# TABLE OF CONTENTS

## PART IV
## EMPLOYMENT STANDARDS ACT


**21. INTRODUCTION** ..... 21-1

**22. GENERAL PROVISIONS** ..... 22-1
- 22.1 Application of the Act ..... 22-1
- 22.2 Definitions ..... 22-8.1
  - (a) Employee ..... 22-8.1
  - (b) Employer ..... 22-14.1
  - (c) Employment Contract ..... 22-16.1
  - (d) Employment Standard ..... 22-16.2
  - (e) Establishment ..... 22-16.2
  - (f) Payroll ..... 22-16.3
  - (g) Severance Pay ..... 22-17
  - (h) Statutory Notice Period ..... 22-17
  - (i) Termination Pay ..... 22-18
  - (j) Wages ..... 22-18
- 22.3 No Contracting Out ..... 22-20
- 22.4 Greater Contractual Benefit Prevails ..... 22-23
- 22.5 Remedies ..... 22-30
  - (a) Civil Remedies Preserved ..... 22-30
  - (b) Unionized Employees ..... 22-32
- 22.6 Continuity of Employment on the Sale of a Business ..... 22-32
- 22.7 Related Businesses May be Treated as One Employer ..... 22-40
- 22.8 Liability of Corporate Officers, Directors and Agents ..... 22-60

**23. LEAVES OF ABSENCE** ..... 23-1
- 23.1 Pregnancy Leave ..... 23-2
  - (a) Introduction ..... 23-2
  - (b) Qualifying and Applying for Pregnancy Leave ..... 23-2
  - (c) End of Pregnancy Leave ..... 23-4
- 23.2 Parental Leave ..... 23-5
  - (a) Introduction ..... 23-5
  - (b) Qualifying and Applying for Parental Leave ..... 23-5
  - (c) End of Parental Leave ..... 23-7
- 23.3 Family Medical Leave ..... 23-12
- 23.4 Organ Donor Leave ..... 23-13
- 23.5 Family Caregiver Leave ..... 23-13
- 23.6 Critically Ill Child Care Leave ..... 23-14.1
- 23.7 Crime-Related Child Death or Disappearance Leave ..... 23-15
- 23.8 Personal Emergency Leave ..... 23-15
- 23.9 Emergency Leave for Declared Emergencies ..... 23-19
- 23.10 Reservist Leave ..... 23-19
- 23.11 SARS-Related Leave ..... 23-20

TABLE OF CONTENTS


23.12 Rights During Leaves of Absence ..... 23-21
(a) Introduction ..... 23-21
(b) Continued Participation in Benefit Plans ..... 23-21
(c) Deferred Vacation or Vacation Pay ..... 23-22
(d) Taking Leave in Weeks ..... 23-22
(e) Length of Employment ..... 23-22
(f) Reinstatement After Leave of Absence ..... 23-22
(g) Freedom from Reprisal ..... 23-23
23.13 Jurisdiction of Employment Standards Officer to Enforce Compliance ..... 23-24
23.14 Rights and Enforcement Pre-*Employment Standards Act, 2000* ..... 23-26
(a) Pregnancy Leave Entitlement ..... 23-26
(b) Parental Leave Entitlement ..... 23-27
(c) Rights and Entitlements During Leave ..... 23-28

**24. TERMINATION OF EMPLOYMENT** ..... 24-1
24.1 Notice of Termination or Termination Pay ..... 24-2
(a) Introduction ..... 24-2
(b) Termination ..... 24-2
(c) Requirements for Termination of Fewer than 50 Employees ..... 24-16
(d) Requirements for Termination of 50 Employees or More ..... 24-23
(e) Termination Pay ..... 24-26
(f) Exceptions from Entitlement to Notice of Termination or Termination Pay ..... 24-28
(g) Definite Term or Specific Task ..... 24-29
(h) Reasonable Alternative Employment ..... 24-33
(i) Wilful Misconduct, Disobedience, or Wilful Neglect of Duty that is Not Trivial and Has Not Been Condoned by the Employer ..... 24-36
(j) Construction Employees ..... 24-52.3
(k) Election re Recall Rights ..... 24-52.5
24.2 Notice of Termination or Termination Pay Pre-*Employment Standards Act, 2000* ..... 24-52.7
(a) Introduction ..... 24-52.7
(b) Advance Notice Required for Termination of Fewer than Fifty Employees ..... 24-52.8
(c) Advance Notice Required for Termination of Fifty Employees or More Within Four Weeks or Less ..... 24-52.12
(d) Employer Oblication in Default of Providing Advance Notice ..... 24-52.12
(e) Calculation of Wages for Employees Paid on a Basis Other Than Time or Whose Hours of Work are Variable ..... 24-52.12(1)
(f) Exceptions from Entitlement to Notice of Termination or Termination Pay ..... 24-52.12(2)
(g) Employee Obligation to Continue Employment Upon Receipt of Notice of Termination ..... 24-52.12(4)
24.3 Severance Pay ..... 24-52.12(5)
(a) Introduction ..... 24-52.12(5)

(b) Severance....24-52.12(6)
(c) Entitlement to Severance Pay....24-52.12(7)
(d) Definite Term or Specific Task....24-52.15
(e) Reasonable Alternative Employment....24-52.15
(f) Wilful Misconduct, or Wilful Neglect of Duty that is Not Trivial and Has Not Been Condoned by the Employer....24-52.15
(g) Construction Employees....24-52.18
(h) Calculation of Severance Pay....24-52.20
(i) Election re Recall Rights....24-52.22
24.4 Severance Pay *Pre-Employment Standards Act, 2000*....24-52.22
(a) Introduction....24-52.23
(b) Criteria Governing Entitlement to Severance Pay....24-53
(c) Quantum of Severance Pay....24-59
(i) Calculating the Amount of Severance Pay....24-59
(ii) Severance Pay Payable Without Set-Off or Deduction....24-60
24.5 Employer Obligation to Make Payment Upon Termination Pre-*Employment Standards Act, 2000*....24-62

**24.1 REPRISALS**....24.1-1
24.1.1 Introduction....24.1-1
24.1.2 Anti-Reprisal Provisions....24.1-1
(a) General....24.1-1
(b) Reprisal by Client....24.1-8.1
(c) Remedies....24.1-9
(d) Court Ordered Payments....24.1-11
(e) Leaves of Absence....24.1-11
(f) Lie Detector Tests....24.1-13
(g) Retail Business Establishments....24.1-16
(h) Pre-*Employment Standards Act, 2000*....24.1-18

**25. ADMINISTRATION AND ENFORCEMENT**....25-1
25.1 Introduction....25-1
25.2 Employment Standards Claim....25-4
25.3 Limitation Periods....25-5
25.4 Settlement....25-8.1
25.5 Investigation by an Employment Standards Officer....25-9
(a) General....25-9
(b) Order to Pay Wages....25-17
(c) Order to Hire, Reinstate or Compensate....25-18.1
(d) Compliance Order....25-18.4
(e) Notice of Contravention....25-18.5
(f) Limitation Period for Issuing Orders and Notices....25-18.7
25.6 Reviews by the Ontario Labour Relations Board....25-19
(a) Review of an Employment Standards Officers' Decision....25-19
(b) Review of Notice of Contravention....25-30.4(2)
(c) Application to Void Settlement....25-30.5
(d) Practice and Procedure....25-30.9
(e) Referral by the Director....25-30.19

TABLE OF CONTENTS

25.6.1 Judicial Review....25-31
25.7 Collection....25-31
25.8 Offences and Prosecutions....25-32
25.9 General Principles Applicable to Investigation and Adjudication....25-33

## APPENDICES

**EMPLOYMENT STANDARDS ACT AND REGULATIONS**.... A-1
Regulations.... A-97

**INDEX**.... INDEX-1