2018 50 Employment Laws in Canada

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50 Employment Laws in Canada is extracted from BLR's *50 Employment Laws in 50 States* manual, which is produced annually. *50 Employment Laws in Canada is* designed to provide accurate and authoritative information on employment laws in Canada.

This book provides practical information concerning the subject matters covered. It is sold with the understanding that neither the publisher nor the authors are rendering legal advice or other professional service. Some of the information provided in this publication contains a broad overview of federal and province law, which changes regularly. You should consult a competent attorney if you are in need of specific legal advice concerning any of the subjects addressed in this book.

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ISBN 978-1-55645-751-7

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Printed in the United States of America

Contents

Foreword 1

Affirmative Action 1

Is preference required to be given to particular classes in public employment?

Arrests and Convictions 2

Does the province restrict employers from asking applicants or employees about arrests? Convictions?

Background Checks 3

Does the province require background checks on applicants or employees in certain jobs?

Benefits For Unmarried Partners 3

Does province or local law require employers to offer spousal benefits to same-sex partners or common-law spouses?

Breaks/Meal Periods 4

Does your province have specific requirements for meal periods? Breaks?

Cell Phone Use/Distracted Driving 4

Does your province have special restrictions on the use of cell phones? *4*

Child Labor 5

What are your province's rules for hiring minors? *5*

Consumer Credit Reports and Driving Records 6

Does the province regulate whether employers may obtain credit reports or driving records on applicants and employees?

Deductions from Pay/Garnishment 7

A. Does your province restrict employers from making payroll deductions?

B. Does your province prohibit firing employees because of wage garnishments?

Direct Deposit 8

A. Does your province allow employers to require direct deposit of paychecks?

B. Does your province have special rules on the use of payroll cards?

Discrimination And Harassment 9

What province discrimination and harassment laws go beyond the protected categories in federal law?

Drug and Alcohol Testing 10

Does your province regulate drug and alcohol testing?

Employee Training 11

Does your province require employers to provide sexual harassment prevention training?

Employment at Will 11

Does your province permit employment-at-will? What are the exceptions?

Employee Records: Access 12

Does your province give employees a legal right to examine their own personnel files?

Employee Records: Retention 13

What records retention requirements are mandated by province law or regulation?

Family and Medical Leave 14

Does the province have requirements on family and medical leave that differ from federal law?

Final Paycheck 15

Does your province have a deadline for employers to give final paychecks?

Identity Theft 15

A. Does the province restrict employers' collection or use of employees' social security numbers?

B. Does your province have special reporting requirements when a security/data breach occurs?

Independent Contractors/Employee Classification 17

Does your province have special requirements or definitions regarding independent contractors?

Jury Duty/Witness Service Leave 17

Does your province require granting leave to employees for jury duty and/or witness service?

Immigration 18

Does your province have employer restrictions or obligations on immigration that go beyond federal law?

Labor Organizing 18

A. Does your province restrict private employers from requiring or prohibiting membership in a union as a condition of employment?

B. Does your province allow public sector employees to unionize?

Medical and Genetic Testing and Discrimination 19

A. Does your province restrict genetic testing by employers?

B. Does your province have restrictions on employers regarding AIDS/HIV testing? Discrimination laws?

Military Leave 21

Does your province have requirements for military leave that go beyond federal law?

Marijuana 21

Does your province have laws permitting the use of marijuana?

Medical Maternity: Discrimination, Leave, Benefits 22

A. Does your province have laws regarding pregnant employees that go beyond federal law?

B. How does your province address breastfeeding in the workplace?

New-Hire Reporting 23

What is required of employers regarding new-hire reporting?

Minimum Wage 24

A. Does your province have its own minimum wage?

B. Does your province have exemptions to its minimum wage requirement?

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Noncompete Agreements **25**
How do your province courts or statutes address noncompete agreements?
Occupational Safety and Health **26**
Does your province have special occupational safety and health requirements that differ from federal law?
Off-Duty Conduct **27**
Does your province prohibit employers from making employment decisions based on employees' or applicants' off-duty conduct?7
Payout of Vacation/Sick Pay **27**
A. Does your province require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?
B. Does your province have any special restrictions on the use of paid leave to account for partial-day absences for exempt employees?
Overtime **28**
What are your province's overtime requirements?
Payment of Commissions **29**
Does your province have timely payment requirements for commissions and/or requirements for figuring commissions?
Polygraph Testing **29**
Does your province have restrictions on employers' use of polygraph or similar tests?
Posters/Notices **30**
What posters or notices are employers required to display/provide under province law?
Preemployment Inquiries **31**
Does your province prohibit employers from asking applicants about certain subjects?
Privacy **32**
A. Does your province restrict the monitoring of employee communications?
B. Does your province limit employer access to employees' personal online accounts or personal electronic communications devices?
Reductions In Force **33**
Does your province have requirements for notice of layoffs and/or closures?
References **33**
What restrictions and protections does your province have regarding references?
Sick Leave and Other Paid Time Off **34**
Does your province have special requirements for employers to provide paid sick leave or other paid time off?
Small Necessities Leave **34**
A. Does the province have requirements regarding "small necessities" leave?
B. Does your province require some sort of domestic violence leave?
Smoking/Tobacco Use **35**
Does your province regulate smoking, vaping, or e-cigarettes in the workplace?
Title VII Equivalents **36**
Does your province have its own employment discrimination and harassment laws?
Voting Leave **37**
Does the province protect employees who take leave to vote in elections?
Weapons **38**
Does your province have laws that interfere with an employer's right to ban employees from bringing weapons on the premises?
Wage Payment **38**
A. How frequently must employers in your province pay employees?
B. Does your province have special rules for callback/report-in pay?
Whistleblowing **39**
Does your province offer employees whistleblower protection?
Workers' Compensation **40**
What are your province's basic workers' compensation requirements for employers?
Appendix A: Province Agencies **43**
A. What are your province's practices regarding equal employment opportunity matters?
B. How is employment law enforcement handled in your province?
C. What workers' compensation issues must employers be aware of?
Appendix B: Unemployment Compensation Issues **46**
A. Does your province expand unemployment compensation coverage beyond federal law?
B. Does your province exclude certain classes of employees from unemployment compensation coverage?
C. What are your province's unemployment tax rules and rates? How are unemployment charges allocated among multiple employers? Does your province permit voluntary contributions?
D. What are the qualification requirements for employees in your province to receive unemployment compensation?
E. Does your province reduce unemployment benefits for workers with part-time or other supplemental income? Does your province increase benefits for individuals with dependents?
F. Does your province provide a "good cause exception" that allows unemployment benefits for certain individuals who voluntarily leave their jobs?
G. What are your province's rules on disqualification from benefits for employees who lose their jobs due to misconduct?
H. What are your province's requirements for individuals to be available to work in order to continue receiving benefits?
I. What are your province's rules for disqualifying individuals from benefits when they refuse work, are involved in labor disputes, or commit benefit fraud?

Foreword

50 Employment Laws in Canada is a compilation of brief summaries of federal and provincial laws on the most important areas of employment law.

Each of the 50 areas begins with a question about a specific aspect of employment law—for example, provincial requirements that exceed federal law, wage and hour requirements, or areas where provinces typically differ widely from each other. The "answers" are presented in table format. Questions referring to the provinces generally apply to territories as well. Refer to the tables for specific laws and citations.

The "answers" were provided by members of the Employers Counsel Network (ECN), an HR Hero®-sponsored organization linking top employment law practitioners at leading firms across the United States and Fasken Martineau DuMoulin LLP in Canada. HR Hero® is a division of BLR®—Business & Legal Resources, which also publishes the monthly *Employment Law Letter* written and edited by the ECN member law firms.

Information about attorneys involved in the development of this book follows the main content. Questions about the content of this publication may be directed to Fasken Martineau DuMoulin LLP or to BLR®—Business & Legal Resources directly.

Celeste L. Duke
Editor

AFFIRMATIVE ACTION

Is preference required to be given to particular classes in public employment?

Requirements
Public body employers who fall under federal jurisdiction and employ 100 or more employees, private sector employers who fall under federal jurisdiction, and provincially regulated employers who participate in the federal Contractors Program must comply with the federal Employment Equity Act, the goal of which is to achieve equality in the workplace, and in fulfillment of that goal, correct the conditions of disadvantage in employment experienced by women, aboriginal peoples, persons with disabilities, and members of visible minorities (the "Designated Groups"). Where members of the Designated Groups are underrepresented in an employer's workforce, an employment equity plan for addressing under-representation must be devised and implemented. In Quebec, public bodies that employ 100 or more employees for a continuous period of six months in each of two consecutive years are subject to a special framework that provides equal access to employment in order to remedy the situation experienced by persons belonging to certain groups discriminated against in employment, namely women, aboriginal people, persons with a disability, and persons who are members of visible minorities. Each public body is required to establish an equal access employment program for a type of occupation or occupational group where, in the opinion of the Commission des droits de la personne, the representation of a target group in the type of occupation or occupational group within the public body's workforce generally does not reflect the representation of the target group among qualified persons in the applicable recruitment area.
Nunavut has legislation governing employment equity for Inuit peoples. The Government of Nunavut is required to increase Inuit representation in government and to develop employment and training programs for Inuit workers.
■ *Citation:* **Federal:** Employment Equity Act. **Quebec:** An Act Respecting Equal Access to Employment in Public Bodies , § 1, § 2, § 9. **Nunavut:** Nunavut Agreement, § 23, ratified by the Land Claims Agreement Act.

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ARRESTS AND CONVICTIONS

Does the province restrict employers from asking applicants or employees about arrests? Convictions?

Arrests	Convictions	Covered employers
Human rights legislation in **British Columbia, Ontario, Prince Edward Island, the Northwest Territories, Nunavut, Yukon Quebec,** and the **federal** jurisdiction regulates inquiries about criminal records in the employment context. ■ *Citation:* **Federal:** Canadian Human Rights Act § 3. **British Columbia:** Human Rights Code § 13. **Newfoundland and Labrador:** § 14. **Northwest Territories:** Human Rights Act, § 5(1). **Nunavut:** Human Rights Act, § 7(1). **Ontario:** Human Rights Code § 5, § 10(1). **Quebec:** Charter of Human Rights and Freedoms § 18.2. **Prince Edward Island:** Human Rights Act § 6(1). **Yukon:** Human Rights Act, s. 7.	Human rights legislation in each province, territory, and under federal law regulates inquiries about criminal records and convictions, and approaches vary. For example, in British Columbia, employers are permitted to ask about criminal or summary convictions, but provincial legislation prohibits discrimination, refusing employment, or refusing continued employment based on criminal convictions that are "unrelated" to the employment or intended employment. In Ontario, it is permissible to ask whether an individual has been convicted of a criminal offense for which a pardon has not been granted. However, every person has the right to equal treatment without discrimination because of their record of offenses, which is defined as a conviction for an offense in respect of which a pardon has been granted under the Criminal Records Act of Canada and has not been revoked, or an offense in respect of any provincial enactment. In Prince Edward Island, no person may refuse to employ or continue to employ a person because of criminal or summary convictions not related to the employment. And in the federal jurisdiction and the Northwest Territories and Nunavut, discrimination is prohibited on the grounds of a conviction for which a pardon has been granted or a record suspension has been ordered. In Quebec, no one may refuse to employ or continue to employ a person because of penal or criminal convictions that are unconnected to the employment or for which a pardon has been granted. In the Yukon, it is discrimination to treat a person unfavorably on the ground of criminal charges or a criminal record. In Newfoundland and Labrador, employers are prohibited from imposing conditions of employment, refusing to employ, refusing to continue to employ, or otherwise discriminating against an employee because of a criminal conviction that is unrelated to his or her employment. In Manitoba, employers cannot discriminate on the basis of personal characteristics that are not specifically listed and the Manitoba Human Rights Commission has stated that discrimination on the basis of a criminal charge or conviction may constitute the basis of a complaint. ■ *Citation:* **Federal:** Canadian Human Rights Act § 3. **British Columbia:** Human Rights Code § 13. **Manitoba:** Human Rights Code § 9(1). **Newfoundland and Labrador:** Human Rights Act, § 14(1). **Northwest Territories:** Human Rights Act, § 5(1). **Nunavut:** Human Rights Act, § 7(1). **Ontario:** Human Rights Code § 5, § 10(1). **Quebec:** Charter of Human Rights and Freedoms § 18.2. **Prince Edward Island:** Human Rights Act § 6(1). **Yukon:** Human Rights Act, § 7(i).	All employers in relevant jurisdictions.

BACKGROUND CHECKS

Does the province require background checks on applicants or employees in certain jobs?

Requirements	Citation
Federal law permits any person or organization responsible for the well-being of one or more children or vulnerable persons to verify whether paid or volunteer applicants have convictions for a specified sexual offense. Also, some provinces and territories require background checks in certain circumstances so long as the applicant consents in writing. For example, in British Columbia, the government, government-funded employers, and government contractors require a criminal record check for employees who work with children or vulnerable adults. In Ontario, boards of education must collect the personal criminal history of every individual that is an employee or service provider who regularly comes into direct contact with students. In Quebec, the Minister of Education is authorized to verify a declaration concerning a judicial record required by the Education Act. Moreover, an applicant for a teaching license must satisfy the requirements that the Minister prescribed by regulation and send the Minister an application and a Declaration concerning the applicant's judicial record.	**Federal:** Criminal Records Act. **British Columbia:** Criminal Records Review Act. **Ontario:** Education Act Collection of Personal Information Regulation. **Quebec:** The Education Act.

BENEFITS FOR UNMARRIED PARTNERS

Does province or local law require employers to offer spousal benefits to same-sex partners or common-law spouses?

Major provisions of law	Covered employers
Federal law explicitly gives same-sex couples the right to marry and receive spousal benefits in all Canadian provinces. Federal, provincial, and territorial human rights legislation also includes sexual orientation as a prohibited ground of discrimination. Federal law and the laws of each province don't explicitly require employers to offer spousal benefits to common-law spouses, but federal and provincial human rights laws of all provinces do. In Quebec, the Charter of Human Rights prohibits all types of discrimination related to sexual orientation and civil status. It's likely the denial of spousal benefits to common-law spouses would be found a violation of those anti-discrimination laws in all jurisdictions. ■ *Citation:* **Federal:** Civil Marriage Act; Canadian Human Rights Act. **Alberta:** Alberta Human Rights Act. **British Columbia:** Human Rights Code. **Manitoba:** The Human Rights Code. **New Brunswick:** Human Rights Act. **Newfoundland and Labrador:** Human Rights Act. **Northwest Territories:** Human Rights Act. **Nova Scotia:** Human Rights Act. **Nunavut:** Human Rights Act. **Ontario:** Human Rights Code. **Prince Edward Island:** Human Rights Act. **Quebec:** Charter of Human Rights and Freedoms. **Saskatchewan:** Saskatchewan Human Rights Code. **Yukon:** Human Rights Act.	All employers.

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BREAKS/MEAL PERIODS

Does your province have specific requirements for meal periods? Breaks?

Major provisions of law	Covered employers
Except for the federal jurisdiction of Canada and the province of Newfoundland and Labrador, the employment standards legislation in all provinces and territories generally requires that employees receive a 30-minute break for each consecutive five hours worked. Legislation doesn't require additional breaks during the workday. Newfoundland and Labrador requires a one-hour break following five consecutive hours of work. ■ *Citation:* **Federal:** Canada Labour Code. **Alberta:** Employment Standards Code. **British Columbia:** Employment Standards Act. **Manitoba:** Employment Standards Code. **New Brunswick:** Occupational Health and Safety Act, Reg. 91-191. **Newfoundland and Labrador:** Labour Standards Act. **Northwest Territories:** Employment Standards Act, Employment Standards Regulations. **Nova Scotia:** Labour Standards Code. **Nunavut:** Labour Standards Act, Labour Standards Meal Regulations. **Ontario:** Employment Standards Act, 2000. **Prince Edward Island:** Employment Standards Act. **Quebec:** Act Respecting Labour Standards. **Saskatchewan:** The Saskatchewan Employment Act. **Yukon:** Employment Standards Act.	All employers.

CELL PHONE USE/DISTRACTED DRIVING

Does your province have special restrictions on the use of cell phones?

Cell phones while driving	Texting while driving
Use of hand held cell phones is prohibited in all Canadian provinces, Yukon, and Northwest Territories. No restrictions in Nunavut. British Columbia, Saskatchewan, and Yukon also prohibit novice drivers from using hands-free devices.	Prohibited in all Canadian provinces.

CHILD LABOR

What are your province's rules for hiring minors?

Major provisions of law	Certificate
Many provinces don't regulate the number of hours a minor may work with the exception that employment must not restrict school attendance. Most provinces and territories also include age restrictions on hiring individuals in certain industries. Federal, provincial, and territorial laws regulating employment of minors vary. In **Ontario**, the minimum wage for students differs based on the amount of hours worked. In the **Northwest Territories**, **Quebec,** and under **federal** jurisdiction, employers may not employ a person under 16 or 17, respectively between 11 p.m. on one day and 6 a.m. the following day. In Quebec, there are exceptions in the case of a child who is no longer subject to compulsory school attendance, in the case of newspaper deliveries, or in any other case determined by regulation of the Government. Also, no Quebec employer may employ a minor under 14 without first obtaining written consent from either a parent/guardian or school instructor. In **British Columbia**, a person under the age of 15 may only be employed with the written consent of his/her guardian among other conditions. **Alberta** has specific restrictions for persons 12 years of age and under, 13 to 15 years of age, and 16 to 17 years of age. **Saskatchewan** has established a minimum age of employment of 14 for all sectors. In **Saskatchewan**, an employer may employ a person of 14 or 15 years of age only with the consent of a parent/guardian, a certificate of completion for work readiness, and must abide by restricted hours of work. Employers can submit a Youth Employment Permit for authorization to vary the restrictions. Minors under the age of 16 in **Manitoba** must have a permit before they can work and children under 12 years old are only allowed to work in exceptional circumstances. **British Columbia**, **Manitoba**, **Nova Scotia**, **New Brunswick**, and **Newfoundland** and **Labrador** each regulate hours of work for minors. ■ *Citation:* **Federal:** Canada Labour Code, Canada Labour Standards Regulations, § 10. **Alberta:** Employment Standards Code, § 65, 65.1, 65.2, 65.3, 66. **British Columbia**: Employment Standards Act, s. 9; Employment Standards Regulations, Part 7.1. **Manitoba:** The Employment Standards Code, s. 83. **New Brunswick:** Employment Standards Act, s. 39. **Newfoundland** and **Labrador:** Labour Standards Act, s. 46. **Nova Scotia:** Labour Standards Code, s. 68. **Nunavut:** Labour Standards Act, § 13; Employment of Young Persons Regulations. **Ontario:** Employment Standards Act, 2000, s. 23.1. **Quebec:** An Act Respecting Labour Standards, s. 84.2, 84.3, 84.4, 84.6. **Saskatchewan:** The Labour Standards Act, The Conditions of Employment Regulations, § 9.1-9.5.	Quebec requires written consent from either a parent/guardian or school instructor for employment of minors under 14. Saskatchewan requires that minors aged 14 and 15 complete the Young Worker Readiness Certificate Course before starting work. Manitoba requires that all children under the age of 16 must have a child employment permit before they can start working. British Columbia requires that children under the age of 12 cannot be employed without a child employment permit issued by the Director of Employment Standards. Alberta does not generally allow children under 12 years of age to work; however in special and limited circumstances, a permit may be granted by the Director of Employment Standards to approve the employment of those under 12 years of age.

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CONSUMER CREDIT REPORTS AND DRIVING RECORDS

Does the province regulate whether employers may obtain credit reports or driving records on applicants and employees?

Credit reports	Driving records
A number of provinces have legislation governing the collection and dissemination of credit information. Employers also should comply with federal and provincial privacy legislation. Generally, employers must obtain the express consent of the employee or applicant or follow the legislation's notification and compliance procedures. ***Examples of provincial statutes on credit information:*** **Alberta:** Fair Trading Act, Credit & Personal Reports Regulation. **British Columbia:** Business Practices and Consumer Protection Act, Part 6. **Newfoundland** and **Labrador:** Consumer Protection and Business Practices Act, Part VI. **Nova Scotia:** Consumer Reporting Act, s. 9. **Ontario:** Consumer Reporting Act, s. 8. **Prince Edward Island:** Consumer Reporting Act, s. 8. **Quebec:** An Act Respecting the Protection of Personal Information in the Private Sector, section III. **Saskatchewan:** Credit Reporting Act, s. 17. ***Privacy legislation:*** **Federal:** Personal Information Protection and Electronic Document Act. **Alberta:** Personal Information Protection Act. **British Columbia:** Personal Information Protection Act. **Manitoba:** The Personal Information Protection and Identity Theft Prevention Act. **Ontario (public sector):** Freedom of Information and Protection of Privacy Act. **Quebec:** An Act Respecting the Protection of Personal Information in the Private Sector, section III.	No law. Employers should comply with federal and provincial privacy legislation. Generally, employers must obtain the express consent of the employee or applicant or follow the legislation's notification and compliance procedures. In some provinces, human rights legislation may permit an employer to request the driving record of an applicant or employee where driving is an essential duty of the job. Where driving is an essential duty of the job, an employer may refuse to consider an applicant who has a poor driving record even though the human rights legislation protects persons who have committed a violation under provincial traffic legislation. ***Privacy legislation:*** **Federal:** Personal Information Protection and Electronic Document Act. **Alberta:** Personal Information Protection Act. **British Columbia:** Personal Information Protection Act. **Manitoba:** The Personal Information Protection and Identity Theft Prevention Act. **Ontario (public sector):** Freedom of Information and Protection of Privacy Act. **Quebec:** An Act Respecting the Protection of Personal Information in the Private Sector, section III. ***Human Rights legislation:*** **Federal:** Canadian Human Rights Act § 3. **British Columbia:** Human Rights Code § 13. **Manitoba:** Human Rights Code § 9(1). **Newfoundland and Labrador:** Human Rights Act, § 14(1). **Northwest Territories:** Human Rights Act, § 5(1). **Nunavut:** Human Rights Act, § 7(1). **Ontario:** Human Rights Code § 5, § 10(1). **Prince Edward Island:** Human Rights Act § 6(1). **Quebec:** Charter of Human Rights and Freedoms § 18.2. **Yukon:** Human Rights Act, § 7(i).

DEDUCTIONS FROM PAY/GARNISHMENT

A. Does your province restrict employers from making payroll deductions?

Legal requirements	Losses, shortages, and breakage	Miscellaneous
Other than union dues, employers are generally not entitled to make unilateral deductions from employee paychecks unless such deductions are included in an employment contract and/or are permitted or required by law. ■ *Citation:* Deductions are governed by the employment standards legislation in each Canadian jurisdiction.	Deductions for such things as cash shortages are specifically prohibited in the following jurisdictions: federal, Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Prince Edward Island, and Quebec. There are exceptions for cash shortages and breakage in some jurisdictions where the employee was the only person that had access to the property or the money in question. ■ *Citation:* **Federal:** Canada Labour Code, s. 254.1(3). **Alberta:** Employment Standards Code, s. 12. **British Columbia:** Employment Standards Act, s. 21. **Manitoba:** Employment Standards Code, Employment Standards Regulation, s. 6. **Nova Scotia:** Labour Standards Code, s. 79A . **Ontario:** Employment Standards Act, 2000, s. 13. **Quebec:** Act Respecting Labour Standards, s. 49. **Prince Edward Island:** Employment Standards Act, s. 5.5.	Under the labor legislation of the **federal government, British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Prince Edward Island, Nova Scotia,** and **Newfoundland and Labrador**, if a union has been certified as the exclusive bargaining agent and an agreement has been entered into between the union and the employer, the employer may be required to include a provision in the agreement that generally makes the deduction of union dues from employees and remittance of those dues to the union mandatory. ■ *Citation:* **Federal:** Canada Labour Code, s. 70(1). **Alberta:** Labour Relations Code, s. 27. **British Columbia:** Labour Relations Code, s. 16. **Manitoba:** Labour Relations Act, s, 76. **Newfoundland and Labrador:** Labour Relations Act, s. 35. **New Brunswick:** Industrial Relations Act, s. 9. **Nova Scotia:** Trade Union Act, s. 60. **Ontario:** Employment Standards Act, 2000, s. 14.5; Labour Relations Act, 1995, s. 47. **Prince Edward Island:** Labour Act, s. 45. **Quebec:** Labour Code, s. 47. **Saskatchewan:** The Saskatchewan Employment Act, s. 2-36.

B. Does your province prohibit firing employees because of wage garnishments?

Main provisions of law	Covered employers
Firing is prohibited in the following jurisdictions: **Federal, Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Quebec, the Northwest Territories,** and **Saskatchewan**. Employees in each of the jurisdictions don't lose protection after any number of garnishments. ■ *Citation:* Examples include... **Federal:** Canada Labour Code, s. 238. **Alberta:** Employment Standards Code, s. 124. **Manitoba:** Employment Standards Code, s. 133. **Northwest Territories:** Employment Standards Act, s. 96. **Nova Scotia:** Labour Standards Code, s. 29. **Ontario:** Employment Standards Act, 2000, s. 74. **Quebec:** Act Respecting Labour Standards, s. 122.	See **Main provisions of law** column.

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DIRECT DEPOSIT

A. Does your province allow employers to require direct deposit of paychecks?

Main provisions of law	Covered employers
Federal: Direct deposit allowed. **Alberta:** Allowed. **British Columbia:** Yes, if authorized in writing by the employee or in the collective agreement. **Manitoba:** Allowed. **New Brunswick:** Allowed. **Newfoundland and Labrador:** Yes, with consent. **Nova Scotia:** Allowed. **Ontario:** Allowed so long as the account is in the employee's name and no other person (other than the employee or person authorized by the employee) has access to the account and the financial institution is a reasonable distance from the location where the employee works unless the employee agrees otherwise. **Prince Edward Island:** Allowed. **Quebec:** The employer needs the employee's consent in writing unless it's part of a collective agreement. **Saskatchewan:** Allowed. **Northwest Territories, Nunavut, and Yukon:** Allowed, provided money is deposited into a bank account designated by the employee. ■ *Citation:* This matter is governed by the employment standards legislation in each Canadian jurisdiction.	All employers.

B. Does your province have special rules on the use of payroll cards?

Main provisions of law
Alberta: Direct deposit is permitted to employee's account in a savings institution. If payroll card is offered by such an institution, use of the system may be allowed. **British Columbia:** Direct deposit is permitted to employee's account in a savings institution. If a payroll card is offered by such an institution, use of the system may be allowed. **Manitoba:** Direct deposit is permitted to employee's account in a bank, credit union, trust company or other company insured under the Canada Deposit Insurance Corporation Act. If payroll card is offered by such an institution, use of the system may be allowed. **New Brunswick:** Direct deposit is permitted to employee's account in a chartered bank, credit union, trust company or other company insured under the Canada Deposit Insurance Corporation Act. If payroll card is offered by such an institution, use of the system may be allowed. **Newfoundland and Labrador:** Direct deposit is permitted to an account of a bank of the employee's choice. If the payroll card is offered by a bank, use of the system may be permissible. **Northwest Territories:** Direct deposit is permitted to employee's account in a financial institution. If payroll card is offered by such an institution, use of the system may be allowed. **Nova Scotia:** Direct deposit is permitted to employee's account in a chartered bank, credit union, trust company or other company insured under the Canada Deposit Insurance Corporation Act. If payroll card is offered by such an institution, use of the system may be allowed. **Nunavut:** Direct deposit is permitted to an account of a bank of the employee's choice. If the payroll card is offered by a bank, use of the system may be permissible. **Ontario:** Direct deposit is permitted to an employee's account in a financial institution. If payroll card is offered by such an institution, use of the system may be allowed. **Prince Edward Island:** Payroll cards are not prohibited by Employment Standards Act. **Quebec:** Direct deposit is permitted to employees by bank transfer or to third party by written request. If payroll card entity is such a third party, use of the system may be allowed. **Saskatchewan:** Direct deposit is permitted to employee's account in a chartered bank, trust corporation, or credit union. If payroll card is offered by such an institution, use of the system may be allowed. **Yukon:** Direct deposit is permitted to employee's account in a savings institution. If payroll card is offered by such an institution, use of the system may be allowed. ■ *Citation:* This matter is governed by the employment standards legislation in each Canadian jurisdiction.

DISCRIMINATION AND HARASSMENT

What province discrimination and harassment laws go beyond the protected categories in Federal law?

Disability	Age	Marital status	LGBT status	Other
The human rights legislation of each province and territory and the federal jurisdiction prohibits discrimination on the grounds of mental and physical disability or handicap. Some jurisdictions, including **Ontario, Quebec, the Yukon, Nunavut, the Northwest Territories,** and the **Federal** jurisdiction, expressly require that employers accommodate employees with disabilities or handicaps if doing so would not cause undue hardship.	The human rights legislation of all provinces, territories, and the federal jurisdiction prohibits discrimination based on age, but some provinces define age restrictively. **Alberta, Saskatchewan, and Ontario:** 18 and older; **British Columbia:** 19 and older; **Quebec:** Age is a prohibited ground of discrimination except as provided for by law. Mandatory retirement is prohibited under the Act Respecting Labour Standards.	The human rights legislation of all provinces, territories, and the federal jurisdiction prohibit discrimination on the basis of marital status.	The human rights legislation of all provinces, territories, and the federal jurisdiction prohibits discrimination on the basis of sexual orientation. **Manitoba:** Gender-determined characteristics and gender identity are protected (Human Rights Code § 9(2)). **Ontario:** Gender identity and gender expression are protected (Quebec Charter of Human Rights and Freedoms § 10). **Newfoundland and Labrador:** Gender identity and gender expression are protected (Newfoundland Human Rights Code § 9). **Northwest Territories:** Gender identity is protected (Human Rights Act § 5). **Nova Scotia:** Gender identity and gender expression are protected (Nova Scotia Human Rights Act § 5). **Saskatchewan:** Gender identity is protected (Human Rights Code § 2).	The human rights legislation of each province, territory, and the federal jurisdiction sets out numerous prohibited grounds of discrimination in addition to race, color, religion, national origin or ancestry, sex, age, marital status, disability, and sexual orientation. **Federal:** Pregnancy or childbirth, national origin, family status, ethnic origin, gender identity or expression, genetic characteristics, and conviction for which a pardon or record suspension has been granted (Canadian Human Rights Act § 3). **Alberta:** Pregnancy, source of income, family status (Alberta Human Rights Act § 7(1)). **British Columbia:** Family status, unrelated criminal or summary conviction offense (Human Rights Code § 13). **Manitoba:** Creed, ethnicity, nationality, perceived race, religious belief, religious association, religious activity, pregnancy, possibility of pregnancy, circumstances related to pregnancy, gender-determined characteristics, gender identity, source of income, social disadvantage, physical or mental disability or related characteristics including reliance on a dog guide or other animal assistant, a wheelchair, or any other remedial appliance or device (Human Rights Code § 9(2)). **New Brunswick:** Place of origin, family status, gender identity or expression, social condition, political belief or activity, pregnancy, the possibility of pregnancy or circumstances related to pregnancy (New Brunswick Human Rights Act § 4). **Newfoundland and Labrador:** Nationality, ethnic origin, social origin, disfigurement, family status, source of income, religious creed, gender identity, gender expression, and political opinion (Newfoundland Human Rights Code § 9). **Northwest Territories:** Nationality, ethnic origin, place of origin, creed, gender identity, family status, family affiliation, political belief, political association, pregnancy or the possibility of pregnancy, social condition, and a conviction for which a pardon has been granted (Human Rights Act § 5). **Nova Scotia:** Creed, gender identity, gender expression, pregnancy, possibility of pregnancy and pregnancy-related illness, family status, source of income, political belief, affiliation or activity, irrational fear of contracting an illness or disease, aboriginal or ethnic origin and an individual's association with another individual or class of individuals having the characteristics listed above (Nova Scotia Human Rights Act § 5). **Nunavut:** Ethnic origin, citizenship, place of origin, creed, gender identity, gender expression, family status, pregnancy, lawful source of income, a conviction for which a pardon has been granted (Human Rights Act § 7). **Ontario:** Creed, record of offenses, citizenship, ethnic origin, gender identity, gender expression, and family status (Ontario Human Rights Code § 5). *Continued on next page.*

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DISCRIMINATION AND HARASSMENT (CONTINUED)

What province discrimination and harassment laws go beyond the protected categories in Federal law?

Disability	Age	Marital status	LGBT status	Other
See above.	See above.	See above.	See above.	**Prince Edward Island:** Creed, gender identity, gender expression, ethnic origin, family status, criminal conviction unrelated to the employment, political belief, and source of income (Prince Edward Island Human Rights Act § 1). **Quebec:** Pregnancy, civil status, political convictions, language, ethnic origins, social conditions, and the fact that an individual is a handicapped person or that he or she uses any means to palliate such handicap (Quebec Charter of Human Rights and Freedoms § 10). **Saskatchewan:** Receipt of public assistance, creed, family status, nationality, perceived race, gender identity, pregnancy or pregnancy-related illnesses (Human Rights Code § 2). **Yukon:** Ethnic or linguistic background or origin, creed, religious belief, religious association or activity, criminal charges or criminal record, political belief, political association or political activity, pregnancy or pregnancy-related conditions, family status, source of income, presumed or actual association with individuals or groups whose membership is determined by a prohibited ground (Human Rights Act § 7).

DRUG AND ALCOHOL TESTING

Does your province regulate drug and alcohol testing?

Applicant testing	Employee testing	Conditions/methods
Under the laws of Canada (**federal**) and those of all provinces and territories (**Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland** and **Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Quebec, Saskatchewan,** and the **Yukon**), drug/alcohol testing isn't explicitly regulated, but certain provisions found in provincial, federal, and territorial human rights statutes have been interpreted as indirectly limiting employers' rights to test employees. The definition of "disability" under human rights legislation has been interpreted broadly to include certain alcohol and drug dependence. Requiring applicants or employees to subject themselves to alcohol/drug testing would be considered discriminatory and would be prohibited unless the employer could fit within limited parameters defined by case law. An employer could not usually fit those parameters unless it has accommodated the employee's disability to the point of undue hardship, so random drug/alcohol testing is generally prohibited. Such testing might be acceptable for employees in safety-sensitive positions if the testing occurs after an incident, or if there's reasonable "cause."	Under the laws of Canada (**federal**) and those of all provinces and territories (**Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland** and **Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Quebec, Saskatchewan,** and the **Yukon**), drug/alcohol testing isn't explicitly regulated, but certain provisions found in provincial, federal, and territorial human rights statutes have been interpreted as indirectly limiting employers' rights to test employees. The definition of "disability" under human rights legislation has been interpreted broadly to include certain alcohol and drug dependence. Requiring applicants or employees to subject themselves to alcohol/drug testing would be considered discriminatory and would be prohibited unless the employer could fit within limited parameters defined by case law. An employer could not usually fit those parameters unless it has accommodated the employee's disability to the point of undue hardship, so random drug/alcohol testing is generally prohibited. Such testing might be acceptable for employees in safety-sensitive positions if the testing occurs after an incident, or if there's reasonable "cause."	Most provinces have specific laws and requirements for the use and disclosure of health information which may be applicable. In **Alberta, British Columbia, Manitoba, Quebec,** for public sector employers in **Ontario,** and for employers regulated under the **federal** laws of Canada, privacy legislation limits an employer's ability to collect, use, retain, and disclose "personal information" about employees. Personal information would likely include the kind of information that could be revealed in a drug/alcohol test. Generally speaking, employers should only engage in drug testing of employees in three circumstances: • The employer has "reasonable cause" to believe the employee is under the influence of a substance; • A significant incident, accident, or near miss occurred in the workplace and it is important to determine the root cause; or • As part of an employee's rehabilitation and return to work following treatment for an addiction, if the parties agree to this testing.

EMPLOYEE TRAINING

Does your province require employers to provide sexual harassment prevention training?

Covered employers

Federal employers are required to develop their own harassment policies and implement systematic controls to eliminate or minimize the risk of workplace violence. Employers in Ontario are required to develop written policies with respect to both workplace violence and workplace harassment training.

Employers in Prince Edward Island must develop sexual harassment policies and ensure their employees are aware of such policies.

While the other provinces are not statutorily required to provide harassment training in all circumstances, it is strongly advised. Many provinces require employers to take steps to prevent harassment from occuring, and training is a natural way for employers to meet this obligation. As employers can be held responsible under the common law or before Human Rights Tribunals for improper behavior of their employees, providing sexual harassment training can help to reduce liability for Canadian employers in a harassment claim.

■ *Citation:*
Federal: Canada Labour Code, s. 247; Canada Occupational Health and Safety Regulations, s. 20.6, 20.10.
Ontario: Occupational Health and Safety Act, s. 32.0.1, 32.0.8.
Prince Edward Island: Employment Standards Act, s. 27.

EMPLOYMENT AT WILL

Does your province practice employment at will? What are the exceptions?

"Employment at will" defined

"At will" isn't a concept that applies under Canadian law. Employees can only be dismissed without notice for just cause. When just cause doesn't exist, employers must provide the amount of notice or pay in lieu of notice and severance pay required by statute or the courts, whichever is greater. Employment standards statutes prescribe minimum requirements for advance notice of termination or payment in lieu of notice. Some jurisdictions provide severance pay as an additional benefit to employees. Courts also require "reasonable notice" of termination, which is usually more than the statutory minimum. In addition, in Quebec, employees (other than senior managers) credited with more than two years' service cannot be dismissed unless the employer has good and sufficient cause. The Civil Code of Quebec also provides that employment contracts can't prevent a court from determining a reasonable notice period. Under federal legislation, an employee with 12 continuous months of service may not be dismissed without cause or unless there is a lack of work or the "discontinuance of a function."

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EMPLOYEE RECORDS: ACCESS

Does your province give employees a legal right to examine their own personnel files?

Employees' rights	Former employees' rights	Covered employers
Freedom of information laws in the federal jurisdiction and in each province and territory give public-sector employees the right to examine their own personnel files and to obtain copies. In **British Columbia, Alberta**, **Quebec**, and **Manitoba,** private-sector employees also have the right to examine their own personnel files and obtain copies. ■ *Citation:* ***Public-sector laws*** **Federal:** Privacy Act, s. 12. **Alberta:** Freedom of Information & Protection of Privacy Act, s. 6. **British Columbia:** Freedom of Information & Protection of Privacy Act, s. 4. **Manitoba:** Freedom of Information & Protection of Privacy Act, s. 7. **New Brunswick:** Right to Information and Protection of Privacy Act, s. 7. **Newfoundland/Labrador:** Access to Information & Protection of Privacy Act, 2015, s. 8. **Northwest Territories:** Access to Information and Protection of Privacy Act, s. 5. **Nova Scotia:** Freedom of Information & Protection of Privacy Act, s. 5. **Nunavut:** Access to Information and Protection of Privacy Act, s. 5. **Ontario:** Freedom of Information & Protection of Privacy Act, s. 10; Municipal Freedom of Information & Protection of Privacy Act, s. 4. **Prince Edward Island:** Freedom of Information & Protection of Privacy Act, s. 6. **Quebec:** Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information, Chapter III, Division IV. **Saskatchewan:** Freedom of Information & Protection of Privacy Act, s. 5. **Yukon:** Access to Information and Protection of Privacy Act, s. 5. ■ *Citation:* ***Private-sector laws*** **Federal:** Personal Information Protection & Electronic Documents Act, Schedule 1, clause 4.9. **Alberta:** Personal Information Protection Act, s. 24. **British Columbia:** Personal Information Protection Act, s. 23. **Manitoba:** The Personal Information Protection and Identity Theft Prevention Act, s. 24 (This Act is not yet in force. It is to come into force on a date to be fixed by proclamation, SM 2013, c. 17). **Quebec:** Act Respecting the Protection of Personal Information in the Private Sector, Division IV.	Same as for employees.	Public employers, and in some provinces public and private employers.

EMPLOYEE RECORDS: RETENTION

What records retention requirements are mandated by province law or regulation?

Wages/Hours/Payroll	Safety & health/ Workers' compensation
Freedom of information laws in the federal jurisdiction and in each province and territory give public-sector employees the right to examine their own personnel files and to obtain copies. In British Columbia, Alberta, Manitoba, and Quebec, private-sector employees also have the right to examine their own personnel files and obtain copies. Provincial, federal and territorial employment and labor standards legislation also requires employers to keep records containing certain employment related information including (but not limited to) such things as date of birth, wage rate and net pay, hours of work, and overtime. These records must be retained for the period of time set out in the applicable statute. Employment records must be kept for 36 months after work is performed under **federal** jurisdiction, **New Brunswick**, and **Prince Edward Island**, 12 months after the work is performed in **Yukon**, and three years after the work is performed in **Nova Scotia** and **Quebec**. In **Alberta** and **Manitoba**, an employer must keep records for three years after the date they were made, whereas the **Northwest Territories** and **Nunavut** only require two years from the date they were made. In **British Columbia** and **Ontario**, the length of period is measured by the date of termination, and is two years and three years respectively. In **Saskatchewan**, the records must be kept for five years following which it was made or two years following termination. Finally, in **Newfoundland** and **Labrador**, an employer must retain records for four years from the last entry in the record. ■ *Citation:* **Federal:** Canada Labour Code, § 252. **British Columbia:** Employment Standards Act, § 28. **Alberta:** Employment Standards Code, §§ 14 and 15. **Manitoba:** Employment Standards Code, § 135. **New Brunswick:** Employment Standards Act, § 60. **Newfoundland and Labrador:** Labour Standards Act, § 63. Northwest Territories: Employment Standards Act, § 50. **Nova Scotia:** Labour Standards Code, Schedule A, § 15. **Nunavut:** Labour Standards Act s. 46. **Ontario:** Employment Standards Act 2000, § 15. **Prince Edward Island:** Employment Standards Act, § 5.6. **Quebec:** Regulation respecting a registration system or the keeping of a register, § 1, § 2 . **Saskatchewan:** The Saskatchewan Employment Act, § 2-38. **Yukon:** Employment Standards Act, § 62.	The occupational health and safety legislation in several provinces and territories requires employers to record and retain certain information regarding accidents, injuries, and/or first aid treatment administered to employees (see, for example, § 3.19 of the British Columbia Occupational Health and Safety Regulations).

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FAMILY AND MEDICAL LEAVE

Does the province have requirements on family and medical leave that differ from federal law?

Major provisions of law	Covered employers
Employers subject to the laws of Canada (federal), New Brunswick, Newfoundland and Labrador, Ontario, Quebec, and Saskatchewan are generally obligated to allow employees to take short-term sick leave without reprisal. Subject to certain eligibility requirements, employees in the following jurisdictions would generally be entitled to the following unpaid medical leave: **Federal:** 17 weeks/year medical leave, eight weeks/year compassionate care leave, 37 weeks to care for a critically ill child. **Alberta:** up to 27 weeks (may be taken in one or more periods of at least one week's duration)/year compassionate care leave. **British Columbia:** five days/year family responsibility leave; eight consecutive weeks compassionate care leave. **Manitoba:** three days/year family responsibility leave; eight weeks/year compassionate care leave. **New Brunswick:** five days/year sick leave; eight weeks/year compassionate care leave; three days/year family responsibility leave. **Newfoundland and Labrador:** seven days/year sick leave/family responsibility leave; 28 weeks/year compassionate care leave. **Northwest Territories:** five days/year sick leave; eight weeks/year compassionate leave. **Nova Scotia:** three days/year sick leave; eight weeks/year compassionate care leave. **Nunavut:** eight weeks/year compassionate leave. **Ontario:** 10 days "emergency" leave/year; eight weeks/year compassionate care leave. As of October 29, 2014: eight weeks family caregiver leave, 37 weeks to care for a critically ill child. **Prince Edward Island:** three days/year family leave; three days/year sick leave; eight weeks/year compassionate care leave. **Quebec:** 26 weeks/year sick leave; 10 days/year family responsibility leave, with 12 weeks/year for a serious family illness; 37 weeks/year for critically ill child care leave. **Saskatchewan:** 28 weeks/year in the event of serious illness/injury to self or specified family members; 12 days/year for not serious injury; 37 weeks/year for critically ill child care leave. **Yukon:** eight weeks/year compassionate leave; one day for each month employed sick leave up to a maximum of 12 days; 37 weeks to care for a critically ill child. Employees absent because of illness may be eligible for federal employment insurance benefits. ■ *Citation:* **Federal:** Canada Labour Code, s. 206.3, 206.4, 239 **Alberta:** Employment Standards Code, s. 53.9, 53.91, 53.92. **British Columbia:** Employment Standards Act, s. 52, 52.1. **Manitoba:** Employment Standards Code, s. 59.2, 59.3, 59.8, 59.10, 59.11, 60. **Newfoundland and Labrador:** Labour Standards Act, s. 43.11, 43.14, 43.16. **New Brunswick:** Employment Standards Act, s. 44.02, 44.021, 44.022, 44.025, 44.04. **Northwest Territories:** Employment Standards Act, s. 29, 30, 35. **Nova Scotia:** Labour Standards Code, s. 60E, 60G, 60K. **Nunavut:** Labour Standards Act, s. 39.1. **Ontario:** Employment Standards Act, 2000, s. 49.1, 49.3, 49.4, 50, 53. **Prince Edward Island:** Employment Standards Act, s. 22.1, 22.11, 22.2, 22.3. **Quebec:** Act Respecting Labour Standards, s. 79.1 al 1, 79.8, 79.9, 79.10, 79.11, 79.12. **Saskatchewan:** The Saskatchewan Employment Act, s. 2-40, 2-56, 2-57. **Yukon:** Employment Standards Act, s. 59, 60.01, 60.02.	All employers.

FINAL PAYCHECK

Does your province have a deadline for employers to give final paychecks?

Main provisions of law	Covered employers
Federal: Within 30 days of entitlement. **Alberta:** Within three consecutive days after last day when employment ended with notice or pay in lieu of notice; within 10 consecutive days after last day of employment when employment ended without pay or notice. **British Columbia:** Within 48 hours of termination; or when the employee quits, within six days after termination. **Manitoba:** Within 10 working days of termination. **New Brunswick:** No later than the next regular payday; never more than 21 days from date of termination. **Newfoundland and Labrador:** Within one week of date of termination. **Northwest Territories and Nunavut:** Within 10 days of termination. **Nova Scotia:** Payment on expiration of termination notice. **Ontario:** Within seven days of date of termination or by the day that would have been the employee's next payday. **Prince Edward Island:** No later than the last day of the next pay period after termination. **Quebec:** On next regular pay date. **Saskatchewan:** Within 14 days of termination. **Yukon:** Within seven days of termination. ■ *Citation:* This matter is governed by the employment standards legislation in each Canadian jurisdiction.	All employers.

IDENTITY THEFT

A. Does the province restrict employers' collection or use of employees' social security numbers?

Restrictions	Covered employers
Knowingly using, communicating, or allowing to be communicated another person's social insurance number without the written consent of the other person is prohibited. The collection, use, and disclosure of personal information (which would include a social insurance number) is regulated by the Personal Information Protection and Electronic Documents Act of Canada and provincial privacy legislation in British Columbia, Alberta, Manitoba, Ontario, and Quebec. ■ *Citation:* **Federal:** Income Tax Act of Canada, s. 237(2), 239(2.3); Personal Information Protection and Electronic Documents Act. **Alberta:** Personal Information Privacy Act. **British Columbia:** Personal Information Protection Act. **Manitoba:** The Personal Information Protection and Identity Theft Prevention Act. **Ontario (public sector):** Freedom of Information and Protection of Privacy Act. **Quebec:** The Act Respecting the Protection of Personal Information in the Private Sector in Quebec, Division III.	All employers.

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IDENTITY THEFT (CONTINUED)

B. Does your province have special reporting requirements when a security/data breach occurs?

General provisions	Personal information defined	Notice requirements	Exceptions
The Office of Privacy Commissioner has issued Guidelines for private sector organizations to refer to when responding to privacy breaches. As does legislation in some provinces. For example, Alberta's Personal Information Protection Act (PIPA), Ontario's Personal Health Information Protection Act (PHIP), and Manitoba's The Personal Information Protection and Identity Theft Prevention Act (PIPITPA) require notice of security breaches. In Quebec, la Commission d'accès à l'information du Québec invites the public bodies and the companies to report any security incidents involving personal information. Therefore, the Commission implemented a form, which permits to define the said security incident, to evaluate its impacts, and to assess the risks of damage for the concerned persons. A pamphlet is available on the Commission website. ■ *Citation:* Privacy Commissioner Guidelines: http://www.priv.gc.ca/information/guide/index_e.asp.	**Federal:** "Personal information" means information about an identifiable individual. This includes information that can identify an individual (for example, name, home address, home phone number, e-mail address, ID numbers), and information about an individual (for example, physical description, educational qualifications, blood type). **Alberta:** "Personal information" means information about an identifiable individual. "Personal employee information" means, in respect of an individual who is a potential, current or former employee of an organization, personal information reasonably required by the organization for the purposes of (a) establishing, managing or terminating an employment or volunteer-work relationship, or (b) managing a post-employment or post-volunteer-work relationship between the organization and the individual, but does not include personal information about the individual that is unrelated to that relationship. **British Columbia:** "Personal information" means information about an identifiable individual and includes employee personal information but does not include contact information or work product information. "Employee personal information" means personal information about an individual that is collected, used or disclosed solely for the purposes reasonably required to establish, manage or terminate an employment relationship between the organization and that individual, but does not include personal information that is not about an individual's employment. **Manitoba (not in force):** "personal information" means information about an identifiable individual. "Personal employee information" means, in respect of an individual who is an employee or a potential employee, personal information reasonably required by an organization that is collected, used or disclosed solely for the purposes of establishing, managing or terminating (a) an employment relationship; or (b) a volunteer work relationship, between the organization and the individual, but does not include personal information about the individual that is unrelated to that relationship.	**Federal:** New amendments have been passed, but are not yet in force, requiring organizations to give notice to affected individuals and to the Office of the Privacy Commissioner of Canada about data breaches under certain circumstances. **Alberta:** Organizations must, without unreasonable delay, provide notice to the Office of the Information and Privacy Commissioner of Alberta of any incident involving the loss of or unauthorized access to or disclosure of personal information under its control where a reasonable person would consider that there exists a real risk of significant harm to an individual as a result of the loss or unauthorized access or disclosure. The Commissioner in turn will determine whether the individual should be notified. **British Columbia:** No requirement to notify. **Manitoba (not in force):** Organizations must notify an individual as soon as reasonably practicable if personal information about the individual that is in its custody or under its control is stolen, lost or accessed in an unauthorized manner.	**Manitoba** (not in force): Organizations are not required to inform individuals of breaches if the organization is satisfied that it is not reasonably possible for the personal information to be used unlawfully, or the organization is instructed to refrain from doing so by a law enforcement agency that is investigating the theft, loss, or unauthorized accessing of the personal information.

INDEPENDENT CONTRACTORS/EMPLOYEE CLASSIFICATION

Does your province have special requirements or definitions regarding independent contractors?

Special independent contractor provisions and definitions
In Canada, the total relationship between the worker and the payer is examined to determine whether a worker is an independent contractor or an employee. There are several factors that will be considered, including: • The intent of the parties; • The level of control the payer has over the activities of the worker; • Which entity provides the tools and equipment; • The ability of the worker to subcontract the work or hire assistants; • The degree of financial risk assumed by the worker; • The degree of responsibility for investment and management held by the worker; • The worker's opportunity for profit; and • Any other relevant factors, such as written contracts. In **Quebec**, the first step is to ascertain the intent of the parties. The second step is to determine whether the employment meets the definition of a contract of employment (employment relationship) or of a contract for services (independent contractor relationship) as defined in the Civil Code of Québec by considering the following factors: • Performance of work; • Remuneration; and • Relationship of subordination.

JURY DUTY/WITNESS SERVICE LEAVE

Does your province require granting leave to employees for jury duty and/or witness service?

Jury duty	Witness service	Covered employers
Legislation in almost all provinces requires that employers must grant unpaid leave to employees summoned for jury duty. Employers may not penalize employees for taking such leave. In **British Columbia**, existing benefits must be continued during the leave. In **Newfoundland and Labrador**, employees must be granted paid leave. ■ *Citation:* **Alberta:** Jury Act, § 24. **British Columbia:** Employment Standards Act, §§ 55, 56. **Manitoba:** Jury Act, § 24.1. **New Brunswick:** Employment Standards Act, § 44.023. **Newfoundland and Labrador:** Jury Act, § 42. **Northwest Territories:** Employment Standards Act, § 32. **Nova Scotia:** Labour Standards Code, § 60B. **Ontario:** Juries Act, § 41. **Prince Edward Island:** Jury Act, § 35. **Quebec:** Jurors Act, § 47. **Saskatchewan:** Jury Act, § 36. **Yukon:** Jury Act, § 8.	Under the employment standards legislation of **Nova Scotia,** the **Northwest Territories, Prince Edward Island,** and **New Brunswick** and the Courts of Justice Act in **Quebec**, employers are obligated to grant the necessary unpaid leave to employees who are required to be witnesses under summons or subpoenas. Employers aren't permitted to penalize employees for taking such leaves. Under common law, employers in any jurisdiction wouldn't have cause to discharge employees for taking leave to testify as a witness if summoned to do so by law.	**Jury:** All employers. **Witness: Nova Scotia, Quebec, New Brunswick, Northwest Territories, Newfoundland and Labrador** employers.

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IMMIGRATION

Does your province have employer restrictions or obligations on immigration that go beyond federal law?

Main provisions of law
Immigration law in Canada is governed by Federal legislation, but some provinces have agreements with the federal government allowing limited regional control over the selection of immigrants and temporary foreign workers and requirements for employers who employ foreign workers. People who do not have Canadian citizenship or permanent residence (foreign nationals) are not permitted to work in Canada without a work permit (subject to some limited exceptions). To employ foreign nationals, employers must assist them to obtain a positive labour market opinion from Employment and Social Development Canada (ESDC)/Service Canada and a work permit from Immigration, Refugees and Citizenship Canada prior to the commencement of work in Canada. Employers hiring foreign nationals who are exempt from the Labour Market Impact Assessment process are required to submit information about their business, the Offer of Employment form, and pay a fee to Immigration, Refugees and Citizenship Canada. The North American Free Trade Agreement allows U.S. and Mexican citizens easier access to work permits for Canada. In most circumstances U.S. and Mexican citizens can apply for a work permit at the border (otherwise known as the port of entry) as long as they qualify for the appropriate work permit category.

LABOR ORGANIZING

A. Does your province restrict private employers from requiring or prohibiting membership in a union as a condition of employment?

Province labor relations law coverage
There are no "right to work" laws in Canada, but employees have the right to join or refuse to join unions. When a union agreement is in place, the union and employer may agree that union membership will be mandatory or that union dues are required even if employees don't join the union. **British Columbia:** Labour Relations Code. **Alberta:** Labour Relations Code. **Saskatchewan:** The Saskatchewan Employment Act. **Manitoba:** Labour Relations Act. **Ontario:** Labour Relations Act. **Quebec:** Labour Code. **New Brunswick:** Industrial Relations Act. **Nova Scotia:** Trade Union Act. **Prince Edward Island:** Labour Act. **Newfoundland and Labrador:** Labour Relations Act. **Federal:** Canada Labour Code.

B. Does your province allow public sector employees to unionize?

Coverage by province public employee labor relations laws	Right to strike
Public service employees in Canada are highly organized. Some public-sector employees are included in general labor relations acts. Many branches of the public sector (such as education, police, fire, and segments of the provincial and federal governments) are regulated by their own specific statutes. ■ *Citation:* Examples of laws include the Ontario Labour Relations Act, 1995, which doesn't apply to persons employed under the Police Services Act, the Fire Protection and Prevention Act 1997 and the Education Act (see section 2). **Quebec:** Public Service Act, Chapter IV.	Some public service employees have the right to strike while others don't. In most jurisdictions, police and firefighters may not strike. Those employees who have the right to strike may have the privilege curtailed by essential service designations set in ad hoc "back-to-work" legislation.

MEDICAL AND GENETIC TESTING AND DISCRIMINATION

A. Does your province restrict genetic testing by employers?

Restrictions	Covered employers
Employees regulated under the **federal** laws of Canada cannot be compelled to undergo a genetic test or disclose the results of a genetic test. Nor can an employer regulated under the **federal** laws of Canada disclose the fact that an employee has undergone a genetic test or the results of any genetic test. Employers regulated under the **federal** laws of Canada are explicitly prohibited from discriminating on the ground of genetic characteristics under human rights laws. In provincial and territorial jurisdictions, testing likely would be prohibited in most circumstances because of antidiscrimination or human rights laws. Genetic testing of employees isn't expressly regulated by employment-related statutes, but human rights legislation generally prohibits discrimination in employment on the grounds of "disability." The definition of disability under human rights legislation is broad and would likely include physical and mental illnesses that an employer could discover through genetic testing. Requiring applicants or employees to submit to genetic testing likely would be considered discriminatory and would be prohibited unless an employer could fit within limited parameters defined in case law. Employers usually wouldn't fit those parameters unless they had accommodated an employee's disability to the point of undue hardship. In **Alberta**, **British Columbia**, **Quebec**, for public sector employers in **Ontario**, and for employers regulated under the **federal** laws of Canada, privacy legislation limits an employer's ability to collect, use, retain, and disclose "personal information" about individual employees. Manitoba has introduced extensive privacy legislation to cover the workplace, but the statute is not yet in force. In **Ontario**, **New Brunswick**, **Nova Scotia**, **Alberta**, **Northwest Territories**, **Manitoba**, **Saskatchewan**, **Yukon**, **British Columbia**, **Quebec,** and **Newfoundland** and **Labrador**, health information privacy legislation limits the collection, use, retention, and disclosure of "personal health information" about individuals. Depending on the jurisdiction, personal information and personal health information explicity includes or is likely to be interpreted to include the kind of information that could be revealed in a genetic test. Generally, such personal information can only be collected if it's reasonable and necessary to achieving a legitimate employment-related purpose. ■ *Citation:* **Federal:** Canada Labour Code, s. 247.98; Canadian Human Rights Act, s. 3; Personal Information Protection and Electronic Document Act, Privacy Act. **Alberta:** Personal Information Protection Act; Health Information Act. **British Columbia:** Personal Information Protection Act; E-Health (Personal Health Information Access and Protection of Privacy) Act. **Manitoba:** Personal Information Protection and Identity Theft Prevention Act; Personal Health Information Act, s. 1. **New Brunswick:** Personal Health Information Privacy and Access Act. **Newfoundland and Labrador:** Personal Health Information Act, s. 1. **Northwest Territories:** Health Information Act. **Ontario:** Freedom of Information and Protection of Privacy Act; Personal Health Information Protection Act. **Quebec:** An Act Respecting the Protection of Personal Information in the Private Sector, Division II. **Saskatchewan:** The Health Information Protection Act. **Yukon:** Health Information Privacy and Management Act.	All employers.

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MEDICAL AND GENETIC TESTING AND DISCRIMINATION (CONTINUED)

B. Does your province have restrictions on employers regarding AIDS/HIV testing? Discrimination laws?

Antidiscrimination provisions	Miscellaneous provisions
AIDS testing of employees isn't expressly regulated by employment-related statutes, but human rights legislation generally prohibits discrimination in employment on the grounds of "disability," which would include AIDS or HIV status. Requiring applicants or employees to subject themselves to testing before or during employment would be considered discriminatory and would be prohibited unless an employer could fit within limited parameters defined by case law. Employers can't usually fit those parameters unless they have accommodated an employee's disability to the point of undue hardship. The Ontario Human Rights Commission's policy on HIV/AIDS testing states that in most work settings, it is unlikely that testing for HIV infection or other protective measures would be necessary or justifiable. ■ *Citation:* **Federal:** Personal Information Protection and Electronic Document Act, Privacy Act. **Alberta:** Personal Information Protection Act; Health Information Act. **British Columbia:** Personal Information Protection Act; E-Health (Personal Health Information Access and Protection of Privacy) Act. **Manitoba:** Personal Information Protection and Identity Theft Prevention Act; Personal Health Information Act. **Quebec:** An Act Respecting the Protection of Personal Information in the Private Sector; An Act Respecting the Sharing of Certain Health Information. **New Brunswick:** Personal Health Information Privacy and Access Act. **Newfoundland and Labrador:** Personal Health Information Act. **Northwest Territories:** Health Information Act. **Ontario:** Freedom of Information and Protection of Privacy Act; Personal Health Information and Protection Act. **Saskatchewan:** The Health Information Protection Act. **Yukon:** Health Information Privacy and Management Act. *See also:* **Federal:** Canadian Human Rights Act § 3. **Alberta:** Human Rights Act § 7(1). **British Columbia:** Human Rights Code § 13. **Manitoba:** Human Rights Code § 9(2). **New Brunswick:** Human Rights Act § 4. **Newfoundland and Labrador:** Human Rights Act § 9. **Northwest Territories:** Human Rights Act § 5. **Nova Scotia:** Human Rights Act § 5. **Nunavut:** Human Rights Act § 7. **Ontario:** Human Rights Code § 5. **Prince Edward Island:** Human Rights Act § 1. **Quebec:** Quebec Charter of Human Rights and Freedoms § 10. **Saskatchewan:** Human Rights Code § 2. **Yukon:** Human Rights Act § 7.	For employers in **Alberta, British Columbia, Manitoba,** and **Quebec,** public sector employers in **Ontario,** and employers regulated under the **federal** laws of Canada, privacy legislation limits an employer's ability to collect, use, retain, and disclose "personal information" about individual employees. In **Ontario, Alberta,** and **Manitoba,** health information privacy legislation limits the collection, use, retention, and disclosure of "personal health information" about individuals. Personal information and personal health information would likely include the kind of information that could be revealed from HIV or AIDS tests. Generally, such personal information can be collected only if it's reasonable and necessary to achieving a legitimate employment-related purpose.

MILITARY LEAVE

Does your province have requirements for military leave that go beyond federal law?

Major provisions of law	Covered employers
Federal jurisdiction, the **Yukon, Nunavut, Northwest Territories,** and the provinces of **British Columbia, Alberta, Ontario, Manitoba, Nova Scotia, Newfoundland and Labrador, New Brunswick, Prince Edward Island, Quebec,** and **Saskatchewan** require employers to grant an unpaid leave of absence to employees volunteering to serve in the Canadian military reserve forces. ■ *Citation:* **Federal:** Canada Labour Code § 247.5. **Alberta:** Employment Standards Act, § 53.2. **British Columbia:** Employment Standards Act, § 52.2. **Manitoba:** Employment Standards Code, § 59.5. **New Brunswick:** Employment Standards Act, § 44.031. **Newfoundland and Labrador:** Labour Standards Act, § 43.18. **Northwest Territorties:** Labour Standards Act § 32.1. **Nova Scotia:** Labour Standards Code, § 60H. **Nunavut:** Employment Standards Act §. 39.9. **Ontario:** Employment Standards Act, § 50.2. **Prince Edward Island:** Employment Standards Act, § 23.1. **Quebec:** An Act respecting labour standards, § 81.17.1. **Saskatchewan:** The Saskatchewan Employment Act, § 2-53. **Yukon:** Employment Standards Act § 60.05.	See **Major provisions of law** column.

MARIJUANA

Does your province have laws permitting the use of marijuana?

Main provisions of law
Medical marijuana use is permissible for patients with symptoms treated within the context of providing compassionate end-of-life care and those with debilitating symptoms of a medical condition. Health Canada's Access to Cannabis for Medical Purposes Regulations program provides reasonable access to cannabis for medical purposes for Canadians who have been authorized to use cannabis for medical purposes by their health care practitioner. ■ *Citation:* Controlled Drugs and Substances Act, Access to Cannabis for Medical Purposes Regulations.

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MEDICAL MATERNITY: DISCRIMINATION, LEAVE, BENEFITS

A. Does your province have laws regarding pregnant employees that go beyond federal law?

Discrimination	Leave	Benefits
The human rights legislation of each province, territory, and the federal jurisdiction sets out numerous prohibited grounds of discrimination, including sex, which either explicitly includes pregnancy or has been interpreted by the common law as including pregnancy. In Quebec, Nova Scotia, New Brunswick, Northwest Territories, Nunavut, Yukon, federal jurisdiction, Alberta, Saskatchewan, and Manitoba, pregnancy is specifically listed as a prohibited ground of discrimination. In Ontario and Newfoundland and Labrador, the prohibited ground of sex specifically includes the right to equal treatment without discrimination because a woman is or may become pregnant. ■ *Citation:* **Federal:** Canadian Human Rights Act § 3. **Alberta:** Human Rights Act § 7(1), 44(2). **British Columbia:** Human Rights Code § 13. **Manitoba:** Human Rights Code § 9(2). **New Brunswick:** Human Rights Act § 4. **Newfoundland and Labrador:** Human Rights Act § 9. **Nova Scotia:** Human Rights Act § 5. **Northwest Territories:** Human Rights Act § 5. **Nunavut:** Human Rights Act § 7. **Ontario:** Human Rights Code § 5, 10(2). **Prince Edward Island:** Human Rights Act § 1. **Quebec:** Quebec Charter of Human Rights and Freedoms § 10. **Saskatchewan:** Human Rights Code § 2. **Yukon:** Human Rights Act § 7.	All jurisdictions generally require employers to provide some form of unpaid pregnancy and parental leave. Parental leave may be taken by the father or mother in cases of birth and adoption. Subject to certain eligibility requirements, employees in the following jurisdictions would be entitled to the following leave: **Federal:** 17 weeks pregnancy, 37 weeks parental. **Alberta:** 16 weeks pregnancy, 37 weeks parental. **British Columbia:** 17 weeks pregnancy, 37 weeks (35 weeks if pregnancy leave taken) parental. **Manitoba:** 17 weeks pregnancy, 37 weeks parental. **New Brunswick:** 17 weeks pregnancy, 37 weeks parental. **Newfoundland and Labrador:** 17 weeks pregnancy, 17 weeks adoption, 35 weeks parental. **Nova Scotia:** 17 weeks pregnancy, 52 weeks (35 weeks if pregnancy leave taken) parental. **Ontario:** 17 weeks pregnancy, 37 weeks (35 weeks if pregnancy leave taken) parental. **Prince Edward Island:** 17 weeks pregnancy, 35 weeks parental. **Quebec:** 18 weeks pregnancy, 52 weeks parental, five days at birth/adoption of child, 5 weeks paternal leave. **Saskatchewan:** 18 weeks pregnancy, 18 weeks adoption, 37 weeks (34 weeks if pregnancy or adoption leave taken) parental. **Northwest Territories:** 17 weeks pregnancy, 37 weeks parental. **Nunavut:** 17 weeks pregnancy; 37 weeks parental. **Yukon:** 17 weeks pregnancy; 37 weeks parental. ■ *Citation:* This matter is governed by the employment standards legislation in each Canadian jurisdiction.	Employees on pregnancy and parental leave may be eligible for federal employment insurance benefits. In **Quebec,** such employees may be entitled to Quebec Parental Insurance Plan benefits as well. Generally, employees on pregnancy and parental leave have some form of qualified right to reinstatement. ■ *Citation:* This matter is governed by the employment standards legislation in each Canadian jurisdiction.

MEDICAL MATERNITY: DISCRIMINATION, LEAVE, BENEFITS (CONTINUED)

B. How does your province address breastfeeding in the workplace?

Main provisions of law
There are no federal, provincial, or territorial statutes that require employers to provide a place for mothers to breastfeed or express milk at work, but recent decisions by courts and human rights commissions support a woman's right to breastfeed in the workplace. In a 1997 decision, the **British Columbia** Human Rights Commission found that a woman's employer discriminated against her by not allowing her to breastfeed her child in the workplace and at a public seminar sponsored by her employer. Similarly, in January 2001, an arbitrator in **Alberta** ruled that an employer's refusal to permit an employee to breastfeed in the workplace constituted discrimination on the basis of gender. In 2007, the Canadian Human Rights Tribunal held that the failure to grant an employee a modification to her schedule in order to permit breastfeeding was discrimination on the basis of gender. In 2014, the Ontario Human Rights Commission released a policy on preventing discrimination because of pregnancy and breastfeeding. Under the policy, employees who require breaks, such as for pumping or breastfeeding, should normally be accorded those breaks, and not be asked to forgo normal meal breaks as a result, or work additional time to make up for the breaks, unless the employer can show undue hardship.

NEW-HIRE REPORTING

What is required of employers regarding new-hire reporting?

Requirements and deadlines	Penalties	Covered employers
There are no specific new hire reporting requirements. Employers have registration, reporting, deduction, and/or remittance obligations for all employees under statutes that include the federal Income Tax Act, the federal Canada Pension Plan Act (in **Quebec**, the Quebec Pension Plan Act), the federal Employment Insurance Act, provincial health tax legislation, and provincial workers' compensation legislation. ■ *Citation:* Income Tax Act, Canada Pension Plan Act (in **Quebec**, the Quebec Pension Plan Act), the Employment Insurance Act, plus provincial health tax legislation and provincial workers' compensation legislation. Employment and Social Development Canada has a voluntary Report of Hiring program that allows employers to submit the social insurance number and first day worked for newly hired employees to Service Canada each month. ■ *Citation:* Income Tax Act, Canada Pension Plan Act (in **Quebec**, the Quebec Pension Plan Act), the Employment Insurance Act, plus provincial health tax legislation and provincial workers' compensation legislation.	Penalties exist for failure to deduct and/or remit required withholdings and premiums, but there are no penalties for failing to report new hires.	All employers.

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MINIMUM WAGE

A. Does your province have its own minimum wage?

Minimum wage per hour	Subminimum hourly wage under permit
Prince Edward Island: $11.25 per hour. **Quebec:** $11.25 per hour. **Saskatchewan:** $10.96 per hour. **Northwest Territories:** $12.50 per hour. **Nunavut:** $13.00 per hour. **Yukon:** $11.32 per hour. ■ *Citation:* **Federal:** Canada Labour Code, s. 178. **Alberta:** Employment Standards Code, Employment Standards Regulation, s. 9. **British Columbia:** Employment Standards Act, Employment Standards Regulation, s. 15. **Manitoba:** Employment Standards Code, Employment Standards Regulation, s. 11, 11.1. **New Brunswick:** Employment Standards Act, Minimum Wage Regulation, s. 5; *see also* Minimum Wage for Categories of Employees in Crown Construction Work Regulation. **Newfoundland and Labrador:** Labour Standards Act, Labour Standards Regulation, s. 8. **Northwest Territories:** Employment Standards Act, Employment Standards Regulations, s. 5. **Nova Scotia:** Labour Standards Code, Minimum Wage Order (General), s. 6. **Nunavut:** Labour Standards Act, s. 12. **Ontario:** Employment Standards Act, 2000, Exemptions, Special Rules and Establishment of Minimum Wage, s. 5. **Prince Edward Island:** Employment Standards Act, Minimum Wage Order, s. 1. **Quebec:** Act Respecting Labour Standards, Regulation Respecting Labour Standards, s. 3. **Saskatchewan:** The Saskatchewan Employment Act, the Minimum Wage Regulation, s. 3. **Yukon:** Employment Standards Act, Minimum Wage Order.	**Prince Edward Island:** No subminimum wage. **Quebec:** The minimum wage payable to an employee who receives gratuities or tips is $9.45 per hour. **Saskatchewan:** No subminimum wage. **Northwest Territories:** No subminimum wage. **Nunavut:** No subminimum wage. **Yukon:** No subminimum wage. ■ *Citation:* **Federal:** Canada Labour Code, s. 178. **Alberta:** Employment Standards Code, Employment Standards Regulation, s. 8-9. **British Columbia:** Employment Standards Act, Employment Standards Regulation, s. 18.1. **Manitoba:** Employment Standards Code, Employment Standards Regulation, s. 12-13. **New Brunswick:** Employment Standards Act, Minimum Wage Regulation, s. 5. **Newfoundland and Labrador:** Labour Standards Act, Labour Standards Regulation, s. 8. **Northwest Territories:** Employment Standards Act, Employment Standards Regulations, s. 5. **Nova Scotia:** Labour Standards Code, Minimum Wage Order (General), s. 2, 6. **Nunavut:** Labour Standards Act, s. 12. **Ontario:** Employment Standards Act, 2000, Exemption, Special Rules and Establishment of Minimum Wage, s. 5. **Prince Edward Island:** Employment Standards Act, Minimum Wage Order, s. 1. **Quebec:** Act Respecting Labour Standards, Regulation Respecting Labour Standards, s. 4. **Saskatchewan:** The Saskatchewan Employment Act, the Minimum Wage Regulation, s. 3. **Yukon:** Employment Standards Act, Minimum Wage Order, s. 1.

MINIMUM WAGE (CONTINUED)

B. Does your province have exemptions to its minimum wage requirement?

Administrative, executive, and professional employees

Several provinces have exemptions to the minimum wage requirements, generally set out as categories of employees whom are exempt. The categories vary by province. For example, in **Alberta,** real estate brokers, securities sales persons, farm employees, and insurance sales persons paid entirely by commission are examples of some of the categories exempt from the minimum wage. In **Manitoba**, minimum wage does not apply to a training scheme approved by the provincial or federal government. In most Canadian jurisdictions, certain categories of professionals, such as lawyers and engineers, are exempt from the minimum wage provisions of the employment legislation. In **Nova Scotia,** certain farm workers, real estate salespersons, and commissioned salespersons are exempt from the minimum wage. In **Ontario,** the minimum wage does not apply to a person employed as a student to instruct or supervise children, as a student in a recreational program operated by a charitable organization, as a student at a camp for children, or as the superintendent, janitor or caretaker of a residential building and resides in the building.

In **Quebec**, minimum wage applies to everyone except (among others) to a student employed in a non-profit organization having social or community purposes, a trainee under a programme of vocational training recognized by law; a trainee under a programme of vocational integration under section 61 of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (chapter E-20.1); an employee entirely on commission who works in a commercial undertaking outside the establishment and whose working hours cannot be controlled. The minimum wage payable to an employee assigned exclusively, during a pay period, to non-mechanized operations relating to the picking of raspberries or strawberries is established on the basis of yield according to the following rules: for an employee assigned to the picking of raspberries: $3.33 per kilogram; for an employee assigned to the picking of strawberries: $0.89 per kilogram.

■ *Citation:*
Alberta: Employment Standards Code, Employment Standards Regulation, s. 8-9.
Manitoba: Employment Standards Code, Employment Standards Regulation, s. 12-13.
Nova Scotia: Labour Standards Code, Minimum Wage Order (General), s. 2, 6.
Ontario: Employment Standards Act, 2000, Exemption, Special Rules and Establishment of Minimum Wage, s. 5, 7.
Quebec: Act Respecting Labour Standards, Regulation Respecting Labour Standards, s. 2, 4.1.

NONCOMPETE AGREEMENTS

How do your province courts or statutes address noncompete agreements?

Main provisions of law

Except in Quebec, statutes don't address noncompetes. In **Quebec**, noncompete clauses can only be used to protect legitimate interests of employers and must be limited as to time, place, and type of employment. The onus is on the employer to demonstrate the necessity and reasonableness of a noncompete provision. In Quebec, employers can't later rely on a noncompete provision if the employer terminated employment without cause or by way of constructive dismissal. In other provinces, the courts will uphold noncompetes only if they are reasonable and necessary to protect the business of the employer. Such clauses must be reasonably limited in terms of time and geographic restriction.

■ *Citation:*
Quebec: Quebec Civil Code, § 2089 and 2095.

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OCCUPATIONAL SAFETY AND HEALTH

Does your province have special occupational safety and health requirements that differ from federal law?

Administering agency	Recordkeeping, reporting, and posting requirements	Inspection, investigation, and other affirmative duties	Penalties
Federal: Employment and Social Development Canada (www.labour.gc.ca/). **Alberta:** Alberta Labour (https://work.alberta.ca/occupational-health-safety.html). **British Columbia:** Worksafe British Columbia, (www.worksafebc.com). **Manitoba:** Labour and Regulatory Services (www.gov.mb.ca/labour). **New Brunswick:** Worksafe NB (www.worksafenb.ca). **Newfoundland and Labrador:** Occupational Health and Safety Branch (www.whscc.nf.ca). **Nova Scotia:** Labour and Advanced Education (https://novascotia.ca/lae). **Northwest Territories and Nunavut:** Workers' Safety and Compensation Commission (www.wcb.nt.ca). **Ontario:** Ministry of Labour (https://www.labour.gov.on.ca). **Prince Edward Island:** Public Service Commission (http://www.gov.pe.ca/psc/ohs). **Quebec:** Commission de la sante et de la securite du travail (www.csst.qc.ca). **Saskatchewan:** Ministry of Labour Relations and Workplace Safety (https://www.saskatchewan.ca/government/government-structure/ministries/labour-relations-and-workplace-safety). **Yukon:** Workers' Compensation Health and Safety Board (www.wcb.yk.ca).	Each province and territory has an occupational health and safety act or regulations. Occupational health and safety requirements of employers under federal jurisdiction are contained in Part II of the Canada Labour Code. Most provinces have reporting obligations. For example, in British Columbia, the Workers' Compensation Board must be notified of the occurrence of any accident that resulted in serious injury or the death of an employee; involved a major structural failure or collapse of a building, bridge, tower, crane, hoist, temporary construction support system or excavation; involved the major release of a hazardous substance or was an incident required by regulation to be reported. A written report is usually required in these circumstances. Ontario and Saskatchewan's occupational health and safety legislation requires all employers to develop policies and programs addressing workplace harassment and workplace violence. ■ *Citation:* **Federal:** Canada Labour Code. **Alberta:** Occupational Health and Safety Act. **British Columbia:** Workers Compensation Act, Occupational Health and Safety Regulation. **Manitoba:** The Workplace Safety and Health Act. **New Brunswick:** Occupational Health and Safety Act. **Newfoundland and Labrador:** Occupational Health and Safety Act. **Northwest Territories:** Safety Act, Occupational Health and Safety Regulations. **Nova Scotia:** Occupational Health and Safety Act. **Nunavut:** Safety Act, Occupational Health and Safety Regulations. **Ontario:** Occupational Health and Safety Act. **Prince Edward Island:** Occupational Health and Safety Act. **Quebec:** Act Respecting Occupational Health and Safety. **Saskatchewan:** The Saskatchewan Employment Act. **Yukon:** Occupational Health and Safety Act, Occupational Health and Safety Regulations.	There is a separate inspection and investigation process in each province. Inspectors will be granted certain powers and authorities under the legislation as part of the investigation process in each province.	Penalties can be levied in each province for a failure to comply with the relevant occupational health and safety legislation. In some provinces, officers, directors or agents of the corporation who authorize, permit or acquiesce in the commission of an offence are also liable for penalties.

OFF-DUTY CONDUCT

Does your province prohibit employers from making employment decisions based on employees' or applicants' off-duty conduct?

Main provisions of law	Covered employers
While the provinces do not regulate this area, the courts will generally prohibit Canadian employers from making employment decisions based on employees' or applicants' conduct away from the job unless such conduct could affect the employer's legitimate interests. For example, in certain professions in which a fiduciary relationship exists (e.g., teaching and nursing), regulatory bodies may have the power to establish codes of ethics that regulate off-duty conduct.	All employers.

PAYOUT OF VACATION/SICK PAY

A. Does your province require employers to pay earned vacation and/or sick days upon separation? Is there a "use it or lose it" policy?

Requirements	"Use it or lose it" policy	Covered employers
Under each Canadian jurisdiction's employment standards legislation, employers are required to pay accrued but unused vacation pay upon termination of employment. In **Prince Edward Island**, employees who have more than five years of continuous service with the same employer are entitled to one day of paid sick leave. Employers are not required to provide employees with paid sick leave any other jurisdiction. Any requirement to pay out accrued sick days would depend on the terms and conditions contained in the employment contract. ■ *Citation:* **Federal:** Canada Labour Code, s. 188. **Alberta:** Employment Standards Code, s. 42. **British Columbia:** Employment Standards Act, s. 58. **Manitoba:** Employment Standards Code, s. 44. **New Brunswick:** Employment Standards Act, s. 26. **Newfoundland and Labrador:** Labour Standards Act, s. 12. **Northwest Territories:** Employment Standards Act, s. 25. **Nova Scotia:** Labour Standards Code, s. 34. **Nunavut:** Labour Standards Act, s. 19. **Ontario:** Employment Standards Act, 2000, s. 38. **Prince Edward Island:** Employment Standards Act, s. 11, 22.2. **Quebec:** Act Respecting Labour Standards, 76. **Saskatchewan:** The Saskatchewan Employment Act, s. 2-29. **Yukon:** Employment Standards Act, s. 25.	Under the employment standards legislation of each jurisdiction, employees must receive their statutory minimum entitlement to vacation leave and vacation pay. Subject to the terms and conditions of an employment contract, employers can only impose a "use it or lose it" policy regarding any vacation entitlements that employees may have above and beyond the statutory minimum. In **Quebec** (Act Respecting Labour Standards, § 73), employers are prohibited from replacing a leave by a compensatory indemnity, unless a special provision is contained in a collective agreement or decree. At the request of the employee, the third week of leave may however be replaced by compensatory indemnity if the establishment closes for 2 weeks on the occasion of the annual leave.	All employers.

B. Does your province have any special restrictions on the use of paid leave to account for partial-day absences for exempt employees?

Requirements
No restrictions.

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OVERTIME

What are your province's overtime requirements?

Requirements	Covered employers
Employers in each of the Canadian jurisdictions are generally required to pay overtime (time and a half) after a set minimum threshold number of hours worked per day or week as follows: **Federal:** More than eight hours in a day or 40 hours in a week — 1 1/2 times regular wage. **Alberta:** More than eight hours in a day or 44 hours in a week — 1 1/2 times regular wage. **British Columbia:** More than eight hours in a day or 40 hours in a week — 1 1/2 times regular wage; more than 12 hours in a day — double regular wage. **Manitoba:** More than eight hours in a day or 40 hours in a week — 1 1/2 times regular wage. **New Brunswick:** More than 44 hours in a week — 1 1/2 times minimum wage or the employee's wage rate, whichever is greater. **Newfoundland and Labrador:** More than 40 hours in a week — 1 1/2 time minimum wage ($15.75). **Nova Scotia:** More than 48 hours in a week — 1 1/2 times regular wage. **Ontario:** More than 44 hours in a week — 1 1/2 times regular wage. **Prince Edward Island:** More than 48 hours in a week — 1 1/2 times minimum rate. **Quebec:** More than 40 hours in a week — premium of 50 percent of prevailing hourly wage. **Saskatchewan:**More than eight or ten hours in a day, depending on the standard work week, or 40 hours in a week, 1 1/2 times regular wage. **Northwest Territories, Nunavut, and Yukon:** More than eight hours a day or 40 hours in a week — 1 1/2 times the regular wage. In some jurisdictions (**Alberta, British Columbia, Manitoba, Ontario,** and **Quebec**), employers and employees may agree to replace overtime earnings with time off with pay instead. Time off must be at least 1.5 times the number of overtime hours worked. There are various exceptions to the general overtime standards, often related to specific industries. There are also special, specific statutory provisions in each Canadian jurisdiction related to pay for work on public holidays recognized by minimum employment standards legislation. ■ *Citation:* **Federal:** Canada Labour Code, s. 169, 174. **British Columbia:** Employment Standards Act, s. 35, 40, 42. **Alberta:** Employment Standards Code, s. 21-23. **Manitoba:** Employment Standards Code, s. 10, 17-18. **Newfoundland and Labrador:** Labour Standards Act, s. 25; Labour Standards Regulation, s. 5. **New Brunswick:** Employment Standards Act, Minimum Wage Regulation, s. 4, 6. **Northwest Territories:** Employment Standards Act, s. 9, 12. **Nova Scotia:** Labour Standards Code, s. 40. **Nunavut:** Labour Standards Act, s. 11. **Ontario:** Employment Standards Act, 2000, s. 22. **Prince Edward Island:** Employment Standards Act, s. 15, 15.1. **Quebec:** Act Respecting Labour Standards, 55. **Saskatchewan:** The Saskatchewan Employment Act, s. 2-1, 2-18. **Yukon:** Employment Standards Act, s. 8-9.	All employers.

PAYMENT OF COMMISSIONS

Does your province have timely payment requirements for commissions and/or requirements for figuring commissions?

Timely payment requirements	Rules for figuring	Covered employers
Payment of commissions is subject to the same time requirements as the payment of wages generally. There is some flexibility for employers outside of certain sectors to decide how and when commissions will be paid. ■ *Citation:* **Federal:** Canada Labour Code, s. 247. **Alberta:** Employment Standards Code, s. 7-8. **British Columbia:** Employment Standards Act, s. 1, 17. **Manitoba:** Employment Standards Code, s. 86. **New Brunswick:** Employment Standards Act, s. 35. **Newfoundland and Labrador:** Labour Standards Act, s. 33. **Northwest Territories:** Employment Standards Act, s. 13. **Nova Scotia:** Labour Standards Code, s. 79. **Nunavut:** Labour Standards Act, s. 49. **Ontario:** Employment Standards Act, 2000, s. 11. **Prince Edward Island:** Employment Standards Act, s. 5.2. **Quebec:** Act Respecting Labour Standards, 46(7). **Saskatchewan:** The Saskatchewan Employment Act, s. 2-33. **Yukon:** Employment Standards Act, s. 65.	Calculation of commissions depends on the terms of the employment contract.	All employers.

POLYGRAPH TESTING

Does your province have restrictions on employers' use of polygraph or similar tests?

Rules for testing applicants/employees
In **New Brunswick** and **Ontario**, employers may not require, request, enable, or influence applicants or employees to take lie-detector tests. Other provinces (**Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec,** and **Saskatchewan**), the Territories (**the Northwest Territories, Nunavut,** and **Yukon**), and the **Federal** government of Canada don't expressly prohibit lie-detector tests. ■ *Citation:* **Ontario:** Ontario Employment Standards Act, 2000 - §§ 68 through 71 (general prohibition is in § 70). **New Brunswick:** New Brunswick Employment Standards Act § 44.1.

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POSTERS/NOTICES

What posters or notices are employers required to display/provide under province law?

Posting requirements

Mandatory postings across Canada include:

Federal: A copy of the Occupational Health and Safety part of the Canada Labour Code (www.cirb-ccri.gc.ca); a copy of the workplace's health and safety policy, the names, telephone numbers and work locations of all workplace committee members or the health and safety representative; information regarding first aid, location of first aid stations, a list of first aid attendants and how they may be located, list of emergency telephone numbers, and information regarding transport procedures for injured employees; hours of work, including overtime hours worked; and substituted holidays.

Alberta: Posting on hours of work; occupational health and safety inspection reports (orders and notices); and Worker's Compensation Board "1-2-3" poster (www.wcb.ab.ca/employers/123_poster.asp).

British Columbia: Posting on where a copy of the Workers' Compensation Act and regulations is kept at the workplace for employee review (copies can be purchased https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchable-ohs-regulation/associated-resources/printed-version-of-ohs-regulation; the Act and its regulations can also be downloaded at http://canlii.ca/t/51vml—click on "Regulations" for access to the regulations); a posting on the names and work locations of joint health and safety committee members; reports of their three most recent joint health and safety committee meetings; joint health and safety committee orders issued over the past 12 months, a First Aid Notice and Notice to Workers from WorkSafe BC (www.worksafebc.com), and certain first aid information.

Manitoba: Name of workplace representative, location of first aid workers in workplace, copy of harassment prevention policy (Workplace Health and Safety Regulation).

New Brunswick: A copy of the Occupational Health and Safety Act, the names of joint health and safety committee members and minutes of the most recent meeting, and the name of any elected health and safety representative (www.gnb.ca); and all applicable minimum wage regulations.

Newfoundland and Labrador: A copy of the "Code of Practice"; the names of members of the Occupational Health & Safety Committee and minutes of all regular and special meetings of an Occupational Health & Safety Committee (www.gov.nl.ca); name of the worker health and safety representative or the workplace health and safety designate; a policy and procedure for reporting injuries; name of person in charge of the first aid kit, name and qualification of each person trained to administer first aid and emergency procedure and telephone list for reaching nearest help; signs showing location of first aid supplies and services; and copy of minimum wage regulation.

Northwest Territories: A copy of the minutes of the joint committee of health and safety and make the names of the committee readily accessible; a fire safety plan; location of first aid station is clearly identified and appropriate emergency procedures are displayed at the station, which include emergency telephone number list and any written rescue procedures.

Nova Scotia: All applicable minimum wage orders (www.gov.ns.ca); a copy of the Occupational Health and Safety Act and code of practice, telephone number for reporting concerns to the Division of Labor Standards and the employer's safety policy (if one is required); names of joint occupational health and safety committee members and the means of contacting them; minutes of the most recent committee meeting; and location of first aid supplies and telephone number of first aid attendants, including emergency telephone numbers, a violence prevention policy; the workplace's occupational health and safety policy; and information on equal pay; special hours of work orders if variances are granted.

Nunavut: A copy of the Labour Standards Act and regulations, a copy of the minutes of the joint committee of health and safety and make the names of the committee readily accessible; a fire safety plan; location of first aid station is clearly identified and appropriate emergency procedures are displayed at the station, which include emergency telephone number list and any written rescue procedures.

Ontario: The Employment Standards poster version 6.0 titled "What you should know about the Ontario Employment Standards Act" (www.labour.gov.on.ca/english/es/pubs/poster.php); the poster titled 'Health & Safety Starts Here" (www.labour.gov.on.ca/english/hs/pubs/poster_prevention.php); the poster titled "In Case of Injury at Work" (www.wsib.on.ca/en/community/WSIB/230/ArticleDetail/24338?vgnextoid=cafee35c819d7210VgnVCM100000449c710aRCRD); a copy of the Occupational Health and Safety Act and any explanatory material (www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o01_e.htm); the workplace occupational health and safety policy; the Workplace Violence and Workplace Harassment policy; and the names and work locations of any joint health and safety committee members; and signs prohibiting smoking pursuant to the Smoke Free Ontario Act.

Continued on next page.

POSTERS/NOTICES (CONTINUED)

What posters or notices are employers required to display/provide under province law?

Posting requirements
Prince Edward Island: All applicable minimum wage orders (www.gov.pe.ca), sexual harassment policy, names and telephone numbers of joint occupational health and safety committee members or health and safety representatives, and a copy of the workplace health and safety policy (if required) and any code of practice (if required). **Quebec:** In the event of a collective dismissal, a notice of collective dismissal ; information regarding the employer's pay equity program, if such a program exists; information transmitted by the Commission des normes, de l'équité, de la santé et de la sécurité du travail, the regional board and the physician in charge, the regional board and the physician in charge; and names of health and safety committee members, first aid, and safety information. **Saskatchewan:** Orders of the Minimum Wage Board, hours of work, including overtime authorizations; an abstract of the Saskatchewan Employment Act and its regulations, a harassment policy; names of the members of an occupational health committee or occupational health and safety representative; and other safety information. **Yukon:** Notice relating to the administration or enforcement of the Occupational Health and Safety Act; copy of an order or report issued after an inspection of the workplace; location of first aid supplies, equipment, and services, name of person in charge of the first aid kit, name and qualifications of each person trained to administer first aid, and emergency contact information. **Other:** When an employer is involved in a union certification application, unfair labour practice complaint, mass termination, or other proceeding with a governmental body, there are usually documents the employer is required to post in the workplace in relation to such proceedings.

PREEMPLOYMENT INQUIRIES

Does your province prohibit employers from asking applicants about certain subjects?

Prohibitions	Covered employers
Human rights legislation in each province and territory and under federal law restricts employers from taking into account information about applicants that relates to prohibited grounds of discrimination. Therefore, employers should generally not ask questions on applications or in interviews that would require individuals to disclose information relating to a prohibited ground of discrimination. Exceptions may be made if the job has a bona fide occupational requirement relating to a prohibited ground of discrimination. Quebec's privacy laws limit the collection of information to matters for which the employer has a serious reason to do so or if necessary. ■ *Citation:* **Federal:** Canadian Human Rights Act. **Alberta:** Alberta Human Rights Act. **British Columbia:** Human Rights Code. **Manitoba:** The Human Rights Code. **New Brunswick:** Human Rights Act. **Newfoundland and Labrador:** Human Rights Act. **Northwest Territories:** Human Rights Act. **Nova Scotia:** Human Rights Act. **Nunavut:** Human Rights Act. **Ontario:** Human Rights Code. **Prince Edward Island:** Human Rights Act. **Quebec:** Charter of Human Rights and Freedoms and the Act Respecting the Protection of Personal Information in the Private Sector. **Saskatchewan:** Saskatchewan Human Rights Code. **Yukon:** Human Rights Act.	All employers.

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PRIVACY

A. Does your province restrict the monitoring of employee communications?

Main provisions of law	Surveillance	Consent required	Covered employers
Part VI of the Criminal Code of Canada deals with invasion of privacy, making it an offense to willfully intercept a private communication unless the person intercepting it has the express or implied consent of the originator or the recipient. This doesn't apply to most workplace communications using employer resources if employees are told communications aren't private. For employers contemplating monitoring or recording employees' conversations, telephone calls, or e-mail, a clear policy formulated in accordance with federal and provincial privacy legislation (in **Alberta**, **British Columbia, Ontario,** and **Quebec**) and Canadian common law and civil law principles should be implemented and communicated to all employees. ■ *Citation:* Part VI of the Criminal Code of Canada, Personal Information Protection and Electronic Documents Act of Canada, Personal Information Protection Acts in **Alberta**, **British Columbia,** and **Ontario,** and the Act Respecting the Protection of Personal Information in the Private Sector in **Quebec**.	No specific statutes deal with video and/or audio recording of employees, but private-sector employers subject to the Personal Information Protection and Electronic Documents Act of Canada (i.e., those under **Federal** jurisdiction), and/or provincial privacy legislation in **Alberta**, **British Columbia, Manitoba**, or **Quebec** should consider the privacy principles aimed at protecting individuals' privacy. In **Ontario**, several cases have found video monitoring, particularly in less public places, to breach the employment contract. Federal privacy law and decisions from the privacy commissioner require monitoring to be reasonable. Typically, video monitoring is permitted for safety or security reasons in public places. Video monitoring of work areas is much more controversial and must not be used for productivity or performance issues.	The express or implied consent of either the originator or recipient is required. This doesn't apply to most workplace communications if employees are told communications aren't private.	Employers under federal jurisdiction as well as those under provincial legislation in some provinces.

B. Does your province limit employer access to employees' personal online accounts or personal electronic communications devices?

Main provision of law
Part VI of the Criminal Code of Canada deals with invasion of privacy, making it an offense to willfully intercept a private communication unless the person intercepting it has the express or implied consent of the originator or the recipient. This doesn't apply to most workplace communications using employer resources if employees are told communications aren't private. For employers contemplating monitoring or recording employees' conversations, telephone calls, e-mail, or personal social media accounts, a clear policy formulated in accordance with federal and provincial privacy legislation (in **Alberta, British Columbia, Ontario,** and **Quebec**) and Canadian common law and civil law principles should be implemented and communicated to all employees. An Ontario Court of Appeal decision has determined that unauthorized access to private information may create a cause of action known as "intrusion upon seclusion" under the common law in that province. It is unclear whether the cause of action will be extended to the workplace or monitoring in the workplace. Employers should exercise caution in accessing or obtaining any private employee information, other than for legitimate and reasonable business purposes. The Ontario Human Rights Commission has warned employers not to ask job applicants for access to information stored on social media or other online sites and that doing so could leave an employer open to a claim of discrimination under human rights legislation in that province. ■ *Citation:* Part VI of the Criminal Code of Canada, Personal Information Protection and Electronic Documents Act of Canada, Personal Information Protection Acts in **Alberta, British Columbia,** and **Ontario,** and the Act Respecting the Protection of Personal Information in the Private Sector in **Quebec**.

REDUCTIONS IN FORCE

Does your province have requirements for notice of layoffs and/or closures?

Major provisions of law	Covered employers
The federal employment standards laws and the laws of all the provinces and territories generally require employers to provide employees terminated without just cause with notice of termination (or pay in lieu of notice) based on the length of the employee's service. Except in the province of Prince Edward Island, those laws also provide special notice requirements for group terminations or layoffs. The special requirements triggered by group terminations include provision of notice to the appropriate governmental minister and may also include either increased notice to employees or specified notice periods depending on the number of employees terminated, rather than on each affected employee's length of service. ■ *Citation:* This matter is governed by the employment standards legislation in each Canadian jurisdiction.	All employers.

REFERENCES

What restrictions and protections does your province have regarding references?

Requirements and protections	Covered employers	Blacklisting
There are no statutory protections. Under common law decided by the courts, employees won't generally be able to pursue claims against former employers for bad references if (1) the employer was honest in providing the reference, (2) the employer didn't act in a manner that was malicious or intended to restrict the employee's ability to secure another job; and (3) it was within the context of the reference giver's job to provide confidential information about employees. No law requires employers to give references, but some court decisions have said that the failure to provide a reference letter may result in additional damages being awarded if there is a wrongful termination lawsuit. In **Quebec**, employees may require an employer to issue a work certificate containing the following information: nature and duration of employment, dates on which employment began and ended, and name and address of the employer. The certificate isn't to mention the quality of work or conduct of the employee. In **British Columbia**, an employer may only disclose personal information about an employee to a prospective employer with the consent of the employee. In **Alberta**, an employer can give reference information to any prospective employer if the employee consents. However, the employer can only disclose information which the employee has specifically consented to have disclosed. ■ *Citation:* ***References:*** Common law. ***Blacklisting:*** Alberta Human Rights Act; Freedom of Information and Protection of Privacy Act, s. 40(1)(d) **(Alberta)**; Human Rights Code, Personal Information Protection Act **(British Columbia)**; The Human Rights Code, **(Manitoba)**; Human Rights Act **(New Brunswick)**; Human Rights Act **(Newfoundland and Labrador)**; Human Rights Act **(Northwest Territories)**; Human Rights Act **(Nova Scotia)**; Human Rights Act **(Nunavut)**; Human Rights Code **(Ontario)**; Human Rights Act **(Prince Edward Island)**; Quebec Charter of Human Rights and Freedoms, Act Respecting Labour Standards **(Quebec)**; The Saskatchewan Human Rights Code **(Saskatchewan)**; Human Rights Act **(Yukon)**.	All employers.	There is no specific statutory prohibition against blacklisting, but employers are subject to the normal potential lawsuits for slander or defamation. Also, "do not hire lists" must not be contrary to provincial or federal human rights laws that prohibit discrimination. Prohibited grounds of discrimination can vary between provinces. The most common prohibited grounds are race, color, ancestry, place of origin, religion, marital status, family status, disability, sex, age, and sexual orientation. In addition, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island and Quebec prohibit discrimination based on political belief.

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SICK LEAVE AND OTHER PAID TIME OFF

Does your province have special requirements for employers to provide paid sick leave or other paid time off?

Main provision of the paid sick leave law
In Prince Edward Island, employees who have more than five years of continuous service with the same employer are entitled to one day of paid sick leave There is no requirement to provide paid sick leave in any other Canadian jurisdiction. Employment standards legislation in several jurisdictions requires employers to provide unpaid sick leave or emergency leave to their employees: the federal jurisdiction, Alberta, Saskatchewan, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Ontario, Prince Edward Island, Quebec, and Yukon. ■ *Citation:* **Federal:** Canada Labour Code, s. 239. **Alberta:** Employment Standards Code, s. 53.982(1). **Manitoba:** Employment Standards Code, s. 59.10. **Newfoundland and Labrador:** Labour Standards Act, s. 43.10. **New Brunswick:** Employment Standards Act, s. 44.021. **Northwest Territories:** Employment Standards Act, s. 29. **Nova Scotia:** Labour Standards Code, s. 60G. **Ontario:** Employment Standards Act, 2000, s. 50. **Prince Edward Island:** Employment Standards Act, s. 22.2. **Quebec:** Act Respecting Labour Standards, Chapter IV, Section V.0.1. **Saskatchewan:** s. 2-40. **Yukon:** Employment Standards Act, s. 59.

SMALL NECESSITIES LEAVE

A. Does the province have requirements regarding "small necessities" leave?

Main provisions of law	Covered employers
The employment standards legislation in most jurisdictions provides employees with unpaid bereavement leave following the death of a relative. Employers aren't permitted to penalize employees for taking such leaves. Some jurisdictions also provide a certain period of leave to attend to family obligations. In **Alberta** and **British Columbia**, for example, employees are entitled to up to five days a year of "family responsibility" leave to attend to the health or familial responsibilities in relation to family members. An employee is given three days of family responsibility leave in **Manitoba** and **New Brunswick** and seven days in **Newfoundland** and **Labrador**. In **Quebec**, this period can be a maximum of up to 10 days per year. In **Nunavut**, employees are not entitled to either sick leave or bereavement leave under legislation. Sick leave/bereavement leave are governed by the employment contract. ■ *Citation:* **Federal**: Canada Labour Code, s. 210. **Alberta**: Employment Standards Code, s. 53.982(1), 53.983. **British Columbia:** Employment Standards Act, s. 52-53. **Manitoba**: Employment Standards Code, s. 59.4. **New Brunswick:** Employment Standards Act, s. 44.03. **Newfoundland and Labrador**: Labour Standards Act, s. 43.10. **Northwest Territories:** Employment Standards Act, s. 31. **Nova Scotia:** Labour Standards Code, s. 60A. **Ontario**: Employment Standards Act, 2000, s. 50. **Prince Edward Island:** Employment Standards Act, s. 23. **Quebec**: Act Respecting Labour Standards, 79.7. **Saskatchewan**: The Saskatchewan Employment Act, s. 2-55. **Yukon:** Employment Standards Act, s. 60.	All employers.

SMALL NECESSITIES LEAVE (CONTINUED)

B. Does your province require some sort of domestic violence leave?

Main provisions of law
Only the provinces of **Manitoba** and **Alberta** entitle its employees who are victims of domestic violence leave. In **Manitoba**, an employee is entitled to 10 days to be taken intermittently or in one continuous period, or leave up to 17 weeks to be taken in one continuous period. The employer is required to pay the employee for five days of domestic violence leave if the employee follows the requirements of giving notice. **Alberta** entitles an employee up to 10 unpaid days of job protected leave per year for employees addressing a situation of domestic violence. ■ *Citation:* **Alberta**: Employment Standards Code, s. 53.981(1). **Manitoba**: Employment Standards Code, s. 59.11.

SMOKING/TOBACCO USE

Does your province regulate smoking, vaping, or e-cigarettes in the workplace?

Policy and type of workplace regulated	Nondiscrimination law	Major cities/counties with workplace smoking laws
The **federal** government, the provinces (**British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island** and **Newfoundland and Labrador**), and three territories (the **Northwest Territories, Yukon,** and **Nunavut**) have laws that require employers to prohibit smoking in enclosed workplaces. Most jurisdictions don't require employers to provide designated smoking areas. In **British Columbia**, the employer must provide a room where smoking is permitted if necessary to prevent tobacco smoke from entering a workplace. In some jurisdictions, the prohibition includes e-cigarettes. ■ *Citation:* **Federal:** Non-Smokers' Health Act, s. 3. **Alberta:** Tobacco Reduction Act, s. 3. **British Columbia:** Tobacco and Vapour Products Control Act, s. 2.3; Workers Compensation Act, Occupational Health and Safety Regulation, s. 4.81-4.82. **Manitoba:** The Non-Smokers' Health Protection Act, s. 2. **New Brunswick:** Smoke-Free Places Act, s. 2. **Newfoundland and Labrador:** Smoke Free Environment Act, 2005, s. 4. **Northwest Territories and Nova Scotia:** Smoke-Free Places Actm s. 7. **Nunavut:** Safety Act, Environmental Tobacco Smoke Worksite Regulations, s. 81. **Ontario:** Smoke-Free Ontario Act, s. 9. **Prince Edward Island:** Smoke-Free Places Act, s. 4. **Quebec:** Tobacco Act, s. 2(9). **Saskatchewan:** Occupational Health and Safety Regulations, 1996; Tobacco Control Act, s. 11. **Yukon:** Smoke-Free Places Act, s. 6.	A heavy addiction to nicotine may be interpreted as a disability requiring employers to make reasonable accommodations for employees who smoke heavily.	Many Canadian municipal governments also have by-laws affecting smoking in and around workplaces, including **Calgary** and **Edmonton** in Alberta, **Toronto** in Ontario, and **Fredericton** in New Brunswick.

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TITLE VII EQUIVALENTS

Does your province have its own employment discrimination and harassment laws?

Discrimination	Harassment
Each province, territory, and the federal jurisdiction have human rights statutes that prohibit discrimination in employment on a variety of prohibited grounds. The human rights statutes of each province and the federal jurisdiction prohibit discrimination on the grounds of race, color, religion, mental disability, physical disability, marital status (except for Quebec where civil status discrimination is prohibited), sexual orientation, harassment, and sex. Also, each province and the federal jurisdiction prohibit discrimination based on national origin or ancestry, although each jurisdiction uses somewhat different terms to express the concept. **Alberta:** "Ancestry" and "place of origin." **British Columbia:** "Ancestry" and "place of origin." **Saskatchewan:** "Nationality," "place of origin," and "ancestry." **Federal:** "National or ethnic origin." **Manitoba:** "Nationality or national origin," "ancestry (including color or perceived race)," and "ethnic background or origin." **Ontario:** "Ancestry," "place of origin," "ethnic origin," and "citizenship." **Quebec:** "Ethnic or national origin."**Nova Scotia:** "Ethnic origin," "national origin," and "aboriginal origin." **New Brunswick:** "National origin," "ancestry," and "place of origin." **Newfoundland/Labrador:** "Nationality," "ethnic origin," "social origin." **Prince Edward Island:** "Ethnic or national origin." Pregnancy/Childbirth is an expressly prohibited ground of discrimination in Alberta, Manitoba, New Brunswick, Ontario, Quebec, Nova Scotia, Saskatchewan, the Northwest Territories, Nunavut, the Yukon, and the federal jurisdiction. In addition, the employment standards legislation of each province and the federal jurisdiction provide employees with maternity/pregnancy leave and parental leave, both of which include a right of reinstatement. Other prohibited grounds of discrimination vary by jurisdiction, including: alcohol/drug dependency, nationality/citizenship, criminal conviction, ancestry, political beliefs, marital or family status, civil status (only in Quebec), language (only in Quebec), source of income, gender identity or expression, social origin, genetic characteristics, and creed. *The following are the employment standards statutes of the provinces, territories, and federal jurisdiction:* **Federal:** Canada Labour Code. **Alberta:** Employment Standards Code. **British Columbia:** Employment Standards Act. **Manitoba:** Employment Standards Act. **New Brunswick:** Employment Standards Act. **Newfoundland/Labrador:** Labour Standards Act. **Northwest Territories:** Employment Standards Act. **Nova Scotia:** Labour Standards Code. **Nunavut:** Labour Standards Act. **Ontario:** Employment Standards Act, 2000. **Prince Edward Island:** Employment Standards Act. **Quebec:** An Act Respecting Labour Standards. **Saskatchewan:** The Saskatchewan Employment Act. **Yukon:** Employment Standards Act. *Continued on next page*	Harassment is unlawful as a form of discrimination under the human rights legislation in all Canadian jurisdictions. In Manitoba, Ontario, Quebec, Newfoundland/Labrador, the Northwest Territories, Nova Scotia, Nunavut, the Yukon, and the federal jurisdiction, harassment is prohibited pursuant to the applicable human rights statute on all the prohibited grounds of discrimination. In New Brunswick and Nova Scotia, the applicable human rights legislation prohibits sexual harassment. In Quebec, pursuant to the Act Respecting Labour Standards, an employee may file a complaint of "psychological harassment," which is defined as "any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that results in a harmful work environment of the employee." ■ *Citation:* **Federal:** Canadian Human Rights Act § 14. **Manitoba:** Human Rights Code § 19. **New Brunswick:** Human Rights Act § 7.110. **Newfoundland and Labrador:** Human Rights Act §17. **Northwest Territories:** Human Rights Act § 14. **Nova Scotia:** Human Rights Act § 5. **Nunavut:** Human Rights Act § 7. **Ontario:** Human Rights Code § 5, 7. **Quebec:** Quebec Charter of Human Rights and Freedoms § 10; Act Respecting Labour Standards, § 81.18. **Yukon:** Human Rights Act § 14.

TITLE VII EQUIVALENTS (CONTINUED)

Does your province have its own employment discrimination and harassment laws?

Discrimination	Harassment
The following are the human rights statutes of the provinces, territories, and the federal jurisdiction: **Federal:** Canadian Human Rights Act. **British Columbia:** Human Rights Code. **Alberta:** Alberta Human Rights Act. **Manitoba:** The Human Rights Code. **New Brunswick:** Human Rights Act. **Newfoundland and Labrador:** Human Rights Act. **Nova Scotia:** Human Rights Act. **Northwest Territories:** Human Rights Act. **Nunavut:** Human Rights Act. **Ontario:** Human Rights Code. **Prince Edward Island:** Human Rights Act. **Quebec:** Charter of Human Rights and Freedoms. **Saskatchewan:** The Saskatchewan Human Rights Code. **Yukon:** Territory Human Rights Act.	See above.

VOTING LEAVE

Does the province protect employees who take leave to vote in elections?

Main provisions of law	Covered employers
Employers must provide employees eligible to vote three consecutive hours free from work during the time federal polls open. If an employee's work hours don't allow three consecutive hours, employers must allow the additional time off without loss of pay. Such additional time is provided at the employer's convenience. Under election legislation in all of the provinces and territories, employers must provide employees eligible to vote sufficient time off work without loss of pay so that during the time provincial polls are open the employees have the required number of hours free from work (ranging from one to four hours, depending on the jurisdiction) to vote. ■ *Citation:* **Federal:** Canada Elections Act § 132. **Alberta:** The Election Act, § 132. **British Columbia:** Election Act, § 74. **Manitoba:** The Elections Act, § 13(2). **New Brunswick:** Elections Act, § 86. **Newfoundland and Labrador:** Elections Act, § 210. **Northwest Territories:** Elections Act, § 168. **Nova Scotia:** Elections Act, § 131. **Nunavut:** Elections Act, § 10. **Ontario:** Election Act, § 6. **Quebec:** Election Act, § 335. **Prince Edward Island:** Election Act, § 81. **Saskatchewan:** The Election Act, § 60. **Yukon:** Elections Act, § 309.	All employers.

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WEAPONS

Does your province have laws that interfere with an employer's right to ban employees from bringing weapons on the premises?

Main provisions of law	Covered employers
Employers are generally free to ban employees from bringing weapons to the employer's premises. The authorization to carry and transport firearms is regulated by the federal government. The Firearms Act restricts the transportation of firearms to places specified in the Act. Special regulations would apply to certain occupations that carry firearms in the course of employment, for example, police or conservation officers. In some cases, employees carry ceremonial items that would be considered "weapons" outside of their religious tradition. Employers are required to accommodate employees who carry these items for religious reasons. ■ *Citation:* Firearms Act.	All employers.

WAGE PAYMENT

A. How frequently must employers in your province pay employees?

Agency handling complaints & enforcement	Frequency	Covered employers
For employers subject to the respective laws of Canada (federal), British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Prince Edward Island, Nova Scotia, and Newfoundland and Labrador, Northwest Territories, Nunavut, and the Yukon, each jurisdiction's equivalent Ministry of Labour administers and enforces legislation governing minimum wage and hours of work standards.	**Federal:** On regular paydays within 30 days of entitlement arising. **Alberta:** Within 10 days of each pay period; pay periods aren't to exceed one month. **British Columbia:** At least semi-monthly within eight days after the expiration of each pay period. **Manitoba:** At least semimonthly and within 10 working days after the expiration of each pay period. **New Brunswick:** At least every 16 days, and payment is to include all wages earned up to a day no more than seven calendar days before the date of payment. **Newfoundland and Labrador:** At least semimonthly and within seven days after the end of the pay period. **Nova Scotia:** At least semi-monthly within five days after the expiration of each pay period. **Nunavut and Northwest Territories:** Within 10 days of each pay period; pay periods are not to exceed one month. **Ontario:** On regular paydays established by the employer. **Prince Edward Island:** Intervals between paydays can't be more than 16 days; pay must include all wages earned up to and including a day that isn't more than five working days prior to the date of payment. **Quebec:** At regular intervals of not more than 16 days or one month if an employee is an executive or party to a contract. **Saskatchewan:** At least semi-monthly or at the end of every 14-day period, to include all wages earned up to six days before payday. **Yukon:** Within 10 days of each pay period. ■ *Citation:* Payment of wages is governed by the employment standards legislation in each Canadian jurisdiction.	Most employers.

WAGE PAYMENT (CONTINUED)

B. Does your province have special rules for callback/report-in pay?

Callback pay	Report-in pay	Exceptions
Most employees are entitled to a minimum amount of pay every time they are called in to work by their employer outside of their normal working hours. In **British Columbia**, the call in pay is two or four hours, depending on the scheduled length of the shift. In the **Yukon**, the call in pay is two hours. In the **Federal** jurisdiction, **Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec,** and **Saskatchewan** the call in pay is generally three hours. In the **Northwest Territories** and **Nunavut** the call in pay is four hours. In **British Columbia**, an employee must receive four hours call-in pay where more than eight hours of work had been scheduled. In **Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Ontario, Manitoba, Quebec, Prince Edward Island, Saskatchewan,** and the **Yukon**, call-in pay is also available to those workers whose regularly scheduled work is cancelled at the start of or during their regular shift. ■ *Citation:* **Federal:** Canada Labour Code, Canada Labour Standards Regulation, s. 11.1. **Alberta:** Employment Standards Code, Employment Standards Regulation, s. 11. **British Columbia:** Employment Standards Act, s. 34; Employment Standards Regulation, s. 43. **Manitoba:** Employment Standards Code, s. 51. **New Brunswick:** Employment Standards Act, s. 16.1. **Newfoundland and Labrador:** Labour Standards Act, Labour Standards Regulations, s. 10. **Northwest Territories:** Employment Standards Act, Employment Standards Regulation, s. 6. **Nova Scotia:** Labour Standards Code, Minimum Wage Order (General), s. 11. **Nunavut:** Labour Standards Act, Wages Regulations, s. 1. **Ontario:** Employment Standards Act, 2000, Exemptions, Special Rules and Establishment of Minimum Wage, s. 5. **Prince Edward Island:** Employment Standards Act, s. 17. **Quebec:** Act Respecting Labour Standards, s. 58. **Saskatchewan:** The Saskatchewan Employment Act, The Minimum Wage Regulation, s. 3. **Yukon:** Employment Standards Act, Reporting Pay Order, s. 2.	See **Callback pay** column.	There are certain employees in each province who are not entitled to minimum call-in pay. In most provinces, particular categories of employees, such as managerial or professional employees, are exempt from the call-in pay provisions of the employment standards legislation. In **Saskatchewan**, students in grade 12 or lower during school term, school bus drivers, and noon hour supervisors employed by a school board are not entitled to call-in pay are exempt. In **New Brunswick**, call-in pay is only provided for non-bargaining unit employees. In **British Columbia**, post-secondary students are exempt from call-in pay, as are those who report to work in an unfit condition. In **Manitoba**, where an employee regularly reports to work for a scheduled period of less than three hours, the employee is entitled to be paid only for the hours worked or required to be worked.

WHISTLEBLOWING

Does your province offer employees whistleblower protection?

Protected activities	Covered employers
A variety of laws, both federal and provincial, provide whistleblower protection. They include legislation on health and safety, employment standards, human rights, workers' compensation, labor relations, privacy, securities, and environmental issues. In addition, the Canadian Criminal Code makes it a criminal offense to take disciplinary measures or otherwise adversely affect employment with the intent of convincing an employee not to give information to an enforcement agency or with the intent of retaliating against an employee because the employee has provided such information. However, in **Saskatchewan**, the Saskatchewan Employment Act specifies that whistleblower protection does not apply to an employee whose actions are vexatious or frivolous. ■ *Citation:* Criminal Code § 425.1; Saskatchewan Employment Act § 2-42.	All employers are covered by the Criminal Code.

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WORKERS' COMPENSATION ISSUES

What are your province's basic workers' compensation requirements for employers?

Choice of physician	Waiting period	Benefit for total disability	Benefit for partial disability	Survivors' benefits	Average weekly wage
For employees under the federal jurisdiction, the workers' compensation lawds of the province in which the employee works will apply. For employees under the federal jurisdiction living in the Northwest Territories, Nunavut, and Yukon, the Alberta Workers' Compensation Act applies. Legislation in most jurisdictions is silent on the choice of physician. Otherwise, the legislation explicitly allows the employee's choice of physician. In the Northwest Territories and Nunavut, the employee must choose the nearest health care provider, however, the Workers' Safety and Compensation Commission may require the employee to use a different health care provider if it considers that the employee's choice may not assist, or may impede the recovery process. ■ *Citation:* **Federal:** Government Employees Compensation Act. **Alberta:** Workers' Compensation Act. **British Columbia:** Workers Compensation Act. **Manitoba**: The Workers Compensation Act. **New Brunswick:** Workers' Compensation Act. **Newfoundland and Labrador:** Workplace Health, Safety and Compensation Act. **Northwest Territories:** Workers' Compensation Act, s. 33. **Nunavut:** Workers' Compensation Act, s. 33. **Nova Scotia:** Workers' Compensation Act. **Ontario:** Workers' Compensation Act. **Prince Edward Island:** Workers Compensation Act. **Quebec:** Act Respecting Industrial Accidents and Occupational Diseases. **Saskatchewan:** The Workers' Compensation Act, 2013. **Yukon:** Workers' Compensation Act.	*See special insert below.*	All the provinces recognize total disability. In some provinces, benefits will cease once the employee reaches the age of 65. In some cases of permanent disability, the payments can be made for life. The rate of benefits is typically calculated as a percentage of the employee's average net or gross weekly earnings. ■ *Citation:* **Alberta:** Workers' Compensation Act, s. 56. **British Columbia:** Workers Compensation Act, s. 23, 30. **Manitoba:** The Workers Compensation Act, s. 37-39. **New Brunswick:** Workers' Compensation Act. **Newfoundland and Labrador:** Workplace Health, Safety and Compensation Act. **Northwest Territories:** Workers' Compensation Act. **Nova Scotia:** Workers' Compensation Act. **Nunavut:** Workers' Compensation Act. **Ontario:** Workplace Safety and Insurance Act, 1997. **Prince Edward Island:** Workers Compensation Act. **Quebec:** Act Respecting Industrial Accidents and Occupational Diseases. **Saskatchewan:** The Workers' Compensation Act, 2013. **Yukon:** Workers' Compensation Act.	All the provinces recognize partial disability. ■ *Citation:* **Alberta:** Workers' Compensation Act, s. 56. **British Columbia:** Workers Compensation Act, s. 23, 30. **Manitoba:** The Workers Compensation Act, s. 37-39. **New Brunswick:** Workers' Compensation Act. **Newfoundland and Labrador:** Workplace Health, Safety and Compensation Act. **Northwest Territories:** Workers' Compensation Act. **Nova Scotia:** Workers' Compensation Act. **Nunavut:** Workers' Compensation Act. **Ontario:** Workplace Safety and Insurance Act, 1997. **Prince Edward Island:** Workers Compensation Act. **Quebec:** Act Respecting Industrial Accidents and Occupational Diseases. **Saskatchewan:** The Workers' Compensation Act, 2013. **Yukon:** Workers' Compensation Act.	The calculation of survivor's benefits depends on the composition of the deceased employee's family. All jurisdictions provide survivors' benefits. A dependent or a surviving spouse may also be entitled to a lump sum amount. For example, in **Ontario**, a spouse who survives a deceased worker is entitled to a one-time lump sum payment. For 2017, this payment is $80,673.30 plus or minus $2,016.83 for each year the spouse is under/over age 40, respectively. The amount would decrease by $2,016.83 every year older than 40 that the spouse was at the time of the worker's death to a minimum of $40,336.60. The amount would increase by $2,016.83 every year younger than 40 the spouse was at the time of the worker's death to a maximum of $121,009.87. ■ *Citation:* **Alberta:** Workers' Compensation Act. **British Columbia:** Workers Compensation Act. **Manitoba:** The Workers Compensation Act. **New Brunswick:** Workers' Compensation Act. **Newfoundland and Labrador:** Workplace Health, Safety and Compensation Act. **Northwest Territories:** Workers' Compensation Act. **Nova Scotia:** Workers' Compensation Act. **Nunavut:** Workers' Compensation Act. **Ontario**: Workplace Safety and Insurance Act, 1997. **Prince Edward Island:** Workers Compensation Act. **Quebec:** Act Respecting Industrial Accidents and Occupational Diseases. **Saskatchewan:** The Workers' Compensation Act, 2013. **Yukon:** Workers' Compensation Act.	*See special insert below.*

WORKERS' COMPENSATION ISSUES (CONTINUED)

What are your province's basic workers' compensation requirements for employers?

Waiting period in Canada	Provincial average weekly wage in Canada
There are no waiting periods in British Columbia, Alberta, Ontario, Manitoba, Saskatchewan, Newfoundland and Labrador, Northwest Territories, Nunavut, Quebec, and Yukon. In Newfoundland and Labrador, Quebec, Ontario, Manitoba, Alberta, and Yukon the employer is required to pay the worker for the day of injury. In Prince Edward Island, the waiting period is two-fifths of the employee's weekly compensation. However, if the employee is unable to return to work after the elapse of a period of four weeks, the amount deducted during the waiting period will be reimbursed. In New Brunswick, the waiting period is three working days. However, the waiting period will not apply to an employee who was admitted to a hospital facility as an in-patient as a result of an injury or a recurrence of an injury, or if the employee is unable to return to work after more than 20 working days. In Nova Scotia, the waiting period is two-fifths of the employee's weekly compensation. An employee is reimbursed for the waiting period if the injury lasts for more than five weeks. ■ *Citation:* **Alberta:** Workers' Compensation Act. **British Columbia:** Workers Compensation Act. **Manitoba:** The Workers Compensation Act. **New Brunswick:** Workers' Compensation Act, s. 38.11. **Newfoundland and Labrador:** Workplace Health, Safety and Compensation Act. **Northwest Territories:** Workers' Compensation Act. **Nova Scotia:** Workers' Compensation Act, s. 275. **Nunavut:** Workers' Compensation Act. **Ontario:** Workplace Safety and Insurance Act, 1997. **Prince Edward Island:** Workers Compensation Act, s. 40(1.2) - 40(1.3). **Quebec:** Act Respecting Industrial Accidents and Occupational Diseases. **Saskatchewan:** The Workers' Compensation Act, 2013. **Yukon:** Workers' Compensation Act.	The percentage of earnings benefits are based on: **Alberta:** 90% of net earnings. **British Columbia:** 90% of net earnings. **Manitoba:** 90% of net earnings. 90% of net earnings. Where the employee's average earnings are less than the minimum annual earnings, wage loss benefits are based on 100% of net. **New Brunswick:** 80% for the first 39 weeks, 85% loss of earnings after 39 weeks, defined as average net earnings less net estimated capable earnings. **Newfoundland and Labrador:** 80% of net earnings. **Northwest Territories:** 90% of net earnings. **Nova Scotia:** 75% of net earnings for the first 26 weeks, then 85% of the net earnings. **Nunavut:** 90% of net earnings, or 100% of the worker's net monthly remuneration and 2.75% of the year's maximum insurable remuneration if the worker's monthly payment would be less than 2.75% of the year's maximum insurable remuneration. **Ontario:** 85% of net earnings. **Prince Edward island:** 80% for the first 38 weeks, 85% of net earnings after 38 weeks. **Quebec:** 90% of net earnings. **Saskatchewan:** 90% net earnings. **Yukon:** 75% of gross earnings.

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Appendix A

PROVINCE AGENCIES

PROVINCE/LOCAL EQUAL EMPLOYMENT OPPORTUNITY

FAIR EMPLOYMENT LAWS

WORKERS' COMPENSATION

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APPENDIX A: PROVINCE AGENCIES

A. What are your province's practices regarding equal employment opportunity matters?

Province agency	How cases are adjudicated	Individual liability	Local laws in major cities
Federal: Canadian Human Rights Commission. **Alberta:** Alberta Human Rights and Citizenship Commission. **British Columbia:** British Columbia Human Rights Tribunal. The government of British Columbia is in the process of re-establishing the B.C. Human Rights Commission. **Manitoba:** Manitoba Human Rights Commission. **New Brunswick:** New Brunswick Human Rights Commission. **Prince Edward Island:** Prince Edward Island Human Rights Commission. **Newfoundland and Labrador:** Human Rights Commission. **Northwest Territories:** Northwest Territories Human Rights Commission. **Nova Scotia:** Nova Scotia Human Rights Commission. **Nunavut:** Nunavut Human Rights Tribunal. **Ontario:** Human Rights Tribunal of Ontario. **Quebec:** Commission des droits de la personne et de la jeunesse handles complaints of discrimination and harassment other than complaints of psychological harassment, which are handled by the Commission des normes du travail. **Saskatchewan:** Saskatchewan Human Rights Commission. **Yukon:** Yukon Human Rights Commisison.	Most discrimination and harassment cases in provinces, territories, and the federal jurisdiction are adjudicated by commissions or tribunals.	The human rights legislation of all provinces, territories, and the federal jurisdiction grant the applicable commission or tribunal charged with enforcing the legislation the power to make orders against any person found to have breached the legislation. Such orders can include orders to compensate for damages. Also, the Quebec Labour Standards Act, which prohibits psychological harassment, provides that if an employer contravenes a provision of the Act, an officer, director, employee, or agent of the employer is deemed to have committed the offense if he or she "prescribed or authorized the perpetration of the offence or agreed or was a party thereto" (§ 142).	Human rights are generally subject to provincial, territorial, or federal regulation.

B. How is employment law enforcement handled in your province?

Province enforcement agency	Claims deadline	Defenses	Remedies	Posting requirements
Each province/territory has a separate ministry office responsible for employment standards.	Contact the appropriate ministry for the province/territory in question.	Contact the appropriate ministry for the province/territory in question.	Contact the appropriate ministry for the province/territory in question.	Contact the appropriate ministry for the province/territory in question.

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APPENDIX A: PROVINCE AGENCIES (CONTINUED)

C. What workers' compensation issues must employers be aware of?

Province agency in charge	Appeals handling	Employers required to carry WC insurance	Retaliation protection
Alberta: Workers' Compensation Board. **British Columbia:** Worksafe BC. **Manitoba:** Workers' Compensation Board. **New Brunswick:** Workplace Health, Safety and Compensation Commission. **Newfoundland and Labrador:** Workplace Health, Safety and Compensation Commission. **Northwest Territories:** Workers' Compensation Board. **Nova Scotia:** Workers' Compensation Board. **Nunavut:** Safety and Compensation Commission. **Ontario:** Workplace Safety and Insurance Board. **Prince Edward Island:** Workers' Compensation Board. **Quebec:** Commission de la sante' et securite du travail. **Saskatchewan:** Workers' Compensation Board. **Yukon:** Workers'Compensation Health and Safety Board.	Decisions and appeals are handled through an administrative process. In certain circumstances, parties may seek judicial review of the decision of the administrative tribunal once the administrative avenues of redress have been exhausted. In **Prince Edward Island**, a decision of the Workers' Compensation Appeals Tribunal may be appealed to the Court of Appeal so long as the appeal raises a question of law.	**Alberta:** All except those exempted by regulation. **British Columbia:** All except those exempted by order of the Workers' Compensation Board. **Manitoba:** "Those defined by statute and regulation." The Government of Manitoba added a number of new industries effective January 1, 2009. **New Brunswick:** All except those exempted by statute or regulation. **Newfoundland and Labrador:** Those working in construction or renovation of a private residence,professional athletes, and workers performing work for an individual in or about their private residence. **Northwest Territories:** All except those excluded by statute. **Nova Scotia:** Those prescribed by regulation. **Nunavut:** All except those excluded by statute. **Ontario:** "Those defined by statute and regulation." **Prince Edward Island:** All except those exempted by order of the Board, approved by the Lieutenant Governor in-counsel, statute or regulation. **Quebec:** All employers. **Saskatchewan:** All except those exempted by regulation. **Yukon:** All except those excluded by statute or regulation.	The statutes of **Alberta, Manitoba, New Brunswick, Nova Scotia,** and **Quebec** expressly prohibit employers from retaliating against employees for making claims. **Alberta:** Workers' Compensation Act, s. 22(14), 140.1. **Manitoba:** The Workers Compensation Act, s. 19.1. **New Brunswick:** Workers' Compensation Act, s. 42.1. **Nova Scotia:** Workers Compensation Act, s. 88. **Quebec:** Act Respecting Industrial Accidents and Occupational Diseases, s. 32.

Appendix B

UNEMPLOYMENT COMPENSATION

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APPENDIX B: UNEMPLOYMENT COMPENSATION ISSUES

A. Does your province expand unemployment compensation coverage beyond federal law?

Statute
Employment insurance or unemployment compensation is covered by the Employment Insurance Act, a federal statute. Employment insurance benefits are payable to those who lose their jobs through no fault of their own, those who are unable to work because of sickness, injury, or quarantine, those who are pregnant, recently given birth, adopting a child, or caring for a newborn, those who provide care for a gravely ill family member who is in significant risk of death, and parents who are away from work to care for a critically ill or injured child. ■ *Citation:* Employment Insurance Act, s. 5

B. Does your province exclude certain classes of employees from unemployment compensation coverage?

Statute	Categories of Employees
The Employment Insurance Act provides employment insurance to all employees employed under any express or implied contract of service or apprenticeship, written or oral, whether the earnings of the employed person are received from the employer or some other person. ■ *Citation:* Employment Insurance Act, s. 5(2).	Under the Employment Insurance Act, no employment insurance is available to certain categories of employees, including those employed by an international organization, under an exchange program if the employment is not remunerated by an employer that is resident in Canada, and where the employer and employee are not dealing at arm's length.

C. What are your province's unemployment tax rules and rates? How are unemployment charges allocated among multiple employers? Does your province permit voluntary contributions?

Statute	Taxable wage base	New employer tax rate	Minimum tax rate	Maximum tax rate	Other taxes	Time until experience takes effect	Method for allocating charges to base period employers	Voluntary contributions
Employment Insurance Act, s. 26	Benefits received as employment insurance under the Act, for the purposes of the Income Tax Act, are not earnings from employment.	Not applicable.	Not applicable.	Not applicable.	Not applicable.	Not applicable.	Not applicable.	The Canada Employment Insurance Commission may enter into an agreement with a government, government agency in Canada or any other public or private organization to provide for the payment of contributions for all or a portion of any costs of benefits or measures that are similar to employment benefits or support measures. ■ *Citation:* Employment Insurance Act, s. 63.

APPENDIX B: UNEMPLOYMENT COMPENSATION ISSUES (CONTINUED)

D. What are the qualification requirements for employees in your province to receive unemployment compensation?

Statute	Benefit qualification requirement	Base period	Benefit year	Weekly benefit amount	Minimum/maximum benefit amount	Waiting period
Employment Insurance Act.	A person's right to receive employment insurance depends on the regional rate of unemployment and the number of hours of insurable employment during a qualifying period. The qualifying period is the preceding 52 weeks.	The length of the benefit period also depends on the number of hours of insurable employment in a qualifying period and the regional rate of unemployment. The benefit period ranges from 14 to 45 weeks. The benefit period may be increased under certain circumstances, however, the legislation establishes maximum benefit periods in those cases.	The benefit period is typically 52 weeks for regular benefits (if a person has lost their job through no fault of their own). The benefit period is determined at the time that the claimant submits his/her claim. The benefit period can be extended by the number of weeks in which the claimant was (a) incapable of work because of a prescribed illness, injury, quarantine or pregnancy, (b) in jail and was not found guilty, (b) in receipt of earnings due to severance from a former employer, (c) in receipt of workers' compensation, (d) in receipt of payments under the provincial law due to having ceased working because the work was dangerous to the claimant, her unborn child or a child she was breastfeeding. However, the total benefit period set at the time of the claim will remain unchanged. There are other extensions available for other types of employment insurance, such as sickness benefits, parental benefits, or compassionate care benefits. The maximum benefit period despite any extensions is 104 weeks.	The weekly benefit amount payable to a claimant is 55% of their weekly pay for regular benefits.	The maximum yearly insurable earnings amount for 2017 is $51,300, which is $543 per week.	A claimant is not entitled to receive benefits in the one week after unemployment. ■ *Citation:* Employment Insurance Act, ss. 4, 12-14, Schedule I.

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APPENDIX B: UNEMPLOYMENT COMPENSATION ISSUES (CONTINUED)

E. Does your province reduce unemployment benefits for workers with part-time or other supplemental income? Does your province increase benefits for individuals with dependents?

	Partial unemployment	
Statute	**Disqualification threshold (no benefit if earnings exceed amount indicated)**	**Earnings disregarded in calculating benefit**
Employment Insurance Act.	If a claimant receives income in the one week waiting period, those earnings will be deducted from the benefits payable for the first three weeks of the benefit period. During any other week of unemployment during the benefit period, any income from partial employment will be deducted.	The Commission will deduct $50 for any income received if the rate of weekly benefits is less than $200. If the weekly benefit is more than $200, 25% of the rate will be deducted for partial employment. No deductions are allowed for any income or allowance received from employment benefits or attending a course or program of instruction or training. ■ *Citation:* Employment Insurance Act, s. 19.

F. Does your province provide a "good cause exception" that allows unemployment benefits for certain individuals who voluntarily leave their jobs?

Statute	**Disqualification**	**Good cause for voluntarily leaving due to marital, domestic, or familial obligations**
Employment Insurance Act.	A claimant is disqualified from receiving any employment insurance benefits if the loss of employment was as a result of the employee voluntarily leaving the employment without just cause. Further, an employee is not entitled to receive any benefits if the loss of employment was as a result of voluntarily leaving without just within three weeks before the expiration of the term of employment or the day on which the claimant is to be laid off according to a notice already given by the employer. **Due to illness:** Generally, a claimant who fails to prove that they are unable to work because of an illness, injury or quarantine, is not entitled to the benefits. A claimant who qualified to receive benefits but has fewer than 600 hours of insurable employment in the qualifying period who stops work because of an illness, injury or quarantine is not entitled to receive benefits while unable to work for that reason. Employment Insurance Act, s. 18, 21. **For other reasons:** A claimant is disqualified from receiving any employment insurance benefits if the loss of employment was a result of misconduct. On the other hand, an employee is disentitled for a specific period of time from receiving employment insurance benefits if loss of employment was as a result of a suspension for misconduct, a voluntarily period of leave from the employment without just cause if the period was authorized by the employer and there is an agreed date on which the employment is to resume, a work stoppage attributable to a labour dispute. An employee is also not entitled to receive any employment insurance benefits if the employee is an inmate of a prison or similar institution or is not in Canada. A claimant is not entitled to benefits while s/he is engaged in jury service.	The only exception to the disqualification or disentitlements is if the claimant left or refused to accept employment because the claimant would have lost the right to become or refrain from becoming a member of a union or the right to continue to be a member of a union (Employment Insurance Act, s. 18, 30-37).

APPENDIX B: UNEMPLOYMENT COMPENSATION ISSUES (CONTINUED)

G. What are your province's rules on disqualification from benefits for employees who lose their jobs due to misconduct?

Statute	Period of disqualification for misconduct connected with work	Conduct not connected with work	Suspension
Employment Insurance Act.	A claimant is completely disqualified from receiving any employment insurance benefits if the loss of employment was a result of misconduct. Misconduct is not defined in the Act.	The Employment Insurance Act does not differentiate between misconduct that is connected with work and misconduct that is not. Sometimes, when a former employee is awarded employment insurance regular benefits, an employer may intervene and ask for a reconsideration of the claim on the basis that the employee engaged in misconduct. It would be left to the Canada Employment Insurance Commission to determine whether the misconduct rises to the level that is required under the Act to disqualify an employee from obtaining benefits.	An employee is disentitled for a specific period of time from receiving employment insurance benefits if loss of employment was as a result of a suspension for misconduct. The period of disentitlement expires when the suspension period ends, the claimant loses or voluntarily leaves the employment or the claimant after the beginning of the period of suspension, accumulates with another employer the number of hours of insurance employment required for qualification. ■ *Citation:* Employment Insurance Act, s. 30-31.

H. What are your province's requirements for individuals to be available to work in order to continue receiving benefits?

Statute	Available for work	Special rules on availability of students	Special rules on availability of employed claimants	Other special rules	Actively seeking work requirement
Employment Insurance Act.	A claimant is not entitled to be paid benefits for a working day in a benefit period for which the claimant fails to prove that s/he was capable of and available for work and was unable to find suitable employment. Employment Insurance Act, s. 18.	The Employment and Social Development Canada (ESDC) staff may refer claimants to attend a course, program of instruction or training. This does not disqualify a claimant from receiving regular employment insurance benefits. Claimants who are attending a course, program of instruction or training at their own expense without being directed to do so by ESDC Staff, must still show that the course, program of instruction or training does not affect the claimant's availability for work and a continued search for suitable employment.	Claimants must still demonstrate that s/he is capable of and available for work and unable to find suitable employment while partially employed.	There are specific rules concerning claimants who are self-employed in any profession and claimants who are self-employer fishers. ■ *Citation:* Employment Insurance Act, Part VII.1, Part VIII.	The requirement to be capable and available requires the claimant to actively seek employment opportunities. The Canada Employment Insurance Commission may require the employee to prove that the claimant is making reasonable and customary efforts to obtain suitable employment. Employees who are receiving employment insurance benefits are advised to keep a log of their job search, including the names of employers, the dates on which the employee requested or applied for a job, and the type of work that the employee is looking for. ■ *Citation:* Employment Insurance Act, s. 50(8).

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APPENDIX B: UNEMPLOYMENT COMPENSATION ISSUES (CONTINUED)

I. What are your province's rules for disqualifying individuals from benefits when they refuse work, are involved in labor disputes, or commit benefit fraud?

Statute	Period of disqualification for refusing suitable work	Labor disputes	Fraud in obtaining benefits	Criminal penalties
Employment Insurance Act.	A claimant is not entitled to employment insurance benefits if the claimant fails to prove that the claimant was unable to obtain suitable employment. The Commission may take several factors into consideration when assessing the suitability of the employment opportunity including personal health and physical circumstances, working conditions and wages, commuting time, and hours of work. ■ *Citation:* Employment Insurance Act, s. 27-29.	An employee is disentitled for a specific period of time from receiving employment insurance benefits if loss of employment was as a result of a work stoppage attributable to a labour dispute at the factory, workshop or other premises where the employee works. The disentitlement period expires at the end of the work stoppage or when the employee becomes regularly engaged in other insurable employment, whichever is earlier. An employee is not disentitled if s/he proves that the employee is not participating in, financing or directly interested in the labour dispute that caused the work stoppage. The disentitlement period is suspended for a period where the claimant qualified for special benefits under the Act, or if the claimant establishes that prior to the work stoppage, the employee had anticipated being absent from employment because of any reason entitling him/her to benefits under the Act and had begun making arrangements in relation to the absence. ■ *Citation:* Employment Insurance Act, s. 36. Exclusion because of employer actions: An employee is disqualified from receiving any employment insurance benefits if the loss of employment is as a result of the employee's misconduct. Further, an employee is disentitled for a certain period of time from receiving any employment insurance benefits if the loss of employment is as a result of the employee's suspension from the employment. An employee can qualify for employment insurance benefits if the employee had just cause for voluntarily leaving employment or taking leave from employment if the employee had no reasonable alternative having regard to all the circumstances. Circumstances to be considered include sexual or other harassment, discrimination, dangerous working conditions, and significant changes in work duties. ■ *Citation:* Employment Insurance Act, s. 29-31. Exclusion for certain workers: There are no exclusions for certain workers. However, certain classes of employees are not eligible to qualify for employment insurance, including those employed by an international organization, under an exchange program if the employment is not remunerated by an employer that is resident in Canada, and where the employer and employee are not dealing at arm's length. ■ *Citation:* Employment Insurance Act, s. 5.	There is no explicit exclusion for individuals who have been convicted of committing fraud in relation to employment insurance benefits or other benefits.	The Canada Employment Insurance Commission may impose on a claimant, an employer, or any other person acting for a claimant or employer or pretending to act for an employer a penalty if it becomes aware of facts that in its opinion establish that the claimant, employer or the other person engaged in fraudulent activities. ■ *Citation:* Employment Insurance Act, s. 38-39. **Employee fraud:** The Canada Employment Insurance Commission can levy a penalty on the basis that the claimant or another person knowingly made a false or misleading representation, knowingly provided false or misleading information, made a declaration that was false or misleading because of non-disclosure of facts, or has imported or exported a document issued by the Commission for the purpose of defrauding or deceiving the Commission. ■ *Citation:* Employment Insurance Act, s. 38. **Employer fraud:** The Canada Employment Insurance Commission can levy a penalty on the basis that the employer, another person acting for an employer or pretending to act for an employer knowingly made a false or misleading representation, knowingly provided false or misleading information, made a declaration that was false or misleading because of non-disclosure of facts, or has imported or exported a document issued by the Commission for the purpose of defrauding or deceiving the Commission. ■ *Citation:* Employment Insurance Act, s. 39.

Appendix C



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About Brian's Practice

Brian is a partner with Fasken Martineau DuMoulin LLP in the Firm's Labour, Employment & Human Rights Group, practicing in the firm's Toronto, Ontario office. Since 1981, his practice has focused on management-side labour and employment law. Brian represents both private sector and public sector employers, including many multinational corporations. He appears regularly before tribunals such as arbitration boards, labour relations boards, employment standards adjudicators and human rights boards of inquiry. Brian also acts as counsel in employment-related civil actions, judicial reviews and appeals at all levels.

He has extensive experience in labour negotiations for a wide variety of employers in the private and public sectors. In 1995, he was named to national mediation-arbitration panels chaired by Mr. Justice George Adams to resolve national railroad strikes involving CP Rail and five of its unions. Brian is the editor-in-chief of Fasken Martineau's new weekly bulletin, HR Space. He was granted the designation of Certified Human Resources Professional (C.H.R.P.) by the Human Resources Professionals Association of Ontario (HRPAO). He is a past director of HRPAO and past-president of both the Toronto Human Resource Professionals Association and the Toronto Area Industrial Relations Association. He is also a National Board Member for Breakfast for Learning. He is the firm's primary representative on the North America-wide Employers Counsel Network.

Education

University of Ottawa, Common Law Section, LLB, 1977
University of Michigan, MBA and Dipl. I.R., 1979

Publications & Speeches

Editor-in-Chief, *Northern Exposure: Employment Law for U.S. Companies with Employees in Canada*, a blog on HRHero.com (BLR®)
Editor, *Canadian Employment Law for U.S. Companies* (1993-2001, M. Lee Smith Publishers)

Professional Recognition

Listed in *The Best Lawyers in Canada* (2010-2014) for Labor and Employment Law
Listed in *Chambers Global: The World's Leading Lawyers* as a leading lawyer in the area of labour and pensions employment (2009-2014)
2014 International Law Office Client Choice Award for Employment and Labour in Ontario
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Listed in *Canadian Legal Lexpert Directory*, a guide to the leading law firms and practitioners in Canada, as a leading lawyer in the area of labour relations (2007-2013)
Listed as one of the leading labor lawyers in Canada in the 10th anniversary edition of *Practical Law Company's Labour and Employee Benefits* multi-jurisdictional guide.

Professional Activities
Human Resources Professionals Association of Ontario, Board of Directors/Senior Vice President, Government Affairs (1992-1997)
Toronto Area Industrial Relations Association, past President
Toronto Human Resource Professionals Association, past President
Ontario Bar Association, Labour and Employment Law Section, Member
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About Sarah's Practice
Sarah Graves is a partner in the Labour and Employment Group in our Toronto office. Sarah focuses her practice on all aspects of employment law, litigation and human rights. Sarah represents private and public employers and academic institutions on matters such as employment standards, employment contracts, wrongful dismissal, workplace investigations, human rights including sexual harassment claims involving allegations of sexual assault, whistleblower claims, accommodation and disability and leave laws. Her cases often include complex privilege and e-discovery issues. Sarah regularly provides strategic and practical advice to employers on a wide range of issues including multi-jurisdiction and international reorganizations. Sarah conducts employment-related audits and represents employers dealing with wage and hour claims including conducting wage and hour audits and advising regarding class action avoidance strategies.

For more than ten years Sarah practiced as an employment litigator with a major US law firm in New York and Connecticut litigating cases in state and federal court including conducting jury trials. This US employment litigation experience enables Sarah to provide trusted advice to US and multinational employers on cross-border issues. She also conducts training programs on Canadian labour and employment law for US and international clients.

Sarah has conducted investigations on varied topics including allegations of discrimination, sexual harassment, employee misconduct including theft and fraud, and whistleblower claims. She has extensive experience advising clients on the conduct of investigations including investigation design, documentation, privilege issues, and report writing. Sarah regularly conducts training programs for executives, managers, human resources professionals and in-house lawyers on a variety of topics including the conduct of effective investigations, human rights and harassment prevention.

Education
New York University School of Law , LL.M., 1995
Dalhousie University, L.L.B., 1991
Acadia University, B.A., International Relations, 1988

Major Publications & Speaking Engagements
Update on Employer Obligations: Bill 132 and AODA - Toronto, Ontario
HR Industry Meeting, April 19, 2016
Labour, Employment and Human Rights Group Seminar (Fasken Martineau Institute), February 9, 2016
3rd Annual Conducting Effective Workplace Investigations: Just the Facts— Toronto, Ontario
Lexpert® Events, November 10, 2015

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Andrew Bratt is a partner in Fasken Martineau's Labour and Employment Law group. Andrew's practice is focused on all aspects of employment law, including recruitment and hiring, employment agreements, restrictive covenants, employment standards, workplace policies, disability management, accommodation, workforce reductions, discipline, terminations, unjust dismissal, wrongful dismissal and disability benefits related claims. Andrew also advises corporate clients with respect to labour and employment issues arising out of various types of corporate transactions. Andrew regularly represents employers in employment-related litigation, human rights proceedings, employment standards claims and workers' compensation proceedings. Andrew has appeared before a variety of administrative tribunals, courts and mediators.

In addition to litigating, Andrew partners with his clients to develop and implement proactive, strategic and practical initiatives aimed at fostering positive employee relations in the workplace and minimizing employment-related liability.

Andrew recently completed the Certified Legal Project Manager® program, which is the equivalent of a graduate level course consisting of educational and practical components in legal project management.

Education
University of Ottawa, JD, 2007
University of Ottawa, LL.L, 2006
McGill University, B.A., 2003

Major Publications & Speaking Engagements
No Requirement to Accommodate Store Manager Who Could Not Serve Customers | The HR Space - Labour, Employment and Human Rights Bulletin, March 25, 2015
Managing Disabilities in the Workplace and Frustration of Contract - Toronto, Ontario
Labour, Employment and Human Rights Group Seminar (Fasken Martineau Institute), June 14, 2016
Employment Contracts 101 - Toronto, Ontario
Labour, Employment and Human Rights Group Seminar (Fasken Martineau Institute), March 25, 2015

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