reports, BC Reg. 225/2023 3(1)-(5)
- • percentage of employees in segments, BC Reg. 225/2023 13
- obligations of employers, PTA 2-4
- reporting, PTA 5-8
- time periods for reports, BC Reg. 225/2023 4

Payment of wages, *see also* Assignment of wages, Deductions from wages and Wage statements

- method of payment, III.B.i; ESA 20
- • Canadian currency, III.B.i; ESA 20(a)
- • • contractually agree to payment in other currency, III.B.i
- paydays, III.B.ii; ESA 17
- • commissioned employees, III.B.ii
- • payday requirements, III.B.ii
- • • exceptions, III.B.ii;
- • • semi-monthly basis, III.B.ii; ESA 17
- • policy of monthly basis, where, III.B.ii
- termination of employment, where, III.B.iii; ESA18
- • commissioned employees and unpaid commissions, III.B.iii
- • employer having burden of proof where complaint by employee, III.B.iii
- • payment of wages within 48 hours after termination by employer, III.B.iii; ESA18(1)
- • payment of wages within six days after termination by employee, III.B.iii; ESA 18(2)

Index

Payment of wages (*cont'd*)

- • temporary lay-off, III.B.iii, ESA 18
- • wages, components of, III.B.iii; ESA 27
- where employee not located, III.B.iv; ESA 19
- • wages paid to Director within 60 days after payable, III.B.iv; ESA 19(1.1)
- • • receipt provided as discharge of employer, III.B.iv; ESA 19(3)
- • • transfer to administrator,
III.B.iv; ESA19(4), (5)

Payroll records, *see also* Wage statements

- information to be kept in records, III.G; ESA 28(1)
- inspection of records by Director, III.G; ESA 85
- records in English, III.G; ESA 28(2)(a)
- records kept at principal place of business, III.G; ESA 28(2)(b)
- retention of records, III.G; ESA 28(2)(c)

Maternity leave, *see also* Parental leave

- additional leave where unable to return to work, VI.A; ESA 50(3)
- commencement of leave, VI.A; ESA 50(1)
- duration of, VI.A; ESA 50(1)
- early birth, VI.A
- • where no notice given, VI.A
- • where notice given, VI.A
- early return to work, VI.A; 50(5)
- • doctor's certificate, VI.A
- employer obligations, VI.A; ESA 54
- ending of leave, ESA 50(1)(b)
- notice prior to leave commencing, VI.A; ESA 50(4)
- request for leave after birth of child, VI.A; ESA 50(1.1)
- request for leave where birth of child or termination of pregnancy, VI.A; ESA 50(2)
- unpaid leave, VI.A; ESA 50(3)
- written request for leave, VI.A; ESA 50(4)(a)
- • medical practitioner's certificate requested by employer, VI.A; ESA 50(4)(c)
- • employer required to grant period of leave requested, VI.A

Index

R

Reconsideration of Tribunal's decision, *see also* Appeals

- application by Director, XI.K; ESA 116(2)
- application by party, XI.K; ESA 116(2)
- disposition by Tribunal, XI.K; ESA 116(2.2)
- • referral back to original panel or new panel, XI.K; ESA 116(1)
- factors weighing against reconsideration, XI.K
- single opportunity for reconsideration, XI.K; ESA 116(3)

Reservists' leave

- employer not required to contribute to benefit plans, VI.L
- employer obligations, VI.L; ESA 54
- maximum leave of 20 days, VI.L; ESA 52.2(3)
- prescribed circumstances, VI.L; ESA 52.2(2)
- training activities, VI.L; ESA 52.2(2); BC Reg. 254/2016 2
- written request for, VI.L; ESA 52.2(4)(a)
- • four weeks' notice, ESA 52.2(4)(b)(ii)

S

Scheduling, *see* Meal breaks, Split shifts, Minimum daily hours

Settlement agreements

- Director assisting parties to settle complaint, X.C; ESA 78(1)(a)
- • facilitating settlement, X.C
- • payment arrangement, X.C; ESA 78(1)(b)
- enforcement powers of Director, X.C; 78(4)
- • filing of settlement with Supreme Court, X.C; 78(4)
- • resulting in enforceable judgment, X.C; ESA 78(4)
- waiver of obligations under ESA not permitted, X.C; ESA 78(5)

Sexual violence leave, VI.K, ESA 52.5

Split shifts

- penalty where split shift exceeding 12 hours, IV.B
- unpaid breaks between shifts, IV.B
- • restaurant industry, IV.B

Index

Split shifts (*cont'd*)

- • split shifts to be completed within 12 hours, IV.B; 122

Spouse, defined, ESA 1(1)

Statutory holidays

- day off, where statutory holiday falling on, 46,V.E; ESA 48(1)
- entitlement to statutory holidays, V.B; ESA 44
- • worked for at least 15 of last 30 calendar days prior to holiday, V.B; ESA 44(a)
- list of prescribed statutory holidays, V.A
- statutory holiday pay, V.C; ESA 45
- • formula for determining holiday pay, V.C; ESA 45(1)
- • part-time employees, V.C
- substituting another day for statutory holiday, V.F; ESA 48
- • agreement between employer and employee, V.F; ESA 48(1)
- • flexibility for employees and employers, V.F.
- • retention of agreement, V.F; ESA 48(3)
- working on statutory holiday, where, V.D; ESA 46
- • no “right” of employee not to work on statutory holiday, V.D
- • payment at additional rate where required to work, V.D; ESA 46(a)-(c)
- • regular wages to be paid in accordance with formula, V.D; ESA 45

T

Temporary Foreign Worker Protection Act

- appeals, TFWPA 68-72
- certificates of registration for employers for foreign nationals
- • amendment, suspension or cancellation, TFWPA 13(1)-(2)
- • application, TFWPA 11
- • effect of suspension or cancellation, TFWPA 15(1)-(2)
- • issuance or refusal, TFWPA 12(1)-6)
- • opportunity to be heard, TFWPA 14(1)-(6)
- • required certification of registration, TFWPA 10(1)-(2)
- definitions, TFWPA 1
- employment standards tribunal, TFWPA 64-67
- enforcement, TFWPA 50-63
- foreign worker recruiter and employer obligations, TFWPA 20-28(3)

Index

Temporary Foreign Worker Protection Act (*cont'd*)

- • disclosure of
- • • partners, TFWPA 24
- • • referral fee, TFWPA 22
- • disclosure, providing immigration services, TFWPA 23
- • fees and expenses for recruitment and employment, TFWPA 21(1)-(6)
- • prohibited practices, TFWPA 20
- • records, TFWPA 28(1)-(3)
- general provisions, TFWPA 73-82(2)
- investigations, complaints and determinations, TFWPA 31-49
- licences for foreign worker recruiters, TFWPA 3-9
 - • amendment, suspension or cancellation, TFWPA 7(1)-(2)
 - • application, TFWPA 5(1)-(2)
 - • effect of suspension or cancellation, TFWPA 9(1)-(2)
 - • issuance or refusal, TFWPA 6
 - • licence requirements, TFWPA 3(1)-(2)
 - • licensee must be individual, TFWPA 4
 - • opportunity to be heard, TFWPA 8(1)-(6)
- reconsiderations respecting licences and certificates of registration
 - • decision reconsideration, TFWPA 19(1)-(7)
 - • definition of “decision”, TFWPA 16
 - • initiating reconsideration, TFWPA 18(1)-(2)
 - • service include information, TFWPA 17
- registry and information sharing, TFWPA 29-30
- requirements, not waiveable, TFWPA 2
- Termination of employment**, *see also* Lay-offs, temporary
 - actual notice requirement exceeding statutory notice requirements, where, VIII.A.ii
 - • common law, VIII.A.ii
 - • Director not having jurisdiction to enforce, VIII.A.ii
 - • minimum standards enforceable by Director, VIII.A.ii
 - adjustment committee, ESA 71
 - common law, VIII.A.ii
 - compensation upon termination, VIII.A.i; ESA 63

Index

Termination of employment (*cont'd*)

- • amount based on average amount of regular wages over last eight weeks, VIII.A.i; ESA 62
- • • formula for calculation, VIII.A.i; ESA 63(4)
- • based on length of service, ESA 63(2)
- • compensation based on length of employee's continuous service, ESA 63(2)
- • situations where employer not liable to pay compensation, VIII.A.i; ESA 63(2)
- • • dismissal for just cause, VIII.A.i; ESA 63(3)(c)
- • • • progressive discipline procedure, VIII.A.i
- • • • reasonable standards of performance not met in reasonable time, VIII.A.i
- • • • single acts of misconduct justifying termination, VIII.A.i
- • • employee terminates relationship. VIII.A.i; ESA 63(3)(c)
- • • • clear and unequivocal evidence of resignation, VIII.A.i
- • • • termination of employment during notice period triggering compensation, VIII.A.i
- • • employer provides written notice and monetary compensation payout, VIII.A.i; ESA 63(3)(b)
- • • • conditions of employment not to be altered, VIII.A.i; ESA 67(2)
- • • • employee required to work during notice period, VIII.A.i
- • • • notice not to be given when employee on leave or lay-off, VIII.A.i; ESA 67(1)
- • • • notice of no effect where working past expiry date, VIII.A.i
- • • • notice period interrupted by leave or lay-off, VIII.A.i
- • • • written notice, VIII.A.i
- • • employer provides written notice of termination, VIII.A.i; ESA 63(3)(a)
- exceptions to termination requirements, VIII.D; ESA 65
- • categories of employees not entitled to group notice, VIII.D; ESA 65(1)
- • employees not entitled to notice of termination or compensation for length of service, VIII.D
- • • employees refusing reasonable offers of alternative employment, VIII.D; ESA 65(1)(f), (4)
- • • • factors considered in determining whether reasonable, VIII.D
- • • employees employed for definite period, VIII.D; ESA 65(1)(b), 65(2)
- • • employees employed for specific work, VIII.D; ESA 65(1)(c)
- • • employees employed in construction, VIII.D; 65(1)(e)

Index

Termination of employment (*cont'd*)

- • • employees hired for temporary periods only VIII.D; ESA 65(1)(a)
- • • employees prevented from working due to unforeseeable circumstances, VIII.D; ESA 65(1)(d)
- • • natural disaster-type events, VIII.D
- • categories of employees not entitled to individual notice but included in group notice, VIII.D
- group terminations, VIII.C; ESA 64
- • fifty or more employees terminated at single location within two months, VIII.C; ESA 64(1)
- • • period of notice, VIII.C; ESA 64(3)
- • • “single location”, VIII.C; ESA 64(1)
- • • • factors considered in determining, VIII.C
- • • written notice, VIII.C; ESA 64(1)-(3)
- • • • content of notice, VIII.C; ESA 64(2)
- • group notice in addition to individual notice and compensation requirements, VIII.C
- notice rules, ESA 67
- payment rules, ESA 68
- “substantial alterations” to employment relationship, VIII.E; ESA 66
- • common example, VIII.E
- • constructive dismissal, VIII.E
- • factors considered in determining whether substantial change, VIII.E
- • intention of employer not central factor, VIII.E
- variances, IX; ESA 72, 73

V

Vacation, annual, *see also* Vacation pay

- common date for purposes of calculating vacation entitlement, VII.A
- “continuous service”, meaning of, VII.A ESA 60
- entitlement following full year of employment, VII.A; ESA 57(1)(a)
- “entitlement to vacation days off” separate from “entitlement to vacation pay”, VII
- length of vacation determined by length of employment, VII.A; ESA 57(1)
- • longer than five years, VII.A; ESA 57(2)(b)

Index

Vacation, annual (*cont'd*)

- • one to five years, VII.A; ESA 57(2)(a)
- minimum standard, VII.A
- • contractually agree to more than minimum requirements, VII.A
- number of years of employment based on employment anniversaries, VII.A
- vacations not optional, VII.A
- • vacation to be taken within one year of entitlement, VII.A; ESA 57(2)
- weekly periods, vacation able to be taken in, VII.A; ESA 57(3)
- • requests for shorter intervals, VII.A

Vacation pay, *see also* Vacation, annual

- commissioned employees, VII.B
- • vacation pay not included in commissions, VII.B
- fifth anniversary and more, VII.B
- • six per cent of total wages, VII.B; ESA 58(1)(b)
- first anniversary to up to fifth anniversary, VII.B
- • four per cent of total wages, VII.B; ESA 58(1)(a)
- first year, entitlement during, VII.B
- minimum standard not to be compromised, VII.B
- payment of vacation pay, VII.B; ESA 58(2)
- • where greater benefit, VII.B
- salaried employees, VII.B
- • where employer continuing to pay employees during vacation period, VII.B
- termination of employment, VII.B; ESA 58(3)
- “total wages”, VII.B

Variations

- application for variance submitted to Director, IX; ESA 72
- • during temporary lay-off, BC Reg. 396/95 30.2
- • Director to be satisfied that variance consistent with purpose of ESA, IX; ESA 72
- • information to be contained in application, IX; BC Reg. 396/95 30(2)
- • letter signed by employer and majority of employees, IX; BC Reg. 396/95 30(2)
- areas where modifications permitted by employers and employees, IX; ESA 72
- • averaging agreement, IX; ESA 72(h.1)
- • • number of weeks, IX; ESA 72(h.1)

Index

Variances (*cont'd*)

- • group termination, IX; ESA 72(i)
- • hours free from work, IX; ESA 72(g)
- • maximum hours of work, ESA 72(f)
- • minimum daily hours, IX; ESA 72(e)
- • • criteria for granting variance, IX
- • overtime wages, IX; ESA 72(h)
- • pay days, IX; ESA 72(b)
- • special clothing requirements, IX; ESA 72(e)
- • split shifts, IX; ESA 72(d)
- • “temporary lay-off”, time period specified in, IX; ESA 72(a)
- conditions attaching to variance, IX; ESA 73(3)(c)
- copy of determination to be posted, IX; ESA 73(4)
- COVID-19 pandemic, increased number of approvals due to, IX
- Director having power to interview employees, IX
- Director to be satisfied that variance consistent with purpose of ESA, IX; ESA 73(1)(b)
- Director to be satisfied that variance not resulting in waiver of minimum obligations, IX; ESA 73(1.1)

W

Wage statements, *see also* Payroll records

- electronic communication permitted provided confidential and copy available, III.F; ESA 27(2)
- written wage statement on each pay day, III.F; ESA (1)
- • information provided, III.F; ESA 27(1)
- • salary advance necessitating statement, III.F
- • where statement for current pay period same as previous pay period, III.F; ESA 27(4)

Wages, *see* Assignment of wages, Deductions from wages, Determination procedure, Wage repayment, Minimum wage and Payment of wages

Who covered by Act

- “employee” defined, I.A.i; ESA 1(1)
- • person allowed to perform work normally performed by employee, I.A.i.2
- • person having right of recall, I.A.i.5

Index

Who covered by Act (*cont'd*)

- • person on leave from employer, I.A.i.4
- • person receiving or entitled to wages, I.A.i.1
- • • employee dying before receiving wages, I.A.i.1
- • person trained by employer for employer's business, I.A.i.3
- employee vs. independent contractor, I.A.iv
- • determination by Director, I.A.iv
- • "independent contractor" not defined in ESA, I.A.iv
- • tests at common law for determination by Director, I.A.iv
- • • control test, I.A.iv.1
- • • economic reality test, I.A.iv.2
- • • four-fold test, I.A.iv.4
- • • organizational or integration test, IA.iv.3
- • • permancy text, IA.iv.5
- employee vs. manager, I.A.v
- • duties performed by person determining whether treated as manager, I.A.v
- • factors examined by Director, I.A.v
- • "manager" defined in regulations, I.A.v
- • manager excluded from certain provisions, I.A.v; BC Reg. 396/95 34(1)(f), 36
- • • hours of work and overtime, I.A.v; BC Reg. 396/95 34(1)(f)
- • • statutory holidays, I.A.v; BC Reg. 396/95 36
- • status of person determined by duties or role in employer's organization, I.A.v
- employee vs. partner, I.A.vi
- • "partner" not defined in ESA, I.A.vi
- • partner's relationship to firm, I.A.vi
- • • factors, I.A.vi
- • • role of control (employer), I.A.vi
- • • role of dependence (employee), I.A.vi
- employees excluded in whole or in part via Regulations, I.D; BC. Reg. 396/95 32, 33
- • aquaculture, I.D; BC. Reg. 396/95 37.12
- • bus drivers, I.D
- • charities, I.D; BC. Reg. 396/95 45
- • commercial travelers, I.D

Index

Who covered by Act (*cont'd*)

- • commission sales, I.D; BC. Reg. 396/95 37.14
- • container trucks, I.D
- • counsellors, instructors, therapists and child-care workers, I.D
- • directors or officers of charities, I.D
- • election workers, I.D
- • farm workers, I.D; BC. Reg. 396/95 34.1, 40.1
- • ferry, I.D
- • fishers I.D; BC. Reg. 396/95 37
- • fishing and hunting guides, I.D; 232
- • foster care, I.D; BC Reg. 396/95 37.15
- • government employees, I.D
- • high technology company employees, I.D; BC. Reg. 396/95 37.8
- • ice hockey players - players on a major junior ice hockey team, I.D; BC. Reg. 396/95 37.16
- • live-in camp leader, I.D
- • live-in home support workers, I.D
- • livestock brand inspectors, I.D
- • locomotive engineers, I.D
- • logging truck drivers, I.D
- • loggers working in Interior, I.D
- • master and crew of chartered boats, I.D
- • managers, I.D
- • mining, I.D; BC. Reg. 396/95 37.13
- • municipal police recruiters, I.D; BC. Reg. 396/95 37.11
- • Newspaper carriers, I.D; BC. Reg. 396/95 37.4
- • night attendant, I.D
- • nursing students, auxiliary or volunteer firefighters, I.D
- • oil and gas workers, I.D; BC. Reg. 396/95 37.5-37.64
- • persons receiving benefits. I.D
- • persons involved in Youth Community Action, I.D
- • persons employed in exploring for minerals, I.D
- • persons involved in drilling for oil, I.D

Index

Who covered by Act (*cont'd*)

- • police officers, I.D
- • professionals, I.D
- • residential care worker, I.D; BC. Reg. 396/95 35
- • silviculture workers, I.D; BC. Reg. 396/95 37.9
- • sitters, I.D
- • students, I.D; BC. Reg. 396/95 32
- • taxi drivers, I.D; BC. Reg. 396/95 37.1
- • teachers/aides, I.D
- • truck drivers, I.D.; BC. Reg. 396/95 37.3
- • tugboat employees, I.D
- • tutor employed by Open Learning Agency, I.D
- • university professors, I.D
- • wilderness guide, I.D; BC. Reg. 396/95 34(1)(a.1)
- employer, who constituting, I.A.vii
- • “employer” defined, I.A.vii; ESA 1(1)
- foreign workers, I.A.iii
- interns, I.A.ii
- unionized workplaces, changes to, I.B
 - • complaints by employees dealt with through labour grievance process, I.B
 - • • “meet or exceed” requirements also excluded from complaint process, I.B
 - • • wage disputes able to be referred to Director, I.B
 - • core provisions of ESA applicable to unionized workplaces, I.B
 - • • collective agreement provisions void when not meeting ESA standards, I.B
 - • • collective agreement required to include minimum standards, I.B
 - • • requirements of Act being minimum standards for all employees, I.B