

Index

ABSENCE

- Duty to accommodate, **4:34**
- Union employees, of
 - see union employees

ACCOMMODATE, DUTY TO

- Generally, **4:31**
- Adverse effect discrimination and, **4:33**
- AIDS, re
 - see AIDS disability
- Alcohol addiction, **3:25 to 3:27**
- Arbitration re, **3:9**
- Described, **4:31**
- Employee's, **4:38**
- Employer's, scope of
 - absences caused by disability, **4:34**
 - financial costs, **4:34**
 - inconvenience vs. hardship, **4:34**
 - Ontario Human Rights Code provision re, **4:34**
 - Ontario Human Rights Commission guidelines re, **4:34**
 - poor job performance, **4:34**
 - undue hardship test, **3:9, 4:34**
- Epilepsy, **3:20**
- Evolution of law re, **4:33**
- Menstruation Policies, **APP A6 § A6:28**
- Pregnant police, **4:34**
- Proof of accommodation
 - employer's onus, **4:37**
- Purpose of, **4:32**
- Rational connection requirement, **4:36**

ACCOMMODATION

- Assessment, reasonable accommodation, **APP A7 § A7:4**

ACCOMMODATION—Cont'd

- Policy checklist, **APP A7 § A7:7**
- Reasonable accommodation
 - people with disabilities, **APP A7 § A7:2**
- Request, employer response
 - sample response, **APP A1 § A1:5**
- Selection process, **APP A7 § A7:6**

ACT OF GOD

- Generally, **2:10**

ADVERSE EFFECT DISCRIMINATION

- See discrimination

ADVERTISING, JOB

- Discrimination in, **4:8**

AIDS DISABILITY

- Generally, **2:34**
- AIDS-related complex (ARC)
- Bona fide occupational requirement
 - defence
 - safety risk
 - ACR stage complications, **4:46**
 - medical care demands, **4:46**
 - physical conditions of employment, **4:46**
 - risk of infection, **4:46**
- Union employee and, **3:28**

ALCOHOL AND DRUG ABUSE

- See illnesses; union employees

ARBITRATION

- Canada Labour Code
 - generally, **3:12**
 - attendance programs, **3:15**
- Charter of Rights, **3:11**
- Constitutional jurisdiction re, **3:8**

ARBITRATION—Cont'd

Employment standards legislation, **3:13**
 Human rights legislation
 accommodation requirement, **3:9, 3:10**
 arbitrator's duty to apply, **3:9**
 discrimination prohibition, **3:9**
 non-culpable absenteeism, **3:9**
 occupational health and safety legislation, relationship to, **3:13.50**
 union as party to, **3:9**
 Jurisdiction of arbitrator, **3:2, 3:9**
 Legislation and, **3:7**
 Medical records, admissibility of, **3:41**

ATTENDANCE

Programs
 absence checklist, **APP A5 § A5:4**
 Canada Labour Code, under, **3:15**
 non-union employer, sample, **APP A5 § A5:1**
 paid leave application, **APP A5 § A5:8**
 request form, **APP A5 § A5:5**
 sick leave form, **APP A5 § A5:7**
 supervisor's report, **APP A5 § A5:6**
 unexplained absence, termination notice for, **APP A5 § A5:9**
 union employer, sample, **APP A5 § A5:2**
 Requirements
 adverse effect discrimination, as, **4:12, 4:16**

BONA FIDE OCCUPATIONAL REQUIREMENT (BFOR)

Accommodate, duty to
 see accommodate, duty to
 AIDS, re
 see AIDS disability
 Defence, as, **4:18**

BONA FIDE OCCUPATIONAL REQUIREMENT (BFOR)

—Cont'd

Defined, **4:19**
 Direct vs. adverse discrimination, **4:18**
 Economics, based on, **4:28**
 Efficiency requirements, based on, **4:29**
 onus on employer to prove decrease in efficiency, **4:29**
 Intelligence requirement, **4:29**
 Proof re, standard of, **4:30**
 Questions, **APP A7 § A7:10**
 Safety risks, based on
 generally, **4:22**
 individual testing, **4:24**
 real risk test, **4:23**
 successful BFOR defences
 emergency uncertainty, **4:27**
 uncontrolled disability, **4:27**
 visual acuity cases, **4:27**
 sufficiency of risk, **4:23**
 unacceptable risk test, **4:23**
 unsuccessful BFOR defences
 disability under control, **4:26**
 no connection between occupational requirement and work performed, **4:26**
 small risk to employee/no risk to co-workers, **4:26**
 waived BFORs, **4:27**
 Steps in proving, **4:22**
 Tests re
 generally, **4:19**
 good faith requirement, **4:20**
 objective test, **4:21, 4:22**
 subjective test, **4:20**

BOOKLETS, BENEFITS, POLICIES AND BROCHURES

Generally, **5:15**

BREACH OF CONTRACT

Damages for, **2:5, 2:6**

CANADA LABOUR CODE

See arbitration

CANADA PENSION PLAN

Administration of, **6:45**

Benefits, **6:49**

Contributions, payment and collection of, **6:48**

Disability benefits

generally, **6:51**

amount of, **6:51**

contribution requirement, **6:51**

extent of disability, **6:51**

Eligibility, **6:47**

History of, **6:44**

Retirement pension, **6:50**

Survivor's benefits, **6:52**

Tax implications, **6:46**

Workers' compensation and, **6:29**

CHARTER OF RIGHTS

Arbitration and, **3:11**

Jurisdiction of, **4:4**

Reasonable cause for discrimination and, **4:39**

CHRONIC FATIGUE SYNDROME

Generally, **2:35**

CHRONIC PAIN SYNDROME

Workers' compensation coverage, **6:10**

CIVIL ACTION

Disability benefits, re
see disability benefits

Disability insurance

punitive and aggravated damages
and costs, **5:36**

remedies re

see disability insurance

Workers' compensation, re, **6:27**

COLLATERAL BENEFITS

Disability benefits, and, **2:11 to 2:19**

Effect of termination on
life insurance, **2:20**

COLLATERAL BENEFITS

—Cont'd

Effect of termination on—Cont'd
long-term disability, **2:20**

Nature of insurance, **2:11 to 2:19**

Non-deductibility, **2:11 to 2:19**

Private insurance, **2:11 to 2:19**

Rule against double recovery, **2:11 to 2:19**

Severance payments, subtraction
from, **2:11 to 2:19**

Tortious interference, **2:21**

COLLECTIVE AGREEMENT

See also union employees—collective agreement

Disability insurance, description of
benefit, **3:16, 5:3**

Effect of, on human rights legislation, **4:34**

Medical certificate requirement,
3:31

COMPASSIONATE CARE LEAVE

Generally, **6:42**

COURTS

Jurisdiction re union employee, **3:2**

COVID-19

As a disability, commission states
regarding, **4:43**

As a disability, tribunal findings
regarding, **4:44**

Colds and Flu, **4:45**

Concluding Remarks, **4:46**

Introduction, **4:41**

DEATH

Reasonable notice period, during,
2:20

Workers' compensation coverage,
6:10, 6:18

DIABETES

Generally, **2:32, 3:19**

DIRECT DISCRIMINATION

See discrimination

DISABILITY

- Accommodation checklist, **APP A7 § A7:2**
- Benefits
 - see disability benefits
- Discrimination, **4:6**
- Episodic disability, manager training, **APP A7 § A7:8**
- Insurance
 - see disability insurance
- Long-term benefits
 - see disability insurance
- Meaning of, under human rights legislation, **4:6**
- Perceived, **4:6**
- Permanent
 - see permanent disability
- Short-term benefits
 - see disability benefits
- Statutory Definitions of, **4:42**
- Visual
 - see visual disability
- Voluntary disclosure by employee, form, **APP A7 § A7:5**

DISABILITY BENEFITS

- Civil action re
 - statement of claim, **APP A3 § A3:3**
 - statement of defence, **APP A3 § A3:4**
- Deduction from reasonable notice requirements
 - benefits vs. insurance payments, **2:11 to 2:19**
 - collateral benefits
 - see collateral benefits
 - conflicting cases re effect of, **2:11 to 2:19**
 - double recovery, **2:11 to 2:19**
 - employee contribution requirement, **2:11 to 2:19**
 - frustrating purpose of reasonable notice, as, **2:11 to 2:19**
- Liability for after termination, **2:20**
- Replacement benefits, cost of, **2:20**

DISABILITY BENEFITS—Cont'd

- Short-term
 - collective agreement, under, **3:17**
 - deduction from recovery of lost wages, **2:11 to 2:19**
 - sick-leave plans, **5:7**
- Termination, effect on, **2:20**
- Topping up, **2:39**
- Tortious interference with, **2:21**

DISABILITY INSURANCE

- Generally, **5:2**
- Administration of
 - employer, **5:30**
 - insurer, **5:29**
- Benefits
 - see also disability benefits
 - booklets re benefits
 - priority over policy, **5:15**
 - description of, **5:3**
 - limits to, **5:35**
- Cancellation of, due to non-remit-tance of premiums when due, **5:34**
- Collateral benefits and
 - see collateral benefits
- Collective agreement provision for, **5:3, 5:4**
- Common law entitlement
 - absent specific agreement, **5:6**
 - contractual based, **5:8**
 - human rights implications, **5:9**
 - short-term sick leave plans, **5:7**
- Damages for wrongful termination of benefits
 - aggravated damages, **5:36**
 - punitive or exemplary damages, **5:36**
- Employer's obligations
 - duty to employee, **5:32**
 - policy administration, **5:31**
 - termination of employment, on, **5:33**

DISABILITY INSURANCE

—Cont'd

- Employment, continued availability of
 - occupation vs. job, **5:20**
 - relevance of, **5:20**
- Evidence of disability
 - assessment of limitations, **5:17**
 - burden of proof, **5:27**
 - medical diagnosis, **5:17**
 - other activities engaged in, **5:24**
 - termination of benefits, **5:17**
- Group coverage
 - generally, **5:2**
 - conversion to individual policy, **5:16**
- Indemnity, **5:42**
- Insurance legislation and, **5:5**
- Insurer's duty
 - duty of good faith and fair dealing, **5:29**
- Legal principles, summary of, **5:43**
- Long-term, **5:10**
- Medical exam, compelling, **5:28**
- Medical treatment, **5:26**
- Mental disabilities and stress, **5:18**
- Policy
 - cancellation of, **5:13**
 - elimination period, **5:11**
 - insurability, **5:12**
 - interpretation of
 - contra proferentum doctrine, **5:14**
 - intention of parties, **5:14**
 - rational and practical construction rule, **5:14**
 - substantial ability test, **5:14**
 - total disability, meaning of, **5:14**
- Pre-existing condition, **5:25**
- Proof, burden of
 - employee, on, **5:27**
 - medical exam compelled, **5:28**
 - shifting to insurer, **5:27**
- Recurrent disability, **5:19**

DISABILITY INSURANCE

—Cont'd

- Rehabilitation programs, **5:26**
- Remedies
 - forfeiture, relief from, **5:39**
 - injunction, **5:41**
 - limitation periods, **5:38**
 - proper forum, **5:37**
 - subrogation, **5:42**
 - summary judgment, **5:40**
 - unionized employee, for, **5:4**
- Remuneration, level of, **5:21**
- Retraining, **5:22, 5:26**
- Return to work, temporary, **5:23**
- Self-employed persons, **5:2**
- Stress, for, **5:18**
- Termination of employment
 - effect of benefits on, **2:11**
 - entitlement after, **5:16, 5:33**
- “Total disability,” definition variety, **5:11, 5:14**
- Uniform Accident and Sickness Policy Act, **5:5**

DISCRIMINATION

- Adverse effect, **4:1**
 - attendance requirements, **4:12, 4:16**
 - described, **4:11**
 - examples of, **4:12, 4:16**
 - minimum standards of performance, **4:12**
- AIDS, against persons with
 - see AIDS disability
- Alcohol and drug policies, **4:15, 4:26, 4:34**
 - contravention of policy in unionized workplaces, **3:26.50**
 - crafting policies in unionized workplaces, **3:26.30**
- Attendance requirements and, **4:16**
- Bona fide occupational requirement
 - defence
 - see bona fide occupational requirement (BFOR)

DISCRIMINATION—Cont'd

Defences

accommodation, proof of, **4:31**

BFOR, **4:18**

reasonable cause, **4:39**

Direct, 4:1

described, **4:12, 4:16, 4:33**

examples of, **3:9, 4:13**

minimum medical standards,
4:14, 4:20

poisoned work environment, **4:15**

proof of, **4:17**

Harassment and, **4:15**

Meaning of, evolutionary, **4:11**

Prima facie case, **4:5**

advertising and recruitment
context, **4:8**

direct or adverse effect
discrimination, **3:9, 4:1**

disability

conditions considered, **4:6**

meaning of, **4:6**

mistaken belief re, **4:6**

perceived but undiagnosed, **4:6**

employment context, **4:7**

exemptions

domestic employees, **4:10**

preferential treatment, **4:10**

protected categories, **4:10**

retirement/employee benefit
plans, **4:10**

specific legislative provisions,
4:10

liability, **4:9**

onus of proving, **4:5**

Proof of, **4:17**

Alberta Human Rights Act, **4:39**

Rational connection of rules to job,
4:36

Reasonable cause for

Alberta Individual Rights Protec-
tion Act, **4:39**

Charter test, **4:39**

Unified test, **4:2, 4:3**

DISEASE

AIDS

see AIDS disability

Diabetes, **2:32, 3:19**

Epilepsy, **2:32, 3:19**

Heart disease

see heart disease

Mental illness, **2:29, 3:24, 6:9**

Workers' compensation coverage,
6:9

DISMISSAL

See termination of employment

DOCTOR'S CERTIFICATE

See medical — certificate

DRUG ADDICTION

See illnesses; union employees

DRUG TESTING, MANDATORY

Generally, **3:25 to 3:27**

Contravention of policy, **3:26.50**

Crafting policies, **3:26.30**

Post-incident substance testing,
3:26.70

DUTY TO ACCOMMODATE

See accommodate, duty to

EMERGENCY PREPAREDNESS

Evacuation, employees with dis-
abilities, **APP A7 § A7:3**

EMPLOYEE

Common law, **1:2**

Disability insurance, burden of
proof re, **5:27**

Domestic, **4:10**

Duty to accommodate, **4:38, 4:51**

Union

see union employees

EMPLOYEE ASSISTANCE PROGRAMS

Generally, **3:27**

EMPLOYER

- Checklists and forms
 - generally, **APP A7 § A7:1**
- Common law employee, **1:2**
- Disability insurance obligations
 - see disability insurance
- Duty to accommodate
 - see accommodate, duty to
- Employee illness, response to
 - see illnesses
- Lump sum severance payment, liability for, **2:20**
- Permanent vs temporary illness factors, **2:10**

EMPLOYMENT

- Contract
 - see employment contract
- Discrimination in, **4:7 to 4:17**
- Fitness to resume, **3:33**
- Relationship
 - see employment relationship
- Termination of
 - see termination of employment

EMPLOYMENT APPLICATION

- Falsification of re medical history, **3:37**

EMPLOYMENT CONTRACT

- Alcohol and drug abuse term, **2:22**
- Breach of, **2:5, 2:6**
- Frustration of, **2:9, 2:10**
- Human rights legislation, effect of, **4:1**

EMPLOYMENT INSURANCE

BENEFITS

- Coverage, **6:37**
- Eligibility, **6:38**
- History of, **6:36**
- Purpose of, **6:36**
- Self-employment, **6:43**
- Special benefits, **6:40**
 - compassionate care, **6:42**
 - illness, **6:41**
 - maternity, **6:41**

EMPLOYMENT INSURANCE

BENEFITS—Cont'd

- Special benefits, **6:40**—Cont'd
 - parental, **6:41**
- Unemployment benefits, **6:39**

EMPLOYMENT POLICIES

- Generally, **APP A6 § A6:1**
- Absenteeism and tardiness, **APP A6 § A6:10**
- Accessibility statement, **APP A6 § A6:6**
- Accident reporting and workers' compensation, **APP A6 § A6:22**
- Accommodating employees' needs, **APP A6 § A6:7**
- Anti-harassment policy, **APP A6 § A6:24**
- Attendance management program policy, **APP A6 § A6:11**
- Discrimination and harassment complaint procedure, **APP A6 § A6:27**
- Diversity and inclusion, **APP A6 § A6:4**
- Early and safe return to work (modified work), **APP A6 § A6:12**
- Emergency pandemic preparedness, **APP A6 § A6:20**
- Infectious Illnesses, **APP A6 § A6:19**
- Mandatory vaccination policies, **APP A6 § A6:21**
- Medical information in workplace, **APP A6 § A6:23**
- Medical leave, **APP A6 § A6:14**
- Menstruation, **APP A6 § A6:28**
- Modified duty, **APP A6 § A6:13**
- Non-discrimination, **APP A6 § A6:3**
- Persons with disabilities, **APP A6 § A6:5**
 - employing and accommodating, **APP A6 § A6:9**

ILLNESS AND DISABILITY IN THE WORKPLACE

EMPLOYMENT POLICIES

—Cont'd

Physical examinations, **APP A6 § A6:8**

Respectful workplace policy, **APP A6 § A6:2**

Scent-free policy, **APP A6 § A6:16**

Short-term and long-term disability, **APP A6 § A6:18**

Sick days, **APP A6 § A6:17**

Substance misuse, **APP A6 § A6:15**

Workplace

bullying, **APP A6 § A6:26**

harassment, **APP A6 § A6:25**

EMPLOYMENT RELATIONSHIP

Breach of contract, **2:5, 2:6**

Business efficacy factor, **2:10**

Specific enforcement of, **2:2**

EMPLOYMENT STANDARDS LEGISLATION

Generally, **3:13**

EPILEPSY

Generally, **2:32, 3:19**

EVIDENCE

See also proof

Absences from work, **3:4**

Disability, of

see disability insurance

Frustration of contract, of, **3:3 to 3:5**

Surveillance, **3:38**

FRUSTRATION OF CONTRACT

Absences from work as, **3:3 to 3:5**

Termination of ill or disabled employee for, **2:9**

HANDICAP

Collective agreement benefits provision, **APP A4 § A4:8**

HEART DISEASE

Physical illness, as, **2:31**

Union employee with, **3:21**

HIV

See AIDS disability

HUMAN RIGHTS LEGISLATION

See also discrimination

Generally, **4:1**

Accommodate, duty to

see accommodate, duty to

Arbitration and

see arbitration

Bona fide occupational requirement defence

see bona fide occupational requirement (BFOR)

Charter of Rights

jurisdiction, **4:4**

Contractual relationship, effect on, **4:1**

Contravention of remedies, **4:40**

Discrimination, prohibition against see discrimination

Interpretation of, **4:1**

Jurisdiction over disputes, **4:4**

Purpose of, **4:1**

Remedies for contraventions, **4:40**

ILLNESSES

Alcohol and drug abuse

generally, **2:22, 2:27**

alcoholism and drug abuse as disability, **4:34**

alcoholism as illness, **2:26**

employment contract term, **2:22**

mitigating circumstances, **2:25**

policies

contravention of policy in unionized workplaces, **3:26.50**

crafting policies in unionized workplaces, **3:26.50**

summary dismissal, as grounds for, **2:22**

warnings re, **2:23**

workers' compensation coverage, **6:10**

ILLNESSES—Cont'd

- Alcohol and drug abuse—Cont'd
 - work record as factor, **2:24**
- Employer's response to
 - assessment of problem, **2:37**
 - lump sum severance payment, **2:39**
 - practical solutions, **2:36 to 2:39**
 - reasonable notice of termination, **2:39**
 - termination strategies, **2:38**
 - topping-up disability payments, **2:39**
 - workers' comp. supplement, **2:39**
- Gambling, **2:28**
- Mental illness, **2:29, 6:9**
- Physical illness
 - AIDS
 - see AIDS disability
 - chronic fatigue syndrome, **2:35**
 - diabetes, **2:32, 3:19**
 - epilepsy, **2:32, 3:19**
 - heart disease
 - see heart disease
 - physical fitness, **2:33**
- Stress-related illnesses, **2:29**

INSURANCE

- See disability insurance

INSURANCE PAYMENTS

- Death during reasonable notice period, **2:20**
- Deductibility from reasonable notice requirements, **2:11 to 2:19**

JURISDICTION

- Arbitration, **3:8**
- Arbitrator, **3:2, 3:9**
- Charter of Rights, **4:4**
- Courts over union employee, **3:2**
- Human rights, **4:4**
- Workers' compensation, **6:3**

JUST CAUSE

- Innocent absenteeism and, **2:8**

JUST CAUSE—Cont'd

- Termination, for, **2:2**

LONG-TERM DISABILITY BENEFITS

- See disability insurance

MEDICAL

- Certificate
 - requirement re union employees
 - see union employees
 - requirement to provide, **3:31**
- Examination
 - arbitrator's authority to order, **3:35**
 - independent, **3:32**
 - union employees, re
 - see union employees
- Fitness
 - union employees, re
 - see union employees
- History
 - falsification of employment application re, **3:37**
- Records
 - admissibility of, **3:41**

MENTAL

- Disability
 - insurance benefits for, **5:18**
- Illness
 - see illnesses; union employees

NOTICE, REASONABLE

- Death during period of, **2:20**
- Deductions from
 - see disability benefits
- Disability benefits, effect on, **2:11**
- Frustration of contract and, **2:9**
- Insurance payments, deductibility of from, **2:11 to 2:19**
- Medical condition, effect on, **2:6**
- Termination of employment, of
 - pay in lieu of notice, **2:39**
 - requirement, **2:3**
 - severance pay vs. notice, **2:8**

ILLNESS AND DISABILITY IN THE WORKPLACE

OCCUPATIONAL HEALTH AND SAFETY LEGISLATION

Duties under, and relation to obligations under human rights legislation, **3:13.50**

OCCURRENCE REPORT

Sample, **APP A5 § A5:3**

ONTARIO HUMAN RIGHTS COMMISSION

Duty to accommodate guidelines, **4:34, 4:50**

PARENTAL LEAVE

Generally, **3:29**

PERMANENT DISABILITY

Business efficacy factor, **2:10**

Extent of disability, **2:10**

Factors to determine, **2:10**

Frustration of employment contract, **2:10**

Long-term employee, **2:10**

Sick benefits as factor, **2:10**

PHYSICAL FITNESS

Generally, **2:33**

PHYSICAL ILLNESS

See Illnesses

PRACTICAL SOLUTIONS

Generally, **2:36 to 2:39, 3:42**

PREGNANCY LEAVE

Generally, **3:29**

PROOF

Accommodation, of, **4:37**

BFOR, standard re, **4:30**

Disability insurance, burden re, **5:27**

Discrimination, of, **4:17**

Evidence of disability, burden re, **5:27**

REASONABLE NOTICE

See notice, reasonable

REHABILITATION

Addicts, of, **3:22, 3:25 to 3:27**

Benefits payable, **6:20**

Programs, **5:26**

RETURN TO WORK

Right to, **3:39**

RULES, EMPLOYER'S

Generally, **3:27**

SAFETY RISKS

See bona fide occupational requirement (BFOR)

SEALED BUILDING SYNDROME

Generally, **6:10**

SELF-EMPLOYED PERSONS

Disability insurance for, **5:2**

Unemployment insurance benefits for, **6:43**

SEVERANCE PAYMENT

Generally, **3:40**

Lump sum

continuing liability of employer, **2:20**

to ill employee, **2:39**

SICK BENEFITS

Permanent disability factor, **2:10**

Workers' compensation, effect on, **6:28**

SICK LEAVE

Collective agreement provision re, **APP A4 § A4:1 to A4:4**

Credits, effect of on absence complaint, **3:5**

Misuse of, **3:36**

Short-term plans, **5:7**

Surveillance evidence of person on, **3:38**

SPECIFIC ENFORCEMENT

Employment contract, of, **2:2**

STATEMENT OF CLAIM

Disability benefits, civil action re,
APP A3 § A3:3

Wrongful dismissal action, **APP A3 § A3:1**

STATEMENT OF DEFENCE

Disability benefits, civil action re,
APP A3 § A3:4

Wrongful dismissal action, **APP A3 § A3:2**

STRESS

Disability insurance for, **5:18**

Physical illness, as, **2:28**

Stress-related illness, **2:29**

Union worker and, **3:24**

Workers' compensation coverage
for, **6:10**

SUBSTANCE USE

Policy checklist, **APP A7 § A7:9**

**TERMINATION OF
EMPLOYMENT**

Common law and
generally, **2:2**

assessment, **2:37**

breach of contract, **2:5, 2:6**

disability benefits

effect of, **2:11 to 2:19**

effect on, **2:20**

tortious interference with, **2:21**

employer considerations, **2:1**

ill or disabled employee

frustration, **2:9**

permanent disability

determining, **2:10**

frustration due to, **2:9**

right to notice or severance pay

innocent absenteeism vs.

just cause, **2:8**

self-induced illness, **2:8**

just cause, **2:2**

letter of, **A1:4**

notice of, **2:3, 2:38, 2:39**

see also notice, reasonable

TERMINATION OF

EMPLOYMENT—Cont'd

Common law and—Cont'd

reasonable notice

see also notice, reasonable

length of notice period, **2:3**

obligation to work during, **2:3**

pay in lieu of, **2:39**

purpose of, **2:3**

requirement, **2:3**

suspension of period, **2:11 to 2:19**

specific enforcement of employ-
ment contract, **2:2**

Physical disability, employer
checklist, **APP A7 § A7:11**

Union employees

see union employees

TORTS

Negligent interference with provi-
sion of benefits, **2:21**

UNDUE HARDSHIP

Defence to accommodation duty, as,
4:34

UNION EMPLOYEES

Generally

AIDS, **3:28**

Generally, **1:3, 3:2**

Absences from work

bona fide illness or disability

discipline, **3:3 to 3:5**

evidential burden, **3:3 to 3:5**

termination grounds, **3:3 to 3:5**

culpable, **3:3 to 3:5**

disability benefits, **3:5**

fitness to resume employment,
3:33

frustration of contract

evidence to be considered, **3:3 to 3:5**

non-culpable nature of, **3:3 to 3:5**

sick leave credits, effect of, **3:5**

ILLNESS AND DISABILITY IN THE WORKPLACE

UNION EMPLOYEES—Cont'd

Absences from work—Cont'd
 frustration of contract—Cont'd
 test re, **3:3 to 3:5**
 lengthy
 medical evidence, **3:4**
 termination, as justification for, **3:4**
 sick leave credits, effect of, **3:5**
 surveillance evidence, **3:38**
 AIDS
 discrimination, **3:28**
 HIV infection, **3:28**
 termination, justified, **3:28**
 Alcohol addiction
 generally, **3:25 to 3:27**
 accommodation duty, **3:25 to 3:27**
 applicable grievance principles, **3:25 to 3:27**
 employee assistance programs, **3:27**
 employer rules and policies, **3:26**
 contravention of policy, **3:26.50**
 crafting policies, **3:26.30**
 illegal drug use, **3:25 to 3:27**
 mandatory drug testing, **3:25 to 3:27**
 post-incident substance testing, **3:26.70**
 rehabilitation, **3:22, 3:25 to 3:27**
 Arbitration process
 see arbitration
 Arbitrator, jurisdiction of, **3:2**
 Attendance programs, **APP A5 § A5:2, 3:15**
 Canada Labour Code
 see arbitration
 Charter of Rights
 see arbitration
 Collective agreement
 attendance programs, **APP A5 § A5:2, 3:15**

UNION EMPLOYEES—Cont'd

Collective agreement—Cont'd
 deemed termination provisions, **3:14**
 effect on termination right, **3:2**
 illness and disability benefits under
 long-term, **3:17**
 short-term, **3:17**
 sample provisions
 generally, **APP A4 § A4:1 to A4:8**
 benefits, **APP A4 § A4:6**
 group insurance premiums, **APP A4 § A4:6**
 handicapped employees, **APP A4 § A4:8**
 prepaid health benefits, **APP A4 § A4:7**
 sick leave, **APP A4 § A4:1 to A4:4**
 workers' compensation, **APP A4 § A4:5**
 Court jurisdiction re, limitations on, **3:2**
 Diabetes, **3:19**
 Drug addiction, **3:25 to 3:27**
 contravention of policy, **3:26.50**
 crafting policies, **3:26.30**
 mandatory drug testing, **3:25 to 3:27**
 post-incident substance testing, **3:26.70**
 Employment and labour standards
 see arbitration
 Epilepsy, **3:20**
 duty to accommodate, **3:20**
 Heart disease, **3:21**
 Human rights legislation and
 see arbitration
 Jurisdiction, federal and provincial
 see arbitration
 Legislation and
 see arbitration

UNION EMPLOYEES—Cont'd

Medical certificate requirement
generally, **3:30**
collective agreement basis, **3:31**
independent verification, **3:32**
reasonable grounds basis, **3:31**
Medical examinations
arbitrator's authority to order, **3:35**
consent to release information, **APP A2 § A2:1**
general principles re, **3:34**
independent, **3:32**
sample letters re, **A1:1**
Medical fitness
generally, **3:18 to 3:23**
disability discrimination, **3:23**
employee removal onus, **3:23**
impaired vision, **3:22**
resumption of employment, **3:33**
safety concerns and
generally, **3:18 to 3:23**
diabetes, **3:19**
epilepsy, **3:20**
heart disease, **3:21**
standards re, **3:22**
Mental illness, **3:24**
Non-culpable dismissal, **3:3 to 3:5**
Occupational health and safety
legislation
duties under, and relation to
obligations under human
rights legislation, **3:13.50**
Practical considerations, **3:42**
Pregnancy, **3:29**
Return to work, fitness to
see also medical
right to, **3:39**
Sick leave, misuse of, **3:36**
surveillance evidence of, **3:38**
Smoking bans, **3:22**
Stress, **3:24**
Summary re, **3:42**
Surveillance evidence, admissibility, **3:38**

UNION EMPLOYEES—Cont'd

Termination of employment
deemed collective agreement
provisions, **3:14**
letter re, **A1:4**
severance pay, **3:40**
Wrongful dismissal law, non-applicability of, **3:2**

UNIONIZED WORKPLACE

See also union employees
Court jurisdiction re, limitations on, **3:2**

VISUAL DISABILITY

BFOR cases, **4:27**
Medical fitness and, **3:22**

WORKERS' COMPENSATION

Generally, **6:2**
Appeals, **6:22**
Assessments, **6:25**
Benefits payable
generally, **6:11 to 6:20**
death, **6:18**
disability payments, **6:14**
permanent, **6:17**
temporary partial, **6:16**
temporary total, **6:15**
income replacement, **6:13**
medical, **6:12**
protection of, **6:19**
rehabilitation and care, **6:20**
Boards, **6:4**
Claims, **6:21 to 6:23**
appeals, **6:22**
primary adjudication, **6:21**
Class action lawsuits, **6:23**
Coverage re
alcoholism, **6:10**
Coverage re:
generally, **6:5 to 6:10**
causation, **6:10**
chronic pain syndrome, **6:10**
death, **6:10**
diseases, **6:9**

WORKERS' COMPENSATION

—Cont'd

Coverage re:—Cont'd
 employer, definition of, **6:6**
 industries covered, **6:5**
 injuries, **6:9**
 mental disorder, **6:9**
 misconduct of worker, **6:10**
 period of, **6:8**
 persons covered by legislation,
 6:7
 sealed building syndrome, **6:10**
 stress, **6:10**
Distinguished from other benefits,
 2:11 to 2:19
Introduction, **6:2**
Jurisdiction re, **6:3**
Limitation periods, **6:24**
Other systems, interaction with
 generally, **6:26 to 6:35**
 auto insurance benefits, **6:32**
 Canada/Quebec Pension Plan,
 6:29
 civil liability, **6:27**
 disability insurance, **6:31**

WORKERS' COMPENSATION

—Cont'd

Other systems, interaction with
 —Cont'd
 Government Employees
 Compensation Act, **6:35**
 occupational health and safety,
 6:34
 sick pay, **6:30**
 unemployment insurance
 benefits, **6:28**
 welfare, **6:33**
Waiver of benefits, **6:19**

**WRONGFUL DISMISSAL
ACTION**

Sample pleadings, **APP A3 § A3:1**
 statement of claim, **APP A3**
 § A3:1
 statement of dismissal, **APP A3**
 § A3:2
Union employee, non-applicability
 to, **3:2**

**WRONGFUL TERMINATION OF
BENEFITS**

Insurance benefits, **5:36**