

# RECENT CHANGES TO THE CANADA LABOUR CODE

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**Bill C-63 – *Budget Implementation Act, 2017, No. 2***

**Bill C-86 – *Budget Implementation Act, 2018, No. 2***

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<b>INTRODUCTION .....</b>	<b>5</b>
<b>USING THIS DOCUMENT .....</b>	<b>6</b>
<b>SUBSTANTIVE CHANGES TO THE CANADA LABOUR CODE UNDER BILL C-63 .....</b>	<b>7</b>
Modified Hours of Work .....	7
Notice of Shift Changes .....	7
Overtime Pay or Time Off .....	7
Right to Refuse Overtime .....	9
Flexible Work Arrangements .....	10
Entitlement to Vacation in One or More Periods .....	11
Interruption and Postponement of Vacation .....	12
Substitution of Holidays .....	12

Family Responsibility Leave (replaced by Bill C-86 Personal Leave).....	12
Leave for Victims of Family Violence .....	13
Leave for Traditional Aboriginal Practices .....	15
Bereavement Leave .....	15
<b>Modifications to Bill C-63 made in Bill C-86.....</b>	<b>16</b>
Personal Leave .....	16
Leave for Victims of Family Violence (replaced by new version in Bill C-86).....	17
<b>SUBSTANTIVE CHANGES TO THE CANADA LABOUR CODE UNDER BILL C-86 .....</b>	<b>18</b>
Parental Leave.....	18
Maternity and Parental Leave.....	19
Qualified Medical Practitioner .....	19
Occupational Health and Safety - work refusal .....	20
Employee Misclassification.....	20
Breaks.....	20
Rest Period .....	21
Notice - Work Schedule .....	22
Age of Employment.....	23
Breaks for Medical Reasons or Nursing .....	24
Equal Pay.....	24
Notice of Employment Opportunities.....	26
Vacation Pay.....	26
Transfer of Work, Undertaking, or Business (now including Contract Flips).....	26
Holiday Pay.....	28
Temporary Help Agencies .....	28

Maternity Leave .....	29
Parental Leave.....	29
Leave Related to Critical Illness .....	29
Leave Related to Death or Disappearance of a Child .....	29
Leave for Court or Jury Duty .....	30
Group Terminations.....	30
Group Terminations.....	31
Individual Termination of Employment .....	31
Re-Imbursement for Work-Related Expenses .....	32
Medical Leave .....	33
Leave of Absence for Members of the Reserve Force .....	34
Information Related to Employment.....	35
<b>AMENDMENTS TO REGULATIONS AND "INTERPRETATION, POLICIES, AND GUIDELINES (IPGS)" COINCIDING WITH THE CLC AMENDMENTS THAT CAME INTO FORCE ON SEPTEMBER 1, 2019 .....</b>	<b>36</b>
SUMMARY OF AMENDMENTS TO CANADA LABOUR STANDARDS REGULATIONS .....	36
LABOUR CANADA INTERPRETATIONS, POLICIES AND GUIDELINES (IPGS) .....	38
Scope of application - Canada Labour Code, part III - Section 1-802-1-IPG- 101 .....	38
30 minute breaks – Canada Labour Code, part III – Division I - 802-1-IPG-100.....	38
Personal Leave – Stacking – 802-1-IPG-099.....	39
Reasonably practicable – 802-1-IPG-098.....	39
Family member – 802-1-IPG-097 .....	40
Family responsibilities – 802-1-IPG-096 .....	40
Reasonable steps - 802-1- IPG-095 .....	40
Situation that the employer could not have reasonably foreseen, Exceptions - 802-1-IPG-091 .....	40

Imminent or serious threat 802-1-IPG-092..... 40

Threat of damage to or loss of property - 802-1-IPG-093 ..... 40

Serious interference with the operation of the establishment - 802-1-IPG-094..... 41

**Appendix – Full Text of the Relevant Sections of Bill C-63- *Budget Implementation Act, 2017, No. 2*.....42**

**Appendix – Full Text of the Relevant Sections of Bill C-86- *Budget Implementation Act, 2018, No. 2*.....61**

## INTRODUCTION

The federal government's budget implementation legislation for 2017 and 2018 (Bills C-63 and C-86) included extensive changes to Part III of the Canada Labour Code ("*CLC*" or "the Code")

Part III of the Canada Labour Code sets out minimum employment standards for employers operating under federal jurisdiction. As minimum standards legislation the Code's provisions do not override more favourable arrangements provided for in a collective agreement, but grievances can be filed based on the Code's provisions where a collective agreement is less beneficial.

Bill C-63 received Royal Assent on December 14, 2017 and, on December 13, 2018, Bill C-86 received Royal Assent. However, the amendments to the Code did not immediately come into force.

On September 1, 2019 all of the substantive amendments made to the Canada Labour Code in Bill C-63 came into force, alongside a substantial number of amendments in Bill C-86.

As of the date of the current document (November 2019) there are a significant number of substantive amendments to the Canada Labour Code in Bill C-86 that are not yet in force, and for which no specific coming into force date has been set including, by way of example, the new equal pay for equal work provisions set out at s.452 of Bill C-86.

Unions should also be aware that the legislation includes some specific directions about how and when some changes will affect existing collective agreements. An example is again provided by the equal pay provisions which state that, if there is a conflict between the new provisions and a collective agreement, the collective agreement will prevail over the Code's provisions for two years after the date that the provisions come into force.

In this document information about the date at which a provision comes into force is in the column headed "Coming Into Force/Transitional Provisions".

This document is limited to the changes and planned changes to the Canada Labour Code introduced by Bills C-63 and 86. Other changes to the Canada Labour Code are contained in Bill C-65, which will introduce significant new obligations relating to workplace harassment and violence and which will come into force in 2020.

## USING THIS DOCUMENT

This document is best used on an electronic device. The Table of Contents contains active links to the sections described.

The tables sets out the highlights of each provision, and not the entire provision. A link is provided to the full text of the amending legislation. The table also identifies the relevant section of the [Canada Labour Code](#).

This document includes a summary and an external link to the amendments to the Canada Labour Standards Regulations that were brought into force on September 1, 2019 to implement the legislative changes.

In addition there are summaries and external links to Labour Canada Interpretations, Policies and Guidelines ("IPGs") relating to the new Canada Labour Code provisions. The IPGs are interpretations of legislation created by Labour Canada to provide to its employees to ensure consistent application of the legislation across the country by those employees. They are not legally binding and are provided here for information purposes. Some of the key IPGs are referred to in the table. Others provide interpretations that are applicable to a number of sections.

This document is provided as a convenient reference document. For any specific legal issue the applicable current provisions of the Canada Labour Code should be reviewed and legal advice obtained as necessary.

**SUBSTANTIVE CHANGES TO THE CANADA LABOUR CODE UNDER BILL C-63**

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
<b>Modified Hours of Work</b>	<a href="#">s. 195-196</a>  CLC, s. 170-172	These sections allow an employer to modify or cancel a work schedule under which the hours of work exceed the standard or maximum hours of work subject to approval by the trade union or, in a non-unionized workplace, by 70% of the affected employees.	The provisions have been modified to add that an employer can also modify or cancel the schedule of an individual employee, subject to approval by the trade union.  In a non-unionized workplace, written approval by the individual employee is required.	This section came into force on September 1, 2019.
<b>Notice of Shift Changes</b>	<a href="#">s. 197</a>  CLC, s. 173.1	N/A	This new section requires an employer to give at least 24 hours notice of any shift change or addition.  Sub-section (2) provides for limited exceptions where the change was necessary due to an unforeseeable threat to life, health or safety, damage or loss of property, or "serious interference with the ordinary working of the employer's industrial establishment."	This section came into force on September 1, 2019.  <i>IPG "Scope of Application" applies</i>
<b>Overtime Pay</b>	<a href="#">s. 197</a>	<b>Overtime pay</b>	This Section has been repealed	This section came into force on September 1, 2019.

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
or Time Off	CLC s. 174	<p><b>174</b> When an employee is required or permitted to work in excess of the standard hours of work, the employee shall, subject to any regulations made pursuant to section 175, be paid for the overtime at a rate of wages not less than one and one-half times his regular rate of wages.</p>	<p>and replaced:</p> <p><b>Overtime or time off</b></p> <p><b>174 (1)</b> Subject to any regulations made under section 175, when an employee is required or permitted to work overtime, they are entitled to</p> <p>(a) be paid for the overtime at a rate of wages not less than one and one-half times their regular rate of wages; or</p> <p>(b) be granted not less than one and one-half hours of time off with pay for each hour of overtime worked, subject to subsections (2) to (5).</p> <p>Sub-section (2) requires that the employee and employer agree in writing, and that the time off be used within three months unless otherwise agreed (e.g. in a collective agreement)</p> <p>Sub-section (3) specifies that the agreed period in (2) cannot be</p>	



Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
			<p>longer than 12 months.</p> <p>Sub-section (4) if the employee does not take the time off requires within the specified period, the employer must pay overtime wages within 30 days of the end of the period</p> <p>Sub-section (5) if the employee ceases to be employed, the employer must pay out the overtime for any time-off not taken, within 30 days</p>	
<b>Right to Refuse Overtime</b>	<p><a href="#">s. 197</a></p> <p><i>CLC</i>, s. 174.1</p>	N/A	<p>This section creates a new limited right to refuse overtime to fulfil certain family responsibilities, set out in s. 206.6(1)(b) or (c) of the <i>Act</i>.<sup>1</sup></p> <p>206.6(1)(b) relates responsibilities related to the health or care of any family members.</p> <p>206.6(1)(c) relates to responsibilities related to education</p>	This section came into force on September 1, 2019.

<sup>1</sup> Under Bill C-63 this right would have applied to all of sub-subsection 206.6(1). Section 511 of Bill C-86 modified this provision so that it only applies to the family responsibilities set out in s.206.6(1)(b) or (c) of the *CLC*.

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
			<p>of any family members under 18 years of age.</p> <p>Sub-section (2) makes this right subject to the employee first taking reasonable steps to carry out the responsibility without refusing the overtime.</p> <p>Sub-section (3) provides for limited exceptions where the change was necessary due to an unforeseeable threat to life, health or safety, damage or loss of property, or "serious interference with the ordinary working of the employer's industrial establishment."</p>	
<b>Flexible Work Arrangements</b>	<a href="#">s. 199</a> <i>CLC</i> , s. 177.1	N/A	<p>This section of the Bill creates s. 177.1 under a new division (Division I.1) of the <i>Act</i>. This section provides that an employee who has completed six consecutive months of continuous employment with one employer may request a change with respect to the number of hours that the employee is required to work, the work schedule, the location of work, and any other terms and conditions of</p>	<p>This section came into force on September 1, 2019.</p>

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
			<p>employment that apply to the employee and that are prescribed by regulation.</p> <p>Sub-section (3)(c) provides the grounds upon which an employer can refuse the request.</p> <p>Sub-section (6) provides that an employer cannot change any term or condition of employment contained in a collective agreement unless the change is agreed to in writing by the employer and the trade union.</p>	
<p><b>Entitlement to Vacation in One or More Periods</b></p>	<p><a href="#">s. 200-201</a> <i>CLC</i>, s. 184.1, 185</p>	<p>N/A</p>	<p>The Bill enacts section 184.1 which permits an employee to take vacation in more than one period if the employee makes a request in writing and the employer approves it in writing.</p> <p>Sub-section 185(b) was changed to reflect that when vacation is taken in more than one period, the employer shall pay the proportion of the vacation pay corresponding to the amount of vacation taken for</p>	<p>This section came into force on September 1, 2019.</p>

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
			each period	
<b>Interruption and Postponement of Vacation</b>	<a href="#">s. 202</a>  <i>CLC</i> , s. 187.1, 187.2	N/A	<b>s. 187.1</b> permits an employee to interrupt their vacation in order to take leave under certain enumerated sections, and to resume vacation immediately at the end of that leave.  <b>s. 187.2</b> permits an employee to postpone their vacation until the day after a leave of absence, taken under certain specified sections of the <i>Act</i> , ends.	This section came into force on September 1, 2019.
<b>Substitution of Holidays</b>	<a href="#">s. 203</a>  <i>CLC</i> , s. 195	This section allows an employer to substitute any other day for a general holiday, upon written consent of the union, or by 70% of the affected employees in non-unionized workplaces.	The provisions have been modified to add that an employer can also substitute a holiday for an individual employee, subject to approval by the trade union.  In a non-unionized workplace, written approval by the individual employee is required.	This section came into force on September 1, 2019.
<b>Family Responsibility Leave (replaced by</b>	<a href="#">s. 206-209</a>  <i>CLC</i> , s. 206.6	N/A	Bill C-63 would have enacted 3 days of "Family Responsibility Leave" per calendar year for an employee's responsibilities related	Personal Leave provisions came into force on September 1, 2019.

Bill C-86

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12

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
<b>Personal Leave)</b>			<p>to:</p> <p>(a) the health or care of any of their family members; or</p> <p>(b) the education of any of their family members who are less than 18 years of age.</p> <p>Bill C-86 subsequently replaced this with 5 days of personal leave for any employee. The first 3 days of personal leave are paid for an employee with at least 3 months service. It also expanded the list of applicable family responsibilities.<sup>2</sup></p>	
<b>Leave for Victims of Family Violence</b>	<p><a href="#">s. 206-209</a> <i>CLC</i>, s. 206.7</p>	N/A	<p>This section grants every employee entitlement to a leave of absence up to 10 days in every calendar year who is either a victim of family violence, or is the parent of a child who is a victim of family violence.</p> <p>The Section sets out that the leave is in order to enable the employee to:</p>	This section came into force on September 1, 2019.

<sup>2</sup> Please see table below- "Bill C-86 Modifications to Bill C-63,"

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
			<p>(a) to seek medical attention for themselves or their child in respect of a physical or psychological injury or disability;</p> <p>(b) to obtain services from an organization which provides services to victims of family violence;</p> <p>(c) to obtain psychological or other professional counselling;</p> <p>(d) to relocate temporarily or permanently;</p> <p>(e) to seek legal or law enforcement assistance or to prepare for or participate in any civil or criminal legal proceeding; or</p> <p>(f) to take any measures prescribed by regulation.</p> <p>Bill C-86 amended this section to provide that only the first 5 days of the leave are paid, for an employee</p>	

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
			with 3 months service. <sup>3</sup>	
<b>Leave for Traditional Aboriginal Practices</b>	<a href="#">s. 206-209</a>  <i>CLC</i> , s. 206.8	N/A	This section grants aboriginal employees with at least 3 months service a leave of absence of up to 5 days each calendar year to engage in traditional Aboriginal practices, including: <ul style="list-style-type: none"> <li>(a) hunting;</li> <li>(b) fishing;</li> <li>(c) harvesting; and</li> <li>(d) any practice prescribed by regulation.</li> </ul>	This section came into force on September 1, 2019
<b>Bereavement Leave</b>	<a href="#">s. 210</a>  <i>CLC</i> , s. 210	Every employee is entitled to 3 days bereavement leave for the death of an immediate family member, which must begin immediately following the day of death.  If an employee has at least 3 months service, all 3 days are	Every employee is entitled to up to 5 days of bereavement leave for the death of an immediate family member.  The leave can be taken during the period that begins on the day on which the death occurs and ends six weeks after the latest of the days on which any funeral, burial or	This section came into force on September 1, 2019.

<sup>3</sup> Please see table below- "Bill C-86 Modifications to Bill C-63,"

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
		paid.	<p>memorial service of that immediate family member occurs, unless extended in writing.</p> <p>If the employee has at least 3 months service, the employee is entitled to the first 3 days paid.</p>	

**Modifications to Bill C-63 made in Bill C-86**

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	Coming into Force and Transition Provisions
<b>Personal Leave</b>	<p><a href="#">s. 514</a></p> <p>CLC, 206.6</p>	<p>The Budget Implementation Act 2017, No. 2 would have enacted 3 days of "Family Responsibility Leave" per calendar year for employees with at least 3 months service, for an responsibilities related to:</p> <p>(a) the health or care of any</p>	<p>Bill C-86 replaces the proposed family responsibility leave with a new "Personal Leave" of 5 days per calendar year, for any employee, for the following:</p> <p>(a) treating their illness or injury;</p> <p>(b) carrying out responsibilities</p>	<p>This Personal Leave provisions came into force on September 1, 2019</p> <p><i>IPG "Stacking" applies – outlining Labour Canada's position on interaction with existing contractual leave</i></p>



		<p>of their family members; or</p> <p>(b) the education of any of their family members who are less than 18 years of age.</p>	<p>related to the health or care of any of their family members;</p> <p>(c) carrying out responsibilities related to the education of any of their family members who are under 18 years of age;</p> <p>(d) addressing any urgent matter concerning themselves or their family members;</p> <p>(e) attending their citizenship ceremony under the Citizenship Act; and</p> <p>(f) any other reason prescribed by regulation.</p> <p>If the employee has completed 3 consecutive months of continuous employment with an employer, the first 3 days are paid.</p> <p><i>IPG "family responsibilities"</i></p>	<i>provisions</i>
<p><b>Leave for Victims of Family Violence (replaced by new version in Bill C-86)</b></p>	<p><a href="#">s. 514</a> CLC, 206.7(2.1)</p>	<p>The Budget Implementation Act 2017, No. 2 enacted 10 days of leave to an employee who is the victim of family violence or is the parent of a child who is the victim of family violence.</p>	<p>Bill C-86 made the first 5 days paid for an employee who has completed 3 consecutive months of continuous employment with an employer.</p>	<p>This section, as revised by Bill C-65 came into force on September 1, 2019.</p>

**SUBSTANTIVE CHANGES TO THE CANADA LABOUR CODE UNDER BILL C-86**

Affected Rights	Section of Bill/ Statute	Current Law	Changes Under Bill C-86	<a href="#">Coming into Force and Transition Provisions</a>
<b>Parental Leave</b>	<a href="#">s. 303-307</a>  <i>Employment Insurance Act (EIA),</i> s. 12(4.01) <sup>4</sup>	Maximum parental leave benefits paid under the Act is 35 or 61 weeks, depending on the election made under s. 23(1.1)  If parental leave benefits are divided in accordance with s. 23, maximum parental leave benefits payable is 35 or 61 weeks	Maximum parental leave benefits paid under the Act is 35 or 61 weeks, depending on the election made under s. 23(1.1)  If parental leave benefits are divided in accordance with s. 23, maximum parental leave benefits payable increased to 40 or 69 weeks	These sections came into force on March 17, 2019.  These provisions apply to any child born or placed for adoption on or after March 17, 2019.

4 Same basic changes reflected in related sections of the *Employment Insurance Act*: 12(4)(b); 23(4); 23(4.1); 23(4.11); 152.05(12), (13) and (13.01); 152.14(2), (4)

<p><b>Maternity and Parental Leave</b></p>	<p><a href="#">s. 310-311</a> <i>Canada Labour Code (CLC)</i>, s. 206.1(3); 206.2</p>	<p>The maximum amount of leave is 63 weeks, for both one employee and more than one employee</p> <p>The maximum combined maternity and parental leave is 78 weeks, for both one employee and more than one employee</p>	<p>The maximum aggregate amount of parental leave that may be taken by more than one employee, in respect of the same birth or adoption, is 71 weeks. The maximum for one employee is 63 weeks</p> <p>The maximum combined maternity and parental leave, taken by more than one employee, in respect of the same birth, is 86 weeks. The maximum for one employee is 78 weeks</p>	<p>This section came into force on March 17, 2019.</p>
<p><b>Qualified Medical Practitioner</b></p>	<p><a href="#">s. 442</a> <i>CLC</i>, s. 166</p>	<p>"<b>qualified medical practitioner</b> means a person who is entitled to practise medicine under the laws of a province"</p>	<p>This definition is repealed and replaced with:</p> <p>"<b>health care practitioner</b> means a person lawfully entitled, under the laws of a province, to provide health services in the place in which they provide those services."<sup>5</sup></p>	<p>This section came into force on September 1, 2019</p>

5 This change is to be reflected in a number of provisions that require employees to provide medical notes: 132(2), 204(2), 205(3)-(6), 205.1, 205.2, 206(1), 206.3(2),(2.1), (3.1), 206.4(3),(4), 207, 209.22, 209.4

<p><b>Occupational Health and Safety - work refusal</b></p>	<p><a href="#">s. 441</a> <i>CLC</i>, s. 132(2) , (3)</p>	<p>Under 132(1) A pregnant or nursing employee may cease to perform a job if she believes that continuing her current job functions may pose a risk to the fetus or child.</p> <p>Sub-section (2) requires the employee to consult with a "qualified medical practitioner", as defined under s. 166, as soon as possible, to assess the risks;</p> <p>(3) says that once the qualified medical practitioner has assessed the risk, the employee may no longer cease to perform her job under (1).</p>	<p>"qualified medical practitioner" in sub-sections (2) and (3) is replaced with the new definition of "health care practitioner" under s. 166 (see above).</p>	<p>This section as amended by Bill C-86 came into force September 1, 2019.</p>
<p><b>Employee Misclassification</b></p>	<p><a href="#">s. 443</a> <i>CLC</i>, s. 167.1; 167.2</p>	<p>A worker bears the burden of establishing that they are a Federal Employee as defined under s. 167(1)</p> <p>There is no equivalent of s.167.1 or 167.2 in the current <i>CLC</i>.</p>	<p>Section 167.1 will prohibit employers from treating an employee as if they were not an employee in order to avoid their obligations under the <i>CLC</i>.</p> <p>Section 167.2 will place the onus on the employer to prove that the worker is not an employee.</p>	<p>This section is not yet in force. It will automatically come into force when s. 377 of <i>Budget Implementation Act, 2017, No.2</i> comes into force by an Order-In-Council.</p>
<p><b>Breaks</b></p>	<p><a href="#">s. 444</a> <i>CLC</i>, s.</p>	<p>N/A</p>	<p>This new provision provides an unpaid break of at least 30 minutes during every period of 5 consecutive hours of work.</p>	<p>This came into force on September 1, 2019.</p> <p><i>IPG "Scope of Application"</i></p>

	169.1		<p>If the employer requires the employee to be at its disposal during the break, then the employee must be paid.</p> <p>Subsection (2) provides limited exceptions in which the employer can postpone or cancel the break. The exception requires that it be necessary for the employee to work in order to deal with a situation that it could not have reasonably foreseen and that presents, or could be reasonably be expected to present, an imminent or serious:</p> <ul style="list-style-type: none"> <li>(a) threat to life, health or safety of any person;</li> <li>(b) threat of damage to or loss of property; or</li> <li>(c) threat of serious interference with the ordinary working of the employer's industrial environment.</li> </ul> <p><i>IPG "30 Minutes Break" applies</i></p>	<i>applies</i>
<b>Rest Period</b>	<a href="#">s. 444</a> <i>CLC,</i>	N/A	Every employee is entitled to a rest period of at least 8 consecutive hours between shifts.	This section came into force on September 1, 2019.

	s. 169.2		<p>This section similarly provides an exception in situations where there is an unforeseeable, imminent or serious:</p> <ul style="list-style-type: none"> <li>(a) threat to life, health or safety of any person;</li> <li>(b) threat of damage to or loss of property; or</li> <li>(c) threat of serious interference with the ordinary working of the employer's industrial environment.</li> </ul>	IPG "Scope of Application" applies
<b>Notice - Work Schedule</b>	<a href="#">s. 445</a>  <i>CLC</i> , s. 173.0 1	N/A	<p>Employer must provide a work schedule with at least 96 hours written notice before the start of the first shift on that schedule.</p> <p>An employee has the right to refuse any shift that starts within 96 hours of such notice.</p> <p>This section similarly provides an exception in situations where there is an unforeseeable, imminent or serious:</p> <ul style="list-style-type: none"> <li>(a) threat to life, health or safety of any person;</li> </ul>	<p>This section came into force on September 1, 2019.</p> <p>IPG "Scope of Application" applies</p>

			<p>(b) threat of damage to or loss of property; or</p> <p>(c) threat of serious interference with the ordinary working of the employer's industrial environment.</p> <p>The section also creates further exceptions in the case of a change to the schedule made at the employee's request, or in the context of an applicable collective agreement.</p> <p>Subsection 173.1 (7) provides that "This section does not apply to employees who are employed under the terms of a collective agreement that specifies an alternate time frame for providing the work schedule or provides that this section does not apply to those employees."</p>	
<b>Age of Employment</b>	<p><a href="#">s. 448-449</a></p> <p>CLC, s. 179</p>	<p>An employer may employ a person under the age of 17 years only</p> <p>(a) in an occupation specified by the regulations; and</p>	<p>An employer may employ a person under the age of 18 years only</p> <p>(a) in an occupation specified by the regulations; and</p> <p>(b) subject to the conditions</p>	<p>This section is not yet in force. It will come into force on a date to be fixed by an Order-In-Council.</p> <p>A person who is 17 years old on the day that this</p>

		(b) subject to the conditions fixed by the regulations for employment in that occupation.	fixed by the regulations for employment in that occupation.	section comes into force may remain employed, but only by the same employer and in the same position.
<b>Breaks for Medical Reasons or Nursing</b>	<a href="#">s. 450</a>  <i>CLC</i> , s. 181.1, 181.2, 181.3	N/A	Every employee is entitled to unpaid breaks that are necessary for medical reasons or for nursing.  For medical breaks only, on written request by the employer, employee must provide a certificate by a health care practitioner. This does not apply to breaks for nursing.	This section came into force on September 1, 2019.
<b>Equal Pay</b>	<a href="#">s. 451-452</a>  <i>CLC</i> , 182.1, 182.2, 182.3, 182.4	N/A	Employer is prohibited from paying its employees unequal wages when all of the following circumstances apply:  (a) they work in the same industrial establishment;  (b) they perform substantially the same kind of work;  (c) the performance of that work requires substantially the same skill, effort and responsibility;  (d) their work is performed under similar work conditions; and	These sections have not yet come into force. They will come into force on a date to be fixed by an Order-In-Council.  If there is a conflict between the amended s 182.1 and a collective agreement, the agreement prevails for 2 years after 182.1 comes into force.



			<p>(e) any other factor that may be prescribed by regulation is present.</p> <p>An exception applies when the employer's wage rates are due to a system based on:</p> <ul style="list-style-type: none"> <li>(a) seniority;</li> <li>(b) merit</li> <li>(c) the quantity or quality of each employee's production; or</li> <li>(d) any other criterion that may be prescribed by regulation.</li> </ul> <p>An employer is prohibited from reducing wages in order to comply.</p> <p>Upon request from an employee who believes their wage is in violation of this section, an employer must conduct a review within 90 days, and provide a written response that includes either a statement that wages have been increased, or a statement with reasons explaining why the employee's current wage rate is in compliance.</p>	
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<b>Notice of Employment Opportunities</b>	<a href="#">s. 452</a>  CLC, 182.3	N/A	"If an employer carries out a practice of informing employees of employment or promotion opportunities in writing, the employer must inform all their employees, regardless of their employment status."	This section is not yet in force. It will come into force on a date to be fixed by an Order-In-Council.
<b>Vacation Pay</b>	<a href="#">s. 453-456</a>  CLC, 184, 184.0 1	Every employee is entitled to 2 weeks of vacation, and 3 weeks after 6 consecutive years with the same employer.	Employees are entitled to:  at least 2 weeks of vacation after 1 year of employment,  at least 3 weeks of vacation after 5 consecutive years with the same employer, and  at least 4 weeks of vacation after 10 consecutive years with the same employer.  Section 184.01 would provide for vacation pay equal to 4%, 6%, and 8% of wages respectively.	These sections came into force on September 1, 2019.
<b>Transfer of Work, Undertaking, or Business (now</b>	<a href="#">s. 457(1)</a>  CLC,	<b>189 (1)</b> Where any particular federal work, undertaking or business, or part thereof, in or in connection with the operation of	the Bill broadens the 189(1) by adding the new subsection 189(1)(b). This section now allows for continuity of employment upon	This sub-section came into force on September 1, 2019.  Sub-section (1.1) applies

<p><b>including Contract Flips)</b></p>	<p>189</p>	<p>which an employee is employed is, by sale, lease, merger or otherwise, transferred from one employer to another employer, the employment of the employee by the two employers before and after the transfer of the work, undertaking or business, or part thereof, shall, for the purposes of this Division, be deemed to be continuous with one employer, notwithstanding the transfer.</p>	<p>the transfer not only from one federally regulated employer to another, of a federal work, undertaking or business (as a result of a sale, lease, merger or other arrangement), but also by allowing for the continuity of employment where the work, undertaking or business comes under federal jurisdiction as a result of the transfer.</p> <p>Furthermore, the Bill adds new section 189(1.1) which establishes that there is also continuity of employment where an employer loses a contract to another employer due to a retendering process, and the employee is then rehired by the second employer.</p> <p>Both 189(1) and 189(1.1) are subject to the following exception:</p> <p>(1.2) Subsections (1) and (1.1) do not apply if the employee's first day of employment by the second employer is more than 13 weeks after the day that is the earlier of</p> <p>(a) the employee's last day of employment by the first employer; and</p>	<p>only if the first day of the transfer occurs on or after September 1, 2019.</p>
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			(b) the day on which the federal work, undertaking or business is transferred or the first day the second employer carries out the federal work, undertaking or business, as the case may be.	
<b>Holiday Pay</b>	<a href="#">s. 458, 459</a>  CLC, 196(3) and (5), 197(3)	Under the current law an employee is not entitled to holiday pay for a general holiday that occurs in the first 30 days of their employment.	To be repealed.	These sections came into force on September 1, 2019.
<b>Temporary Help Agencies</b>	<a href="#">s. 461</a>  CLC, 203.0 1-203.5	N/A	The newly proposed provisions for regulating Temporary Help Agencies would establish the following:  1) various prohibitions against agencies charging fees to its employees. For example, for assigning or attempting to assign them work with a client; and  2) equal pay protection with respect to the client's	This section is not yet in force. It will come into force on a date to be fixed by an Order-In-Council.  If there is a conflict between the amended s 203.2 and a collective agreement, the agreement prevails for no more than 2 years.

			employees, mirroring the equal pay provisions in s. 181.1-181.3, as described above.	
<b>Maternity Leave</b>	<a href="#">s. 466</a> <i>CLC</i> , 206(1)	An employee is entitled to 17 weeks of maternity leave, upon providing a medical note certifying pregnancy, if she has completed 6 consecutive months of continuous employment with an employer.	Every employee is entitled to 17 weeks maternity leave, upon providing a medical note certifying pregnancy.	This section came into force on September 1, 2019.
<b>Parental Leave</b>	<a href="#">s. 467</a> <i>CLC</i> , 206.1(1)	An employee is entitled to up to 63 weeks of parental leave, only after having completed 6 consecutive months of employment with an employer.	Every employee is entitled to up to 63 weeks of parental leave.	This section came into force on September 1, 2019.
<b>Leave Related to Critical Illness</b>	<a href="#">s. 469</a> <i>CLC</i> , 206.4(2), (2.1)	An employee is entitled to 37 weeks' leave to care for a critically ill child and 17 weeks for a critically ill adult, only after having completed 6 consecutive months of employment with an employer.	Every employee is entitled to this leave.	This section came into force on September 1, 2019.
<b>Leave Related to Death or Disappearance of a Child</b>	<a href="#">s. 470</a> <i>CLC</i> , 206.5 (2), (3)	An employee is entitled to 104 weeks' leave for the death of a child that is probably the result of a crime, and 52 weeks' leave for the disappearance of a child that is probably the result of a crime,	Every employee is entitled to this leave.	This section came into force on September 1, 2019.

		after having completed 6 consecutive months of employment with an employer.		
<b>Leave for Court or Jury Duty</b>	<a href="#">s. 471</a>  CLC, 206.9	N/A	Every employee shall be granted leave to participate as a witness in a proceeding, act as a juror in a proceeding, or participate in a jury selection process.	This section came into force on September 1, 2019.
<b>Group Terminations</b>	<a href="#">s. 478-480</a>  CLC, 212-213	An employer who terminates 50 employees within a 4-week period must give written notice to the Minister at least 16 weeks before the termination date, in addition to any individual notice required under s. 230.  A copy of this notice must immediately be given to the trade union, or the to the employees where there is no trade union.	Bill C-86 retains the required 16-week written notice to the Minister to be copied immediately to the union or employees.  However, Bill C-86 creates an exception such that only 48 hours written notice to the Ministry is required, where all of the employees are terminated on the same day and they receive 16 weeks' pay in lieu of notice.  In addition, employers are required to provide at least 8 weeks' written notice to the employees, or pay in lieu of notice and transitional support measures if pay in lieu of notice was given.  Sub-sections 212.1(4) and (5) address the meaning of "redundant employees" in the context of	This section is not yet in force. It will come into force on a date to be fixed by an Order-In-Council.  The amendment applies only if the employer gives notice of a group termination on or after the day on which s. 479 comes into force.

			<p>employees covered a collective agreement:</p> <p>Subsection (4) provides that if a collective agreement is in place, and the collective agreement allows a redundant employee to displace another employee, the displaced employee is a redundant employee under the CLC.</p> <p>Subsection (5) provides that if a redundant employee displaces another employee as described above, the employer must notify the union that is a party to the collective agreement.</p>	
<b>Group Terminations</b>	<p><a href="#">s. 482</a> <i>CLC</i>, 228</p>	This section of the <i>Act</i> allowed the Minister to waive the application of the Group Termination provisions	Repealed	This section is not yet in force. It will come into force on a date to be fixed by an Order-In-Council.
<b>Individual Termination of Employment</b>	<p><a href="#">s. 484-485</a> <i>CLC</i>, 229.1-230(2.2)</p>	Employees are entitled to at least 2 weeks written notice, or pay in lieu, where an employee has completed 3 consecutive months of continuous employment with the employer.	<p>Employees are entitled to written notice or pay in lieu of notice determined by the employee's length of consecutive continuous employment as follows:</p> <p>(a) 2 weeks, after 3 months of employment;</p> <p>(b) 3 weeks, after 3 years of</p>	<p>This section is not yet in force. It will come into force on a date to be fixed by an Order-In-Council.</p> <p>230(1) applies only if the employer gives notice of termination on or after the day on which this section comes into force.</p>

			<p>employment;</p> <p>(c) 4 weeks, after 4 years of employment;</p> <p>(d) 5 weeks, after 5 years of employment;</p> <p>(e) 6 weeks, after 6 years of employment;</p> <p>(f) 7 weeks, after 7 years of employment; and</p> <p>(g) 8 weeks, after 8 years of employment.</p> <p>Section 230(2) requires that if a collective agreement is in place, and the agreement allows the redundant employee to displace another employee on the basis of seniority, the employer must give the same required notice of redundancy to the employee and to the union.</p>	
<p><b>Re-Imbursement for Work-Related Expenses</b></p>	<p><a href="#">s. 486</a> <i>CLC</i>, 238.1</p>	N/A	<p>The employer shall reimburse the employee for "reasonable work-related expenses".</p> <p>However, the Act would also provide for exceptions to be</p>	<p>This section is not yet in force. It will come into force on a date to be fixed by an Order-In-Council.</p> <p>The section applies only to</p>



			<p>determined by regulations. Further, an employer can contract out of this provision.</p> <p>Section 238.1(2)(b) creates an exception for expenses that the employee is required to incur under a collective agreement</p> <p>Section 238.1(3)(a) provides that a collective agreement can set out the prescribed timeline for reimbursement</p>	<p>expenses incurred on or after the day on which it comes into force.</p>
<p><b>Medical Leave</b></p>	<p><a href="#">s. 487</a> <i>CLC</i>, 239</p>	<p>Employees cannot be dismissed, suspended, laid off, demoted or disciplined for taking up to 17 weeks as a leave of absence due to illness or injury.</p> <p>The employee must have completed 3 consecutive months of continuous employment with the employer prior to the absence.</p>	<p>All employees are entitled to up to 17 weeks of leave, and the criteria for leave would be expanded to:</p> <ul style="list-style-type: none"> <li>(a) personal illness or injury;</li> <li>(b) organ or tissue donation; or</li> <li>(c) medical appointments during working hours.</li> </ul> <p>Bill C-86 would also introduce a 4-week written notice requirement to the employer when the employee intends to take medical leave. If there is a valid reason why such notice cannot be provided, then notice must be given as soon as possible.</p>	<p>This section came into force on September 1, 2019.</p> <p>If an employee went on medical leave before September 1, 2019, the previous version of the provision applies.</p>

<p><b>Leave of Absence for Members of the Reserve Force</b></p>	<p><a href="#">s. 494</a>  CLC, 247.5( 1)</p>	<p>After 6 consecutive months of continuous employment with an employer, members of the reserve force are entitled to leave to participate in a number of enumerated training programs.</p>	<p>Bill C-86 would reduce the requirement to 3 consecutive months of continuous employment with an employer.</p> <p>Bill C-86 would also create a maximum leave under this section of 24 months within a 60-month period. (This was previously governed by regulation.)</p>	<p>This section came into force on September 1, 2019.</p> <p>This section applies only to leaves that begin on or after September 1, 2019.</p>
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<p><b>Information Related to Employment</b></p>	<p><a href="#">s. 502</a>  <i>CLC</i>, 253.1; 253.2</p>	<p>N/A</p>	<p>Bill C-86 introduces the following requirement:</p> <p>253.1 (1) An employer must, within the first 30 days of an employee's employment, provide the employee with a copy of any materials that the Minister makes available and that contains information respecting employers' and employees' rights and obligations under this Part and, within 30 days after updated materials are made available, provide the employee with a copy of the updated materials.</p> <p>Subsection (2) provides that this information must be posted and readily accessible to employees and (3) provides that employers must provide the information relevant to termination to a terminated employee no later than the last day of employment</p> <p>Section 253.2 creates similar duties on the employer to update this information</p>	<p>This section is not yet in force. It will come into force on a date to be fixed by an Order-In-Council.</p> <p>Employers must distribute the materials on the later of 1) the 90th day after it comes into force and 2) the 90th day after the materials are made available by the Minister.</p> <p>They must provide each employee, including current employees, with an "employment statement" required by s. 253.2(4) within 90 days of the contents being prescribed by the Governor in Council.</p>
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## **AMENDMENTS TO REGULATIONS AND "INTERPRETATION, POLICIES, AND GUIDELINES (IPGS)" COINCIDING WITH THE CLC AMENDMENTS THAT CAME INTO FORCE ON SEPTEMBER 1, 2019**

### **SUMMARY OF AMENDMENTS TO CANADA LABOUR STANDARDS REGULATIONS**

Certain amendments to the Canada Labour Standards Regulations came into force on concurrently with the amendments to the *Act* made in *Budget Implementation Act, 2017, No. 2* and *Budget Implementation Act*. These amendments were published in the [Canada Gazette, Part II, Volume 153, No. 12, on June 12, 2019](#).

These were all relatively minor changes to existing Regulations in order to align them with the changes to the *Act*.

#### ***Modified work schedules and maximum hours of work***

Sections 170-172 of the *CLC* regarding modified work schedules and maximum hours of work were amended to extend the employer's ability to modify work schedules in relation to individual employees. As such, Schedule III of the Regulations containing the information to be posted by the employer for 30 days before the work schedule of one employee takes effect is amended to reflect its application to one employee.

#### ***Overtime pay or time off***

Section 174 of the *CLC* was amended to provide that, where the employer agrees, employees may take time off instead of receiving pay for overtime hours worked. Accordingly, where reference is made in the Regulations to overtime pay, the provisions, where appropriate, are amended to be made more general and inclusive of the possibility that over time hours may not necessarily be paid, but may alternatively be taken as time off.

#### ***Annual vacations***

The new section 184.1 of *CLC* permits employees to take vacation in more than one period provided that the request is made in writing and the employer approves it in writing. The Regulations outlining the timing of vacation pay payment in one period are amended to reflect proportionality of payment to the amount of vacation taken where vacation is taken in more than one period.

### ***Averaging***

The Regulations are amended to ensure that any paid days taken under both the new Personal Leave and the new Leave for Victims of Family Violence are included in the calculation of standard, maximum and overtime hours where an averaging plan is in place.

### ***Regular rate of wages***

The new Personal Leave and Leave for Victims of Family Violence are added to this provision of the Regulations to ensure that new paid leaves are captured in the calculation of an employee's regular rate of wages in the circumstances described.

### ***Multi-employer employment***

Employees employed by multiple employers, specifically in the long-shoring industry, are not necessarily considered continuously employed. For the purposes of qualifying for certain leaves, the Regulations deem employees engaged in multi-employer employment to be continuously employed. The Regulations are amended to include the new Personal Leave, Leave for Victims of Family Violence and the Leave for Traditional Aboriginal Practices in the list of leaves for which employment is deemed to be continuous.

### ***Bereavement leave***

Section 210 of the *CLC* was amended to increase the amount of entitlement to bereavement leave from three to five days. It also allows employees to take the paid portion in two separate periods. The Regulations have been amended to specify that the amount to be paid in this scenario by taking the average of the employee's daily earnings exclusive of overtime hours for the 20 days worked immediately preceding the first day of leave.

### ***Record Keeping***

A number of changes have been made to the Regulations regarding record keeping obligations to reflect the changes to the *CLC* with respect to modified work schedules, schedule changes, shift changes, overtime pay or time off, right to refuse overtime, flexible work arrangements, annual vacations, general holidays, and the new leaves.

## **LABOUR CANADA INTERPRETATIONS, POLICIES AND GUIDELINES (IPGS)**

On September 1, 2019, coinciding with the coming into force of a number of amendments to the *CLC*, Labour Canada published a number of related "Interpretation, Policies and Guidelines" (IPGs).

The IPGs are not binding interpretations of the law, but rather are administrative documents "intended to ensure that legislation is interpreted consistently and that programs are delivered effectively across the country by Labour Program employees trained in interpretation of regulatory requirements." All IPGs described below can be [found here](#).

### **Scope of application - Canada Labour Code, part III - Section 1-802-1-IPG- 101**

This IPG contains a table that identifies, by sector, the job titles for which "employers may carry on business as usual" pending the issuance of regulations, with respect to the following new provisions:

- Breaks – 169.1
- Rest Periods – 169.2;
- Notice of hours of work – 173.01; and
- Shift Changes – 173.1

This IPG is a temporary measure that will only remain in place until such time as new regulations addressing the scope of application of the above sections come into force.

This IPG states that "[t]his interpretation is not designed to deny employees their right to file a complaint. Any employee who is of the view that their employer has contravened the Code may file a complaint with the Labour Program. Where a complaint related to one or more hours of work provisions and a job title identified in the Schedule is received, the Labour Program will investigate according to the existing Complaints Handling OPD 810-A. The inspector will determine whether the complaint is founded and may issue an Assurance of Voluntary Compliance (AVC). The Labour Program will work with the employer while work continues on the development of hours of work exemption and modification regulations".

### **30 minute breaks – Canada Labour Code, part III – Division I - 802-1-IPG-100**

This IPG clarifies the meaning "break of at least 30 minutes during every period of five consecutive hours of work" in section 169.1 of the *CLC*.

**“Break”** means a short period of time during the work period when an employee is released from his obligations to the employer (or is not under the control of the employer) and may freely attend to personal matters in or near his work place.

**“Consecutive hours”** refers to hours that follow one another without interruption.

### **Personal Leave – Stacking – 802-1-IPG-099**

This IPG provides Labour Canada's interpretation of the application of the new Personal Leave in section 206.6(1) of the *CLC*, including that:

- The leave is not pro-rated for 2019 – employees are entitled to 5 days or personal leave for the period from September 1, 2019 to December 31, 2019.
- Employees whose collective agreement or employment contract provides five or more days of personal leave (including at least 3 days with pay) are not entitled to five additional personal leave days under the *CLC*, provided that certain conditions are met. In particular, the employee must be able to take the leave for any of the reasons listed in the *Act* and the conditions for accessing and taking the leave must be at least as beneficial as those set out in the *CLC*.

### **Reasonably practicable – 802-1-IPG-098**

Each of the new leaves (*CLC* sections 206.6, 207.7, and 207.8) allows an employer to request documentation from an employee supporting the reasons for the leave. An employee has a duty to provide the documentation only if it is "reasonably practicable" for them to obtain and provide it.

This IPG defines reasonably practicable to mean "what can be accomplished or done in consideration of the investment required, for example in time, cost and effort on the part of the employee to carry out their obligation to their employer."

It also provides the following criteria that can be taken into consideration:

- feasibility
- the reasonableness of the effort required
- time
- additional costs to the employee
- the practice

When it is not reasonably practicable, an employee can instead provide a written and signed statement attesting to the reasons for the employee's absence.

#### **Family member – 802-1-IPG-097**

This IPG defines the term "family member" as it applies in section 174.1 - Right to Refuse Overtime, and section 206.6 - Personal leave.

#### **Family responsibilities – 802-1-IPG-096**

This IPG defines the terms "responsibilities related to the health or care of any of their family members" and "responsibilities related to the education of any of their family members who are under 18 years of age" as they apply in s. 174.1 – Right to Refuse Overtime and s. 206.6 – Personal Leave.

#### **Reasonable steps - 802-1- IPG-095**

The new limited right to refuse overtime in s. 174.1 of the *CLC*, requires an employee to first carry out reasonable steps to fulfil a family responsibility before they can refuse overtime. This IPG provides an interpretation of the meaning of "Reasonable Steps" as it applies in this section.

#### **Situation that the employer could not have reasonably foreseen, Exceptions - 802-1-IPG-091**

#### **Imminent or serious threat 802-1-IPG-092**

#### **Threat of damage to or loss of property - 802-1-IPG-093**



### Serious interference with the operation of the establishment - 802-1-IPG-094

Sections 169.1 - Breaks, 169.2 – Rest Periods, 173.01 – Notice of Schedule, 173.1 – Shift Changes, and 174.1 – Right to Refuse Overtime if the *CLC* all have exceptions where the employer could not have reasonably foreseen that applying the provision would present, or could be reasonably expected to present, an imminent or serious:

- a) threat to the life, health or safety of any person;
- b) threat of damage to or loss of property; or
- c) threat of serious interference with the ordinary working of the employer's industrial establishment.

These four IPG's each address the interpretation of a portion of this exception.

## Appendix – Full Text of the Relevant Sections of Bill C-63- *Budget Implementation Act, 2017, No. 2*

### DIVISION 8

R.S., c. L-2

Canada Labour Code

Amendments to the Act

**195 (1) The portion of subsection 170(1) of the *Canada Labour Code* before paragraph (a) is replaced by the following:**

#### **Modified work schedule — collective agreement**

**170 (1)** An employer may, in respect of one or more employees subject to a collective agreement, establish, modify or cancel a work schedule under which the hours exceed the standard hours of work set out in paragraph 169(1)(a) if

**(2)** The portion of subsection 170(2) of the Act before paragraph (a) is replaced by the following:

#### **Modified work schedule**

**(2)** Subject to subsection (3), an employer may, in respect of one or more employees not subject to a collective agreement, establish, modify or cancel a work schedule under which the hours exceed the standard hours of work set out in paragraph 169(1)(a) if

**(3)** Paragraph 170(2)(b) of the Act is replaced by the following:

**(b)** the schedule, or its modification or cancellation, has been approved

**(i)** in the case of one employee's schedule, in writing by that employee, or

**(ii)** in the case of more than one employee's schedule, by at least 70% of the affected employees.

(4) Section 170 of the Act is amended by adding the following after subsection (3):

**Exception**

(4) Subsection (3) does not apply to the establishment, modification or cancellation of one employee’s work schedule that results from a request made under subsection 177.1(1).

196 (1) The portion of subsection 172(1) of the Act before paragraph (a) is replaced by the following:

**Maximum hours of work — collective agreement**

172 (1) An employer may, in respect of one or more employees subject to a collective agreement, establish, modify or cancel a work schedule under which the hours exceed the maximum set out in section 171 or in regulations made under section 175 if

(2) The portion of subsection 172(2) of the Act before paragraph (a) is replaced by the following:

**Maximum hours of work**

(2) Subject to subsection (3), an employer may, in respect of one or more employees not subject to a collective agreement, establish, modify or cancel a work schedule under which the hours exceed the maximum set out in section 171 or in regulations made under section 175 if

(3) Paragraph 172(2)(b) of the Act is replaced by the following:

(b) the schedule, or its modification or cancellation, has been approved

(i) in the case of one employee’s schedule, in writing by that employee, or

(ii) in the case of more than one employee’s schedule, by at least 70% of the affected employees.

(4) Section 172 of the Act is amended by adding the following after subsection (3):

**Exception**

**(4)** Subsection (3) does not apply to the establishment, modification or cancellation of one employee's work schedule following a request made under subsection 177.1(1).

**197** Section 174 of the Act is replaced by the following:

### **Shift changes**

**173.1 (1)** If an employer changes a period or shift during which an employee is due to work or adds another work period or shift to the employee's schedule, the employer shall give the employee written notice of the change or addition at least 24 hours before

**(a)** in the case of a change, the employee's original work period or shift is to begin or, if the work period or shift that results from the change is to begin earlier than the original work period or shift, before the period or shift that results from the change is to begin; and

**(b)** in the case of an addition, the work period or shift that was added is to begin.

### **Exceptions — threat**

**(2)** Subsection (1) does not apply if the change to or addition of a work period or shift is necessary to deal with a situation that the employer could not have reasonably foreseen and that presents or could reasonably be expected to present an imminent or serious

**(a)** threat to the life, health or safety of any person;

**(b)** threat of damage to or loss of property; or

**(c)** threat of serious interference with the ordinary working of the employer's industrial establishment.

### **Exception — subsection 177.1(1)**

**(3)** Subsection (1) does not apply to a change to or addition of a work period or shift following a request made under subsection 177.1(1).

## **Overtime pay or time off**

**174 (1)** Subject to any regulations made under section 175, when an employee is required or permitted to work overtime, they are entitled to

**(a)** be paid for the overtime at a rate of wages not less than one and one-half times their regular rate of wages; or

**(b)** be granted not less than one and one-half hours of time off with pay for each hour of overtime worked, subject to subsections (2) to (5).

## **Conditions**

**(2)** An employee is entitled to time off for overtime worked only if,

**(a)** at their request, they and the employer enter into an agreement in writing providing for the taking of time off, subject to paragraph (b) and subsections (3) to (5), on a date or dates agreed on by them and the employer; and

**(b)** the time off is taken within a period of three months after the end of the pay period in which the overtime was worked, or within any longer period set out in

**(i)** if the employee is subject to a collective agreement, the collective agreement, or

**(ii)** if the employee is not subject to a collective agreement, the agreement referred to in paragraph (a) or any other agreement in writing entered into by them and the employer.

## **Maximum period**

**(3)** The longer period referred to in paragraph (2)(b) shall not be more than 12 months for an employee who is not subject to a collective agreement.

## **Time off not taken within specified period**

**(4)** If the employee does not take all or part of the time off within the applicable period referred to in paragraph (2)(b), the employer shall, within 30 days after the day on which that period ends, pay the employee's wages for the overtime for

which the time off was not taken, at a rate of wages not less than one and one-half times the employee's regular rate of wages on the day on which they worked the overtime.

### **Termination of employment**

**(5)** If an employee ceases to be employed before the employee takes all or part of the time off referred to in paragraph (1)(b), the employer shall, within 30 days after the day on which the employee ceases to be employed, pay the employee's wages for the overtime for which the time off was not taken, at a rate of wages not less than one and one-half times the employee's regular rate of wages on the day on which the employee worked the overtime.

### **Application of section 189**

**(6)** Section 189 applies for the purposes of this section.

### **Right to refuse**

**174.1 (1)** Subject to subsections (2) and (3), an employee may refuse to work the overtime requested by the employer in order to fulfil any family responsibility set out in subsection 206.6(1).

### **Reasonable steps**

**(2)** An employee may refuse to work overtime only if

**(a)** they have taken reasonable steps to carry out their family responsibility by other means, so as to enable them to work overtime; and

**(b)** even though the steps referred to in paragraph (a) have been taken, they are still required to carry out that responsibility during the period of the overtime.

### **Exceptions**

**(3)** An employee is not to refuse to work overtime if it is necessary for them to work overtime to deal with a situation that the employer could not have reasonably foreseen and that presents or could reasonably be expected to present an imminent or serious

- (a) threat to the life, health or safety of any person;
- (b) threat of damage to or loss of property; or
- (c) threat of serious interference with the ordinary working of the employer's industrial establishment.

### **Prohibition**

(4) An employer shall not dismiss, suspend, lay off, demote or discipline an employee because the employee has refused to work overtime under subsection (1) or take such a refusal into account in any decision to promote or train the employee.

198 Subsection 175(2) of the Act is repealed.

199 The Act is amended by adding the following after section 177:

## **DIVISION I.1**

### **Flexible Work Arrangements**

#### **Right to request**

177.1 (1) An employee who has completed six consecutive months of continuous employment with an employer may request from the employer a change to the following terms and conditions of employment:

- (a) the number of hours that the employee is required to work;
- (b) the employee's work schedule;
- (c) the employee's location of work; and
- (d) any terms and conditions that apply to the employee and that are prescribed by regulation.

Contents of request

**(2)** The request shall be made in writing and shall include

**(a)** the employee's name;

**(b)** the date on which the request is made;

**(c)** a description of the change to the terms and conditions of employment that is requested;

**(d)** the date on which the change would take effect and, if the change is intended to be temporary, the date on which the change would cease to have effect;

**(e)** an explanation of the effect that, in the employee's opinion, the requested change would have on the employer and the manner in which, in the employee's opinion, the employer could manage that effect; and

**(f)** any information that may be prescribed by regulation.

### **Employer's decision**

**(3)** An employer to whom a request is made shall make one of the following decisions:

**(a)** grant the request;

**(b)** offer to grant the request in part or to make an alternative change to the terms and conditions of employment; or

**(c)** refuse the request on one or more of the following grounds:

**(i)** the requested change would result in additional costs that would be a burden on the employer,

**(ii)** the requested change would have a detrimental impact on the quality or quantity of work within the employer's industrial establishment, on the ability to meet customer demand or on any other aspect of performance within that industrial establishment,

**(iii)** the employer is unable to reorganize work among existing employees or to recruit additional employees in order to manage the requested change,



- (iv) there would be insufficient work available for the employee if the requested change was granted, and
- (v) any ground prescribed by regulation.

### **Notice of decision**

(4) The employer shall, as soon as possible and not later than 30 days after receiving the request, give written notice to the employee of their decision. The notice in respect of a decision made under paragraph (3)(b) or (c) shall include written reasons for refusing the requested change or for not granting a part of it.

### **Power to change terms and conditions**

(5) The employer may, for the purpose of granting a request made by an employee under paragraph (3)(a) or for the purpose of giving effect to a written agreement with the employee following an offer made under paragraph (3)(b), change the employee's terms and conditions of employment. However, when there is any other provision under this Part or any provision of any regulations made under this Part that authorizes the employer to make a change to those terms and conditions, they shall make the change under that provision.

### **Collective agreement**

(6) An employer shall not change, under subsection (5), a term or condition of employment contained in a collective agreement unless the change is agreed to in writing by the employer and the trade union.

### **Prohibition**

(7) An employer shall not dismiss, suspend, lay off, demote or discipline an employee because the employee has made a request under subsection (1) or take such a request into account in any decision to promote or train the employee.

### **Regulations**

(8) The Governor in Council may make regulations limiting the number of requests that an employee may make in any year and specifying the information that shall be included in a notice under subsection (4) or an agreement referred to in subsection (5).

### **For greater certainty**

**(9)** For greater certainty, nothing in this section limits an employer's duty to accommodate an employee under any other Act of Parliament.

**200** The Act is amended by adding the following after section 184:

### **Entitlement to vacation in one or more periods**

**184.1** A vacation granted to an employee under this Division is to be taken only in one period or, if the employee makes a request in writing and the employer approves it in writing, in more than one period.

**201** Paragraph 185(b) of the Act is replaced by the following:

**(b)** shall, at any time that is prescribed by the regulations, pay to the employee

**(i)** if the vacation is taken in one period, the vacation pay to which the employee is entitled in respect of that vacation, or

**(ii)** if the vacation is taken in more than one period, for each period, the proportion of the vacation pay that the vacation taken is of the annual vacation to which the employee is entitled.

**202** The Act is amended by adding the following after section 187:

### **Interruption**

**187.1 (1)** An employee may interrupt a vacation granted to them under this Division in order to permit them to take a leave of absence under Division VII or VIII or section 247.5 or to be absent due to a reason referred to in subsection 239(1) or 239.1(1).

### **Application of section 209.1**

**(2)** If an employee interrupts a vacation to take leave under any of sections 205.1, 206, 206.1 and 206.3 to 206.8 and resumes the vacation immediately at the end of that leave, section 209.1 applies to them as if they did not resume the vacation before returning to work.

**Application of subsection 239(1.1)**

**(3)** If an employee interrupts a vacation to be absent due to a reason referred to in subsection 239(1) and resumes the vacation immediately at the end of that leave, subsection 239(1.1) applies to them as if they did not resume the vacation before returning to work.

**Application of subsections 239.1(3) and (4)**

**(4)** If an employee interrupts a vacation to be absent due to a reason referred to in subsection 239.1(1) and resumes the vacation immediately at the end of that leave, subsections 239.1(3) and (4) apply to them as if they did not resume the vacation before returning to work.

**Application of sections 247.93 to 247.95**

**(5)** If an employee interrupts a vacation to take leave under section 247.5 and resumes the vacation immediately at the end of that leave, sections 247.93 to 247.95 apply to that employee as if they did not resume the vacation before returning to work.

**Notice to employer — interruption of vacation**

**(6)** An employee who intends to interrupt their vacation shall provide the employer with written notice of the interruption before or as soon as possible after the interruption begins.

**Notice to employer — resumption of vacation**

**(7)** An employee who interrupts their vacation and who intends to resume it immediately after the interruption ends shall provide the employer with written notice of the day on which they resume their vacation before or as soon as possible after that day.

## **Postponement**

**187.2 (1)** Despite paragraph 185(a) or any term or condition of employment, an employee may postpone their vacation until after the day on which a leave of absence taken under Division VII or VIII or section 247.5, or an absence due to a reason referred to in subsection 239(1) or 239.1(1), ends.

## **Notice to employer**

**(2)** An employee who intends to postpone their vacation shall, as soon as possible, provide the employer with prior written notice of the postponement.

**203 (1)** Subsections 195(1) and (2) of the Act are replaced by the following:

### **Substitution — employees subject to collective agreement**

**195 (1)** An employer may, in respect of one or more employees subject to a collective agreement, substitute any other day for a general holiday if the substitution is agreed to in writing by the employer and the trade union, and the substituted day shall, for that employee or those employees, be deemed to be a general holiday for the purposes of this Part.

### **Substitution — employees not subject to collective agreement**

**(2)** Subject to subsection (3), an employer may, in respect of one or more employees not subject to a collective agreement, substitute any other day for a general holiday and the substituted day shall, for that employee or those employees, be deemed to be a general holiday for the purposes of this Part, if the substitution has been approved

**(a)** in the case of a substitution that affects one employee, by that employee in writing; or

**(b)** in the case of a substitution that affects more than one employee, by at least 70% of the affected employees.

**(2)** Subsection 195(3) of the English version of the Act is replaced by the following:

## **Posting of notice**

**(3)** If any other day is to be substituted for a general holiday under subsection (2), the employer shall post a notice of the substitution in readily accessible places where it is likely to be seen by the affected employees, for at least 30 days before the substitution takes effect.

**(3)** Section 195 of the Act is amended by adding the following after subsection (3):

**Exception**

**(4)** Subsection (3) does not apply to a substitution in respect of one employee following a request made under subsection 177.1(1).

**204** Paragraph 203(2)(b) of the Act is replaced by the following:

(b) modifying, to the extent that the Governor in Council considers necessary, the provisions of Division I.1, IV, V, VII, VIII, X, XI, XIII or XIV so that, as far as practicable, employees engaged in multi-employer employment will be entitled to the same rights and benefits under that Division as employees employed by one employer.

**205** The heading of Division VII of Part III of the Act is replaced by the following:

Reassignment, Maternity Leave, Parental Leave, Compassionate Care Leave, Leave Related to Critical Illness, Leave Related to Death or Disappearance, Family Responsibility Leave, Leave for Victims of Family Violence and Leave for Traditional Aboriginal Practices

**206** The Act is amended by adding the following after section 206.5:

**Family Responsibility Leave**

**Leave — three days**

**206.6 (1)** Every employee who has completed three consecutive months of continuous employment with an employer is entitled to and shall be granted a leave of absence from employment of up to three days in every calendar year, to carry out the employee's responsibilities related to

**(a)** the health or care of any of their family members; or

(b) the education of any of their family members who are less than 18 years of age.

### **Division of leave**

(2) The leave of absence may be taken in one or more periods. The employer may require that each period of leave be of not less than one day's duration.

### **Documentation**

(3) The employer may, in writing and no later than 15 days after an employee's return to work, request the employee to provide documentation to support the reasons for the leave. The employee shall provide that documentation only if it is reasonably practicable for them to obtain and provide it.

### **Family member**

(4) The Governor in Council may make regulations specifying the persons who are the employee's family members for the purposes of subsection (1).

## **Leave for Victims of Family Violence**

### **Definitions**

**206.7 (1)** The definitions *child* and *parent* set out in subsection 206.5(1) apply in subsection (2).

### **Leave — 10 days**

(2) Every employee who is a victim of family violence or who is the parent of a child who is a victim of family violence is entitled to and shall be granted a leave of absence from employment of up to 10 days in every calendar year, in order to enable the employee, in respect of such violence,

(a) to seek medical attention for themselves or their child in respect of a physical or psychological injury or disability;

(b) to obtain services from an organization which provides services to victims of family violence;

- (c) to obtain psychological or other professional counselling;
- (d) to relocate temporarily or permanently;
- (e) to seek legal or law enforcement assistance or to prepare for or participate in any civil or criminal legal proceeding; or
- (f) to take any measures prescribed by regulation.

### **Exception**

(3) An employee is not entitled to a leave of absence with respect to any act of family violence if the employee is charged with an offence related to that act or if it is probable, considering the circumstances, that the employee committed that act.

### **Division of leave**

(4) The leave of absence may be taken in one or more periods. The employer may require that each period of leave be of not less than one day's duration.

### **Documentation**

(5) The employer may, in writing and no later than 15 days after an employee's return to work, request the employee to provide documentation to support the reasons for the leave. The employee shall provide that documentation only if it is reasonably practicable for them to obtain and provide it.

### **Leave for Traditional Aboriginal Practices**

#### **Leave — five days**

**206.8 (1)** Every employee who is an Aboriginal person and who has completed three consecutive months of continuous employment with an employer is entitled to and shall be granted a leave of absence from employment of up to five days in every calendar year, in order to enable the employee to engage in traditional Aboriginal practices, including

- (a) hunting;

- (b) fishing;
- (c) harvesting; and
- (d) any practice prescribed by regulation.

### **Division of leave**

(2) The leave of absence may be taken in one or more periods. The employer may require that each period of leave be not less than one day's duration.

### **Documentation**

(3) The employer may, in writing and no later than 15 days after an employee's return to work, request the employee to provide documentation that shows the employee as an Aboriginal person. The employee shall provide that documentation only if it is reasonably practicable for him or her to obtain and provide it.

### **Definition of *Aboriginal***

(4) For the purposes of this section, *Aboriginal* means Indian, Inuit or Métis.

**207 (1)** Subsection 207.3(1) of the Act is replaced by the following:

### **Notice to employer of leave**

**207.3 (1)** Every employee who takes a leave of absence from employment under any of sections 206.3 to 206.8 shall, as soon as possible, provide the employer with a notice in writing of the reasons for the leave, and the length of the leave that they intend to take.

(2) Subsection 207.3(2) of the English version of the Act is replaced by the following:

### **Notice of change in length of leave**



**(2)** Every employee who is on a leave of absence from employment under any of sections 206.3 to 206.8 shall, as soon as possible, provide the employer with a notice in writing of any change in the length of the leave that they intend to take.

**208** Subsection 209.3(2) of the Act is replaced by the following:

### **Prohibition**

**(2)** The prohibitions set out in subsection (1) also apply in respect of an employee who has taken a leave of absence under any of sections 206.3 to 206.8.

**209 (1)** Paragraph 209.4(a) of the Act is replaced by the following:

**(a)** specifying the absences from employment that are considered not to have interrupted continuous employment referred to in any of sections 206, 206.1, 206.4 to 206.6 and 206.8;

**(2)** Paragraph 209.4(g) of the Act is replaced by the following:

**(g)** prescribing shorter periods of continuous employment for the purposes of subsections 206.4(2), 206.5(2) and (3), 206.6(1) and 206.8(1);

**(3)** Section 209.4 of the Act is amended by adding the following after paragraph (h):

**(h.1)** defining *family violence* for the purposes of section 206.7;

**(h.2)** prescribing cases, other than those set out in subsection 206.7(3), in which an employee is not entitled to a leave of absence and cases in which, despite that subsection, an employee is entitled to a leave of absence under subsection 206.7(2);

**(h.3)** prescribing documentation that the employer may request under any of subsections 206.6(3), 206.7(5) and 206.8(3);

**210** Subsections 210(1) and (2) of the Act are replaced by the following:

### **Employee entitled**

**210 (1)** Every employee is entitled to and shall be granted, in the event of the death of a member of their immediate family, a leave of absence from employment of up to five days that may be taken during the period that begins on the day on which the death occurs and ends six weeks after the latest of the days on which any funeral, burial or memorial service of that immediate family member occurs.

#### **Extension**

**(1.1)** At the request of the employee, the employer may extend, in writing, the period during which the leave of absence from employment may be taken.

#### **Division of leave**

**(1.2)** The leave of absence may be taken in one or two periods. The employer may require that any period of leave be of not less than one day's duration.

#### **Notice to employer**

**(1.3)** Every employee who takes the leave of absence shall, as soon as possible, provide the employer with written notice of the beginning of any period of leave of absence and of the length of that leave.

#### **Bereavement leave with pay**

**(2)** If the employee has completed three consecutive months of continuous employment with the employer, the employee is entitled to the first three days of the leave with pay at their regular rate of wages for their normal hours of work, and such pay shall for all purposes be considered to be wages.

**211** Section 247.9 of the Act is repealed.

**212** Paragraph 247.97(h) of the Act is replaced by the following:

**(h)** specifying the circumstances in which section 247.7, subsection 247.8(1) or subsection 247.91(2) does not apply;

**213** Section 251.01 of the Act is amended by adding the following after subsection (4):

## **Limitation — section 177.1**

(4.1) With respect to a request made under subsection 177.1(1), an employee may make a complaint under subsection (1) only on the grounds that the employer has refused the request on any ground other than those referred to in subparagraphs 177.1(3)(c)(i) to (v) or has failed to comply with any requirement set out in section 177.1(4).

## **Transitional Provision**

### **Subsection 175(2) of *Canada Labour Code***

214 Subsection 175(2) of the *Canada Labour Code* continues to apply in respect of the making of any regulations under paragraph 175(1)(a) or (b) of that Act for which the Minister of Labour has, before the coming into force of section 198 of this Act, caused an inquiry to be made under section 248 of that Act.

## **Coordinating Amendments**

2017, c. 20

**215 (1)** On the first day on which both subsection 267(3) of the *Budget Implementation Act, 2017, No. 1* and subsection 209(2) of this Act are in force, paragraph 209.4(g) of the *Canada Labour Code* is replaced by the following:

**(g)** prescribing shorter periods of continuous employment for the purposes of subsections 206(1), 206.1(1), 206.4(2) and (2.1), 206.5(2) and (3), 206.6(1) and 206.8(1);

**(2)** On the first day on which both subsection 356(1) of the *Budget Implementation Act, 2017, No. 1* and section 197 of this Act are in force, paragraph 246.1(1)(a) of the *Canada Labour Code* is replaced by the following:

**(a)** the employer has taken action against the employee in contravention of subsection 174.1(4) or 177.1(7) or of section 208, 209.3, 238, 239, 239.1 or 247.96;

## **Coming into Force**

### **Order in council**

**216 (1)** Sections 195 to 204 and 210 to 214 come into force on a day to be fixed by order of the Governor in Council.

**Order in council**

**(2)** Sections 205 to 209 come into force on a day to be fixed by order of the Governor in Council.

Appendix – Full Text of the Relevant Sections of Bill C-86- *Budget Implementation Act, 2018, No. 2*

**DIVISION 8**

**Parental Benefits and Related Leave**

1996, c. 23

**Employment Insurance Act**

Amendments to the Act

**303 (1) Paragraph 12(4)(b) of the *Employment Insurance Act* is replaced by the following:**

**(b)** for the care of one or more new-born or adopted children as a result of a single pregnancy or placement is,

**(i)** if the maximum number of weeks that has been elected under subsection 23(1.1) is established under subparagraph (3)(b)(i), 35 or, if the weeks for which benefits may be paid are divided in accordance with section 23, 40, or

**(ii)** if the maximum number of weeks that has been elected under subsection 23(1.1) is established under subparagraph (3)(b)(ii), 61 or, if the weeks for which benefits may be paid are divided in accordance with section 23, 69.

**(2) Subsection 12(4.01) of the Act is replaced by the following:**

**Maximum — parental benefits**

**(4.01)** If a claim is made under this Part in respect of a child or children referred to in paragraph (4)(b) and a claim is made under section 152.05 in respect of the same child or children, the maximum number of weeks of benefits payable under this Act in respect of the child or children is,

**(a)** if the maximum number of weeks that has been elected under subsection 23(1.1) is established under subparagraph (3)(b)(i), 35 or, if the weeks for which benefits may be paid are divided in accordance with section 23, 40; or

**(b)** if the maximum number of weeks that has been elected under subsection 23(1.1) is established under subparagraph (3)(b)(ii), 61 or, if the weeks for which benefits may be paid are divided in accordance with section 23, 69.

**304 Subsections 23(4) and (4.1) of the Act are replaced by the following:**

**Division of weeks of benefits**

**(4)** If two major attachment claimants each make a claim for benefits under this section—or if one major attachment claimant makes a claim for benefits under this section and an individual makes a claim for benefits under section 152.05—in respect of the same child or children, the weeks of benefits payable under this section, under section 152.05 or under both those sections may be divided between them up to a maximum of 40, if the maximum number of weeks that has been elected under subsection (1.1) or 152.05(1.1) is established under subparagraph 12(3)(b)(i) or 152.14(1)(b)(i), or up to a maximum of 69, if that number of weeks is established under subparagraph 12(3)(b)(ii) or 152.14(1)(b)(ii). If they cannot agree, the weeks of benefits are to be divided in accordance with the prescribed rules.

**Maximum number of weeks that can be divided**

**(4.1)** For greater certainty, if, in respect of the same child or children, a major attachment claimant makes a claim for benefits under this section and an individual makes a claim for benefits under section 152.05, the total number of weeks of benefits payable under this section and section 152.05 that may be divided between them may not exceed

**(a)** 40, if the maximum number of weeks that has been elected under subsection (1.1) or 152.05(1.1) is established under subparagraph 12(3)(b)(i) or 152.14(1)(b)(i); or

**(b)** 69, if that number of weeks is established under subparagraph 12(3)(b)(ii) or 152.14(1)(b)(ii).

**Maximum number of weeks per claimant**

**(4.11)** Even if the weeks of benefits payable are divided in accordance with subsections (4) and (4.1), the maximum number of weeks for which benefits may be paid to a claimant is 35 or 61 weeks, in accordance with the election made under subsection (1.1) or 152.05(1.1).

**305 Subsections 152.05(12) and (13) of the Act are replaced by the following:**

**Division of weeks of benefits**

**(12)** If two self-employed persons each make a claim for benefits under this section — or if one self-employed person makes a claim for benefits under this section and another person makes a claim for benefits under section 23 — in respect of the same child or children, the weeks of benefits payable under this section, under section 23 or under both those sections may be divided between them up to a maximum of 40, if the maximum number of weeks that has been elected under subsection (1.1) or 23(1.1) is established under subparagraph 152.14(1)(b)(i) or 12(3)(b)(i), or up to a maximum of 69, if that number of weeks is established under subparagraph 152.14(1)(b)(ii) or 12(3)(b)(ii). If they cannot agree, the weeks of benefits are to be divided in accordance with the prescribed rules.

**Maximum number of weeks that can be divided**

**(13)** For greater certainty, if, in respect of the same child or children, a self-employed person makes a claim for benefits under this section and another person makes a claim for benefits under section 23, the total number of weeks of benefits payable under this section and section 23 that may be divided between them may not exceed

**(a)** 40, if the maximum number of weeks that has been elected under subsection (1.1) or 23(1.1) is established under subparagraph 152.14(1)(b)(i) or 12(3)(b)(i); or

**(b)** 69, if that number of weeks is established under subparagraph 152.14(1)(b)(ii) or 12(3)(b)(ii).

**Maximum number of weeks per claimant**

**(13.01)** Even if the weeks of benefits payable are divided in accordance with subsections (12) and (13), the maximum number of weeks for which benefits may be paid to a claimant is 35 or 61 weeks, in accordance with the election made under subsection (1.1) or 23(1.1).

**306 (1) The portion of subsection 152.14(2) of the Act before paragraph (a) is replaced by the following:**

**Maximum — single pregnancy or placement**

**(2)** The maximum number of weeks for which benefits under this Part may be paid

**(2) Paragraph 152.14(2)(b) of the Act is replaced by the following:**

**(b)** for the care of one or more new-born or adopted children as a result of a single pregnancy or placement is,

**(i)** if the maximum number of weeks that has been elected under subsection 152.05(1.1) is established under subparagraph (1)(b)(i), 35 or, if the weeks for which benefits may be paid are divided in accordance with section 152.05, 40, or

**(ii)** if the maximum number of weeks that has been elected under subsection 152.05(1.1) is established under subparagraph (1)(b)(ii), 61 or, if the weeks for which benefits may be paid are divided in accordance with section 152.05, 69.

**(3) Subsection 152.14(4) of the Act is replaced by the following:**

**Maximum — parental benefits**

**(4)** If a claim is made under this Part in respect of a child or children referred to in paragraph (2)(b) and a claim is made under section 23 in respect of the same child or children, the maximum number of weeks of benefits payable under this Act in respect of the child or children is,

**(a)** if the maximum number of weeks that has been elected under subsection 152.05(1.1) is established under subparagraph (1)(b)(i), 35 or, if the weeks for which benefits may be paid are divided in accordance with section 152.05, 40; or

**(b)** if the maximum number of weeks that has been elected under subsection 152.05(1.1) is established under subparagraph (1)(b)(ii), 61 or, if the weeks for which benefits may be paid are divided in accordance with section 152.05, 69.

Transitional Provision

**Birth or placement for adoption**



**307** The *Employment Insurance Act*, as it read immediately before the day on which this section comes into force, continues to apply to a claimant for the purpose of paying benefits under section 23 or 152.05 of that Act in respect of a child or children who are, before that day, born or placed with the claimant for the purpose of adoption.

Coordinating Amendments

2000, c. 12

**308 (1)** In this section, *other Act* means the *Modernization of Benefits and Obligations Act*.

**(2)** If section 304 of this Act comes into force before subsection 107(3) of the other Act, then the portion of that subsection 107(3) before the subsection (4.2) that it enacts is replaced by the following:

**(3)** Section 23 of the Act is amended by adding the following after subsection (4.11):

**(3)** If section 304 of this Act comes into force on the same day as subsection 107(3) of the other Act, then that subsection 107(3) is deemed to have come into force before that section 304.

2009, c. 33

**309 (1)** In this section, *other Act* means the *Fairness for the Self-Employed Act*.

**(2)** If section 305 of this Act comes into force before the day on which section 35 of the other Act produces its effects, then the portion of that section 35 before the subsection (13.1) that it enacts is replaced by the following:

2000, c. 12

**35** On the first day on which both subsection 107(3) of the *Modernization of Benefits and Obligations Act* and section 16 of this Act are in force, section 152.05 of the *Employment Insurance Act* is amended by adding the following after subsection (13.01):

**(3)** If section 305 of this Act comes into force on the same day as section 35 of the other Act produces its effects, then that section 35 is deemed to have produced its effects before the day on which that section 305 comes into force.

R.S., c. L-2

## Canada Labour Code

Amendments to the Act

**310 Subsection 206.1(3) of the *Canada Labour Code* is replaced by the following:  
Aggregate leave — employees**

**(3)** The aggregate amount of leave that may be taken by more than one employee under this section in respect of the same birth or adoption shall not exceed 71 weeks, but the amount of leave that may be taken by one employee under this section in respect of the same birth or adoption shall not exceed 63 weeks.

**311 Section 206.2 of the Act is replaced by the following:  
Aggregate leave — maternity and parental**

**206.2** The aggregate amount of leave that may be taken by more than one employee under sections 206 and 206.1 in respect of the same birth shall not exceed 86 weeks, but the aggregate amount of leave that may be taken by one employee under those sections in respect of the same birth shall not exceed 78 weeks.

Coordinating Amendment

2012, c. 27

**312 On the first day on which both section 35 of the *Helping Families in Need Act* has produced its effects and section 310 of this Act is in force, subsection 206.1(3) of the *Canada Labour Code* is replaced by the following:  
Aggregate leave — employees**

**(3)** The aggregate amount of leave that may be taken by more than one employee under this section in respect of the same event, as described in paragraphs (1)(a) to (c), shall not exceed 71 weeks, but the amount of leave that may be taken by one employee under this section in respect of the same event shall not exceed 63 weeks.

## Coming into Force

### Order in council

**313 Sections 303 to 307 and 310 and 311 come into force on a day to be fixed by order of the Governor in Council.**

## DIVISION 15

# Modernization of the Canada Labour Code

## SUBDIVISION A

R.S., c. L-2

## Canada Labour Code

Amendments to the Act

**441 Subsections 132(2) and (3) of the *Canada Labour Code* are replaced by the following:  
**Consult health care practitioner****

**(2)** The employee must consult with a *health care practitioner*, as defined in section 166, of her choice as soon as possible to establish whether continuing any of her current job functions poses a risk to her health or to that of the foetus or child.

**Provision no longer applicable**

**(3)** Without prejudice to any other right conferred by this Act, by a collective agreement or other agreement or by any terms and conditions of employment, once the health care practitioner has established whether there is a risk as described in subsection (1), the employee may no longer cease to perform her job under subsection (1).

**442 (1) The definition *qualified medical practitioner* in section 166 of the Act is repealed.**

**(2) Section 166 of the Act is amended by adding the following in alphabetical order:**

***health care practitioner*** means a person lawfully entitled, under the laws of a province, to provide health services in the place in which they provide those services. (*professionnel de la santé*)

**443 The Act is amended by adding the following after section 167:**

**Prohibition**

**167.1** An employer is prohibited from treating an employee as if they were not their employee in order to avoid their obligations under this Part or to deprive the employee of their rights under this Part.

**Burden of proof**

**167.2** If, in any proceeding in respect of a complaint made under this Part, the employer alleges that the complainant is not their employee, the burden of proof is on the employer.

**444 The Act is amended by adding the following after section 169:**

**Break**

**169.1 (1)** Every employee is entitled to and shall be granted an unpaid break of at least 30 minutes during every period of five consecutive hours of work. If the employer requires the employee to be at their disposal during the break period, the employee must be paid for the break.

**Exception**

**(2)** An employer may postpone or cancel the break set out in subsection (1) if it is necessary for the employee to work in order to deal with a situation that the employer could not have reasonably foreseen and that presents or could reasonably be expected to present an imminent or serious

**(a)** threat to the life, health or safety of any person;

**(b)** threat of damage to or loss of property; or

**(c)** threat of serious interference with the ordinary working of the employer's industrial establishment.

### **Rest period**

**169.2 (1)** Every employee is entitled to and shall be granted a rest period of at least eight consecutive hours between work periods or shifts.

### **Exception**

**(2)** Despite subsection (1), an employer may require that an employee work additional hours to their scheduled work periods or shifts which would result in them having a rest period of fewer than eight consecutive hours between their work periods or shifts if it is necessary for the employee to work in order to deal with a situation that the employer could not have reasonably foreseen and that presents or could reasonably be expected to present an imminent or serious

**(a)** threat to the life, health or safety of any person;

**(b)** threat of damage to or loss of property; or

**(c)** threat of serious interference with the ordinary working of the employer's industrial establishment.

**445 The Act is amended by adding the following after section 173:**

### **Notice — work schedule**

**173.01 (1)** The employer shall provide an employee with their work schedule in writing at least 96 hours before the start of the employee's first work period or shift under that schedule.

**Right to refuse**

**(2)** Subject to subsection (3), an employee may refuse to work any work period or shift in their schedule that starts within 96 hours from the time that the schedule is provided to them.

**Exception**

**(3)** An employee shall not refuse to work a work period or shift if it is necessary for them to work in order to deal with a situation that the employer could not have reasonably foreseen and that presents or could reasonably be expected to present an imminent or serious

**(a)** threat to the life, health or safety of any person;

**(b)** threat of damage to or loss of property; or

**(c)** threat of serious interference with the ordinary working of the employer's industrial establishment.

**Exception — subsection 177.1(1)**

**(4)** Subsection (1) does not apply to a change to an employee's work schedule following a request made under subsection 177.1(1).

**Prohibition**

**(5)** An employer shall not dismiss, suspend, lay off, demote or discipline an employee because the employee has refused to work a work period or shift under subsection (2) or take such a refusal into account in any decision to promote or train the employee.

**Non-application of subsection 196(4)**

(6) Subsection 196(4) does not apply in respect of a work period or shift that an employee refuses to work under subsection (2).

**Non-application — collective agreement**

(7) This section does not apply to employees who are employed under the terms of a collective agreement that specifies an alternate time frame for providing the work schedule or provides that this section does not apply to those employees.

**446 (1) The portion of paragraph 175(1)(a) of the Act before subparagraph (i) is replaced by the following:**

(a) modifying any provision of this Division for the purpose of the application of this Division to classes of employees who are employed in or in connection with the operation of any industrial establishment if, in the opinion of the Governor in Council, the application of those sections without modification

**(2) Paragraph 175(1)(b) of the Act is replaced by the following:**

(b) exempting any class of employees from the application of any provision of this Division if the Governor in Council is satisfied that it cannot reasonably be applied to that class of employees;

**(3) Subsection 175(1) of the Act is amended by adding the following after paragraph (b):**

(b.1) respecting rest periods under section 169.2, including defining the terms “shift” and “work period” for the purposes of that section;

**447 The heading of Division II of Part III of the Act is replaced by the following:**

Minimum Wage and Age of Employment

**448 (1) The portion of section 179 of the Act before paragraph (a) is replaced by the following:**

**Employees under 18 years of age**

**179** An employer may employ a person under the age of 18 years only

**(2) Paragraph 179(a) of the French version of the Act is replaced by the following:**

a) que pour exercer les activités prévues par règlement;

**449 Paragraph 181(f) of the Act is replaced by the following:**

(f) specifying, for the purposes of section 179, the occupations in which persons under the age of 18 years, or any class of persons under that age, may be employed in an industrial establishment and fixing the conditions of that employment; and

**450 The Act is amended by adding the following after section 181:**

## **DIVISION II.1**

Breaks for Medical Reasons or Nursing

### **Medical break**

**181.1 (1)** Subject to the regulations, every employee is entitled to and shall be granted any unpaid breaks that are necessary for medical reasons.

### **Certificate**

**(2)** On written request by the employer, the employee must provide a certificate issued by a health care practitioner setting out the length and frequency of the breaks needed for medical reasons and any additional information that may be prescribed by regulation.

### **Nursing break**

**181.2** Subject to the regulations, every employee who is nursing is entitled to and shall be granted any unpaid breaks necessary for them to nurse or to express breast milk.

### **Regulations**



**181.3** The Governor in Council may make regulations

- (a) modifying the provisions of sections 181.1 or 181.2 for the purpose of the application of this Division to any class of employees;
- (b) exempting any class of employees from the application of section 181.1 or 181.2;
- (c) respecting the breaks set out in subsection 181.1(1) and section 181.2, including circumstances in which those breaks cannot be taken; and
- (d) respecting additional information to be included in a certificate required under subsection 181.1(2).

**451 The heading of Division III of Part III of the Act is replaced by the following:**

Equal Treatment

**452 The Act is amended by adding the following after section 182:**

**Prohibition — rate of wages**

**182.1 (1)** An employer is prohibited from paying one employee a rate of wages that is less than the rate paid to another of that employer's employees due to a difference in their employment status, if

- (a) they work in the same industrial establishment;
- (b) they perform substantially the same kind of work;
- (c) the performance of that work requires substantially the same skill, effort and responsibility;
- (d) their work is performed under similar working conditions; and
- (e) any other factor that may be prescribed by regulation is present.

**Exception**

(2) Subsection (1) does not apply if the difference in employees' rates of wages is due to a system based on

(a) seniority;

(b) merit;

(c) the quantity or quality of each employee's production; or

(d) any other criterion that may be prescribed by regulation.

**Prohibition — reduction in rate of wages**

(3) An employer is prohibited from reducing an employee's rate of wages in order to comply with subsection (1).

**Request for review**

**182.2 (1)** If an employee who believes that their rate of wages does not comply with subsection 182.1(1) makes a written request to the employer for a review of the rate, the employer must, within 90 days after receiving the request, conduct a review of the employee's rate of wages and provide the employee with a written response that includes

(a) a statement that the employer has increased their rate of wages in order to comply with subsection 182.1(1); or

(b) a statement, including reasons, that the employee's current rate of wages complies with subsection 182.1(1).

**Payment of wages**

(2) If an employer increases an employee's rate of wages in order to comply with subsection 182.1(1), the employer must pay the employee an amount equal to the difference between the two rates of wages from the day on which the employee makes their request under subsection (1) to the day on which the employer starts paying the employee the increased rate of wages.

**Prohibition — dismissal etc.**

**(3)** An employer is prohibited from dismissing, suspending, laying off, demoting or disciplining an employee because the employee has made a request under subsection (1) or taking such a request into account in any decision to promote or train the employee.

### **Notice of employment opportunities**

**182.3** If an employer carries out a practice of informing employees of employment or promotion opportunities in writing, the employer must inform all their employees, regardless of their employment status.

### **Regulations**

**182.4** The Governor in Council may make regulations

- (a)** defining any term for the purposes of this Division;
- (b)** setting out factors for the purpose of paragraph 182.1(1)(e);
- (c)** setting out criteria for the purpose of paragraph 182.1(2)(d);
- (d)** modifying the provisions of section 182.1 or 182.2 for the purpose of the application of this Division to any class of employees; and
- (e)** exempting any class of employees from the application of section 182.1 or 182.2.

**453** The definition *vacation pay* in section 183 of the Act is replaced by the following:

*vacation pay* means the amount an employee is entitled to under section 184.01. (*indemnité de congé annuel*)

**454** Section 184 of the Act is replaced by the following:

### **Annual vacation with pay**

**184** Except as otherwise provided by or under this Division, in respect of every year of employment by an employer, every employee is entitled to and shall be granted a vacation with vacation pay of

- (a) at least two weeks if they have completed at least one year of employment;
- (b) at least three weeks if they have completed at least five consecutive years of employment with the same employer;  
and
- (c) at least four weeks if they have completed at least 10 consecutive years of employment with the same employer.

### **Calculation of vacation pay**

**184.01** An employee is entitled to vacation pay equal to:

- (a) 4% of their wages during the year of employment in respect of which they are entitled to the vacation;
- (b) 6% of their wages during the year of employment in respect of which they are entitled to the vacation, if they have completed at least five consecutive years of employment with the same employer; and
- (c) 8% of their wages during the year of employment in respect of which they are entitled to the vacation, if they have completed at least 10 consecutive years of employment with the same employer.

### **455 Subsection 187.1(2) of the Act is replaced by the following:**

#### **Application of section 209.1**

**(2)** If an employee interrupts a vacation to take leave under any of sections 205.1, 206, 206.1 and 206.3 to 206.9 and resumes the vacation immediately at the end of that leave, section 209.1 applies to them as if they did not resume the vacation before returning to work.

### **456 Paragraph 188(b) of the Act is replaced by the following:**

**(b)** the applicable percentage, under section 184.01, of the wages of the employee during any part of the completed portion of their year of employment in respect of which vacation pay has not been paid to them.

### **457 (1) Subsection 189(1) of the Act is replaced by the following:**

## **Transfer**

**189 (1)** Despite the lease or transfer of a work, undertaking or business, or any part of a work, undertaking or business, from one employer to another employer by sale, merger or otherwise, the employment of the employee, before and after the lease or transfer, who is employed in or in connection with the operation of that work, undertaking or business, is, for the purposes of this Division, deemed to be continuous with one employer if the work, undertaking or business

**(a)** is a federal work, undertaking or business; or

**(b)** becomes a federal work, undertaking or business due to the lease or transfer.

## **Retendering**

**(1.1)** If, due to a contract being awarded through a retendering process, a second employer becomes responsible for carrying out any particular federal work, undertaking or business, or part of one, that was previously carried out by a first employer, an employee who is employed in or in connection with the its operation before and after the retendering, is, for the purposes of this Division, deemed to be continuously employed with one employer.

## **Non-application**

**(1.2)** Subsections (1) and (1.1) do not apply if the employee's first day of employment by the second employer is more than 13 weeks after the day that is the earlier of

**(a)** the employee's last day of employment by the first employer; and

**(b)** the day on which the federal work, undertaking or business is transferred or the first day the second employer carries out the federal work, undertaking or business, as the case may be.

## **Period of continuous employment**

**(1.3)** For greater certainty, if an employer's work, undertaking or business becomes a federal work, undertaking or business due to a change in its activities, for the purposes of this Division, an employee's period of continuous

employment by the employer includes any period in which the work, undertaking or business in or in connection with the operation of which the employee is employed was not a federal work, undertaking or business.

### **Calculation of period of employment**

**(1.4)** If subsection (1) or (1.1) applies in respect of an employee, any period between their employment by the first employer and their employment by the second employer is not included in the calculation of their period of continuous employment.

#### **Exception**

**(1.5)** For the purposes of an employee's employment by the second employer, this section does not apply in respect of the calculation of the employee's entitlement under section 230 if the first employer complied with that section in respect of their employment by that employer.

#### **Exception — severance pay**

**(1.6)** For the purposes of an employee's employment by the second employer, this section does not apply in respect of the calculation of their entitlement to severance pay under section 235 if the first employer paid them severance pay in respect of their employment by that employer.

**(2) Subsection 189(1.5) of the Act is replaced by the following:**

#### **Exception**

**(1.5)** For the purposes of an employee's employment by the second employer, this section does not apply in respect of the calculation of the employee's entitlement under section 230, if the first employer complied with subsection 212.1(1) or section 230, as the case may be, in respect of their employment by that employer.

**458 (1) Subsection 196(1) of the Act is replaced by the following:**

#### **Holiday pay**

**196 (1)** Subject to subsections (2) and (4), an employer shall, for each general holiday, pay an employee holiday pay equal to at least one twentieth of the wages, excluding overtime pay, that the employee earned with the employer in the four-week period immediately preceding the week in which the general holiday occurs.

**(2) Subsections 196(3) and (5) of the Act are repealed.**

**459 Subsection 197(3) of the Act is repealed.**

**460 Paragraph 203(2)(b) of the Act is replaced by the following:**

**(b)** modifying, to the extent that the Governor in Council considers necessary, the provisions of Division I.1, IV, V, VII, VIII, IX, X, XI, XIII or XIV so that, as far as practicable, employees engaged in multi-employer employment will be entitled to the same rights and benefits under that Division as employees employed by one employer.

**461 The Act is amended by adding the following after section 203:**

## **DIVISION VI.1**

Temporary Help Agencies

### **Application**

**203.01** This Division applies to an employer who is a temporary help agency and to those of its employees who perform work assignments in its clients' industrial establishments.

### **Prohibition**

**203.1 (1)** An employer is prohibited from

**(a)** charging a fee to a person in connection with him or her becoming its employee;

**(b)** charging a fee to its employee for assigning or attempting to assign him or her to perform work for a client;

**(c)** charging a fee to its employee for any assignment or job preparation services, including assisting him or her in preparing resumes or preparing for job interviews;

**(d)** charging a fee to its employee for him or her establishing an employment relationship with one of its clients;

**(e)** charging a fee to a client for establishing an employment relationship with an employee if the day on which the employee's first assignment with the client started is more than six months before the day on which the client establishes the employment relationship with the employee; and

**(f)** preventing or attempting to prevent an employee from establishing an employment relationship with a client.

### **Payment**

**(2)** If an employee pays any fee described in any of paragraphs (1)(a) to (d), the employer must pay to the employee an amount equal to that fee.

### **Equal treatment**

**203.2 (1)** An employer is prohibited from paying an employee a rate of wages that is less than the rate the client pays to its employee if

**(a)** they work in the same industrial establishment;

**(b)** they perform substantially the same kind of work;

**(c)** the performance of that work requires substantially the same skill, effort and responsibility;

**(d)** their work is performed under similar working conditions; and

**(e)** any other factor that may be prescribed by regulation is present.

### **Exception**

**(2)** Subsection (1) does not apply if the difference in employees' rates of wages is due to a system based on



- (a) seniority;
- (b) merit;
- (c) the quantity or quality of each employee's production; or
- (d) any other criterion that may be prescribed by regulation.

**Prohibition — reduction in rate of wages**

(3) A client is prohibited from reducing their employee's rate of wages in order to enable the employer to comply with subsection (1).

**Request for review**

**203.3 (1)** If an employee who believes that their rate of wages does not comply with subsection 203.2(1) makes a written request to the employer for a review of the rate, the employer must, within 90 days after receiving the request, conduct a review of the employee's rate of wages and provide the employee with a written response that includes

- (a) a statement that the employer has increased their rate of wages in order to comply with subsection 203.2(1); or
- (b) a statement, including reasons, that the employer has not increased their rate of wages.

**Payment of wages**

(2) If an employer increases an employee's rate of wages in order to comply with subsection 203.2(1), the employer must pay the employee an amount equal to the difference between the two rates of wages from the day on which the employee makes their request under subsection (1) to the date on which the employer starts paying the employee the increased rate of wages.

**Prohibition — dismissal etc.**

**(3)** An employer is prohibited from dismissing, suspending, laying off, demoting or disciplining an employee because the employee has made a request under subsection (1) or taking such a request into account in any decision to promote or train the employee or to provide an assignment to them.

### **Inspections and complaints**

**203.4** If an inspection that relates to an employer's compliance with this Division is carried out under this Part or a complaint is made under section 251.01(1) that relates to the contravention of this Division by the employer, section 249 applies in respect of the employer's clients as if they were the employer.

### **Regulations**

**203.5** The Governor in Council may make regulations

- (a)** defining any term for the purposes of this Division;
- (b)** setting out factors for the purpose of paragraph 203.2(1)(e);
- (c)** setting out criteria for the purpose of paragraph 203.2(2)(d);
- (d)** modifying the provisions of any section of this Division for the purpose of the application of this Division to any class of employees; and
- (e)** exempting any class of employees from the application of any provision of this Division.

**462 The heading of Division VII of Part III of the Act is replaced by the following:**

Maternity-related Reassignment and Leave and Other Leaves

**463 Subsection 204(2) of the Act is replaced by the following:**

### **Certificate**

**(2)** An employee's request under subsection (1) must be accompanied by a certificate from a health care practitioner of the employee's choice indicating the expected duration of the potential risk and the activities or conditions to avoid in order to eliminate the risk.

**464 (1) Subsections 205(3) and (4) of the Act are replaced by the following:**

**Onus of proof**

**(3)** The onus is on the employer to show that a modification of job functions or a reassignment that would avoid the activities or conditions indicated in the certificate issued under subsection 204(2) is not reasonably practicable.

**Employee to be informed**

**(4)** If the employer concludes that a modification of job functions or a reassignment that would avoid the activities or conditions indicated in the certificate is not reasonably practicable, the employer shall so inform the employee in writing.

**(2) Subsection 205(6) of the Act is replaced by the following:**

**Employee's right to leave**

**(6)** An employee referred to in subsection (4) is entitled to and shall be granted a leave of absence for the duration of the risk as indicated in the certificate.

**465 Sections 205.1 and 205.2 of the Act are replaced by the following:**

**Entitlement to leave**

**205.1** An employee who is pregnant or nursing is entitled to and shall be granted a leave of absence during the period from the beginning of the pregnancy to the end of the twenty-fourth week following the birth, if she provides the employer with a certificate issued by a health care practitioner of her choice indicating that she is unable to work by reason of the pregnancy or nursing and indicating the duration of that inability.

**Employee's duty to inform employer**

**205.2** An employee whose job functions have been modified, who has been reassigned or who is on a leave of absence shall give at least two weeks' notice in writing to the employer of any change in the duration of the risk or in the inability as indicated in the certificate issued by a health care practitioner, unless there is a valid reason why that notice cannot be given, and the notice must be accompanied by a new certificate.

**466 Subsection 206(1) of the Act is replaced by the following:**

#### **Entitlement to leave**

**206 (1)** Every employee is entitled to and shall be granted a leave of absence from employment of up to 17 weeks, which leave may begin not earlier than 13 weeks prior to the estimated date of her confinement and end not later than 17 weeks following the actual date of her confinement, if the employee provides her employer with a certificate of a health care practitioner certifying that she is pregnant.

**467 (1) Subsection 206.1(1) of the Act is replaced by the following:**

#### **Entitlement to leave**

**206.1 (1)** Subject to subsections (2) and (3), every employee is entitled to and shall be granted a leave of absence from employment of up to 63 weeks to care for a newborn child of the employee or a child who is in the care of the employee for the purpose of adoption under the laws governing adoption in the province in which the employee resides.

**(2) Subsection 206.1(2.1) of the Act is replaced by the following:**

#### **Extension of period**

**(2.1)** The period referred to in subsection (2) is extended by the number of weeks during which the employee is on leave under any of sections 206.3 to 206.5 and 206.9, is absent due to a reason referred to in subsection 239(1) or 239.1(1) or is on leave under any of paragraphs 247.5(1)(a), (b) and (d) to (g).

**(3) Subsection 206.1(2.4) of the Act is replaced by the following:**

#### **Interruption**

**(2.4)** The employee may interrupt the leave referred to in subsection (1) in order to permit the employee to take leave under any of sections 206.3 to 206.5 and 206.9, to be absent due to a reason referred to in subsection 239(1) or 239.1(1) or to take leave under any of paragraphs 247.5(1)(a), (b) and (d) to (g).

**(4) Subsection 206.1(4) of the Act is replaced by the following:**

**Exception — medical leave**

**(4)** Except to the extent that it is inconsistent with subsection 239(7), section 209.1 applies to an employee who interrupted the leave referred to in subsection (1) in order to be absent due to a reason referred to in subsection 239(1).

**468 (1) Subsection 206.3(1) of the Act is replaced by the following:**

**Definitions**

**206.3 (1)** For the purposes of this section, *care*, *family member* and *support* have, subject to the regulations, the same meanings as in the regulations made under the *Employment Insurance Act* and **week** means the period between midnight on Saturday and midnight on the immediately following Saturday.

**(2) The portion of subsection 206.3(2) of the Act before paragraph (a) is replaced by the following:**

**Entitlement to leave**

**(2)** Subject to subsections (3) to (8), every employee is entitled to and shall be granted a leave of absence from employment of up to 28 weeks to provide care or support to a family member of the employee if a health care practitioner issues a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks from

**(3) Subsection 206.3(2.1) of the Act is repealed.**

**(4) Subsection 206.3(3.1) of the English version of the Act is replaced by the following:**

**Certificate not necessary**

**(3.1)** For greater certainty, but subject to subsection (3), for leave under this section to be taken after the end of the period of 26 weeks set out in subsection (2), it is not necessary for a health care practitioner to issue an additional certificate under that subsection (2).

**469 (1) Subsection 206.4(1) of the Act is replaced by the following:**

#### **Definitions**

**206.4 (1)** For the purposes of this section, *care*, *critically ill adult*, *critically ill child*, *family member* and *support* have, subject to the regulations, the same meanings as in the regulations made under the *Employment Insurance Act* and *week* has the same meaning as in subsection 206.3(1).

**(2) The portion of subsection 206.4(2) of the Act before paragraph (a) is replaced by the following:**

#### **Leave — 37 weeks**

**(2)** Every employee who is a family member of a critically ill child is entitled to and shall be granted a leave of absence from employment of up to 37 weeks in order to care for or support that child if a health care practitioner has issued a certificate that

**(3) The portion of subsection 206.4(2.1) of the Act before paragraph (a) is replaced by the following:**

#### **Leave — 17 weeks**

**(2.1)** Every employee who is a family member of a critically ill adult is entitled to and shall be granted a leave of absence from employment of up to 17 weeks in order to care for or support that adult if a health care practitioner has issued a certificate that

**(4) Subsection 206.4(3) of the Act is repealed.**

**(5) Subparagraph 206.4(4)(a)(ii) of the Act is replaced by the following:**

**(ii)** if the leave begins before the day on which the certificate is issued, the day from which the health care practitioner certifies that the child or adult, as the case may be, is critically ill; and

**470 Subsections 206.5(2) and (3) of the Act are replaced by the following:**

**Leave — 104 weeks**

(2) Every employee is entitled to and shall be granted a leave of absence from employment of up to 104 weeks if the employee is the parent of a child who has died and it is probable, considering the circumstances, that the child died as a result of a crime.

**Leave — 52 weeks**

(3) Every employee is entitled to and shall be granted a leave of absence from employment of up to 52 weeks if the employee is the parent of a child who has disappeared and it is probable, considering the circumstances, that the child disappeared as a result of a crime.

**471 The Act is amended by adding the following after section 206.8:**

Leave for Court or Jury Duty

**Entitlement to leave**

**206.9** Every employee is entitled to and shall be granted a leave of absence from employment to attend court to

- (a) act as a witness in a proceeding;
- (b) act as a juror in a proceeding; or
- (c) participate in a jury selection process.

**472 Subsection 207.02(3) of the Act is replaced by the following:**

**Exception — medical leave**

(3) Except to the extent that it is inconsistent with subsection 239(7), section 209.1 applies to an employee who interrupted the leave in order to be absent due to a reason referred to in subsection 239(1).

**473 Subsection 207.2(4) of the Act is replaced by the following:**

**Certificate**

**(4)** The employer may, in writing and no later than 15 days after an employee's return to work, require the employee to provide a certificate issued by a health care practitioner attesting to the child's hospitalization.

**474 (1) Subsection 207.3(1) of the Act is replaced by the following:**

**Notice to employer of leave**

**207.3 (1)** Every employee who takes a leave of absence from employment under any of sections 206.3 to 206.9 shall, as soon as possible, provide the employer with a notice in writing of the reasons for the leave and the length of the leave that they intend to take.

**(2) Subsection 207.3(2) of the English version of the Act is replaced by the following:**

**Notice of change in length of leave**

**(2)** Every employee who is on a leave of absence from employment under any of sections 206.3 to 206.9 shall, as soon as possible, provide the employer with a notice in writing of any change in the length of the leave that they intend to take.

**(3) Subsections 207.3(3) and (4) of the Act are replaced by the following:**

**Notice — leave of more than four weeks**

**(3)** If the length of the leave taken under any of sections 206.3 to 206.5 and 206.9 is more than four weeks, the notice in writing of any change in the length of the leave shall be provided on at least four weeks' notice, unless there is a valid reason why that cannot be done.

**Documentation**

**(4)** The employer may require the employee to provide documentation in support of the reasons for the leave taken under section 206.4, 206.5 or 206.9 and of any change in the length of leave that the employee intends to take.



**475 Section 209.22 of the Act is replaced by the following:**

**Status of certificate**

**209.22** A certificate issued by a health care practitioner under this Division is conclusive proof of the statements contained in it.

**476 Subsection 209.3(2) of the Act is replaced by the following:**

**Prohibition**

**(2)** The prohibitions set out in subsection (1) also apply in respect of an employee who has taken a leave of absence under any of sections 206.3 to 206.9.

**477 (1) Paragraph 209.4(a) of the Act is replaced by the following:**

**(a)** specifying the absences from employment that are deemed not to have interrupted continuous employment referred to in any of sections 206.6 to 206.8;

**(2) Paragraphs 209.4(e) and (e.1) of the Act are replaced by the following:**

**(e)** prescribing other persons to be included in the meanings of *family member* in subsections 206.3(1) and 206.4(1);

**(e.1)** adapting the terminology of the definitions of *care*, *critically ill adult*, *critically ill child*, *family member* and *support* in the regulations made under the *Employment Insurance Act* for the purposes of the definitions of those terms in subsections 206.3(1) and 206.4(1) of this Act;

**(3) Paragraph 209.4(g) of the Act is replaced by the following:**

**(g)** prescribing shorter periods of consecutive months of continuous employment for the purposes of subsections 206.6(2), 206.7(2.1) and 206.8(1);

**478 (1) The definition *redundant employee* in section 211 of the Act is replaced by the following:**

**redundant employee** means an employee whose employment is terminated in a group termination of employment or whose employment is to be terminated in accordance with a notice under subsection 212(1). (*surnuméraire*)

**(2) Section 211 of the Act is amended by adding the following in alphabetical order:**

**group notice period** means the 16-week period preceding the group termination period. (*période de préavis de licenciement collectif*)

**group termination of employment** means the termination by an employer, either simultaneously or within any four-week period, determined in accordance with any regulations, of the employment of a group of 50 or more employees — or of any lesser number of employees that is prescribed by regulations that are applicable to the employer — within a particular industrial establishment. (*licenciement collectif*)

**group termination period** means the four-week period, determined in accordance with any regulations, starting on the date of the first termination of employment identified in a notice of group termination of employment given under subsection 212(1). (*période de licenciement collectif*)

**(3) Section 211 of the Act is renumbered as subsection 211(1) and is amended by adding the following:**

**Application**

**(2)** For the purposes of this Division, if an employer gives notice under subsection 212(1) and the number of redundant employees whose employment is terminated is less than 50 — or any lesser number that is prescribed by regulations that are applicable to the employer — the termination of those employees is deemed to be a group termination of employment.

**479 Subsections 212(1) and (2) of the Act are replaced by the following:**

**Notice — Minister**

**212 (1)** An employer must give notice to the Minister, in writing, of any group termination of employment at least 16 weeks before the first date of termination of employment of an employee in the group.

**Exception**

**(1.1)** If an employer terminates the employment of at least 50 employees — or any lesser number that is prescribed by regulations that are applicable to the employer — on the same day and pays them at least 16 weeks' wages under paragraph 212.1(1)(b), the group notice period is deemed to begin on that day and the notice referred to in subsection (1) is to be given at least 48 hours before that date.

### **Copy of notice**

**(2)** A copy of any notice given under this section must be given immediately by the employer to the Minister of Employment and Social Development and the Canada Employment Insurance Commission.

### **Copy of notice — union and redundant employee**

**(2.1)** Subject to subsection (2.2), the employer must immediately give a copy of any notice given under subsection (1) to any trade union representing a redundant employee, and if any redundant employee is not represented by a trade union, a copy of that notice must be given immediately to the employee or immediately posted by the employer in a conspicuous place within the industrial establishment in which that employee is employed.

### **Copy of notice — subsection (1.1)**

**(2.2)** If subsection (1.1) applies, the employer must give a copy of the notice to any trade union representing a redundant employee referred to in that subsection on the date of the group termination of employment.

## **480 Section 213 of the Act is replaced by the following:**

### **Redundant employee — employment terminated**

**212.1 (1)** In addition to giving notice under section 212, the employer must give each redundant employee whose employment is terminated during the group notice period or the group termination period

**(a)** notice in writing of the employer's intention to terminate their employment on a date specified in the notice, which cannot be before the day after the group notice period ends, at least eight weeks before that date;

**(b)** wages in lieu of notice, at their regular rate of wages for their regular hours of work, for at least eight weeks or, if it is greater, the number of weeks between the day on which their employment is terminated and the day on which the group notice period ends; or

**(c)** any combination of notice and amounts of wages in lieu of notice so that the total of the number of weeks of notice in writing and the number of weeks for which wages are paid in lieu of notice is equivalent to at least eight weeks or, if it is greater, the number of weeks between the day on which the redundant employee is given notice of the date of the termination of their employment and the day on which the group notice period ends.

### **Failure to give group notice**

**(2)** For the purposes of calculating a redundant employee's entitlement under subsection (1), if an employer does not give notice under section 212, the group notice period is deemed to start on the earlier of the day on which the redundant employee receives written notice of the termination of their employment and the day of the termination of the employment of the redundant employee.

### **Insufficient group notice**

**(3)** For the purposes of calculating a redundant employee's entitlement under subsection (1), if an employer gives notice under subsection 212(1) fewer than 16 weeks before the date of the termination of the employment of the redundant employee, the group notice period is deemed to start on the earlier of the day on which the employer gives notice under that subsection and the day on which the redundant employee receives written notice of the termination of their employment.

### **Collective agreement**

**(4)** If an employer is bound by a collective agreement that contains a provision authorizing a redundant employee to displace another employee on the basis of seniority, the displaced employee is a redundant employee for the purposes of this Division.

### **Notice**

**(5)** If a redundant employee displaces another employee, the employer must give the displaced redundant employee notice under subsection (1) and must give a copy of that notice to the trade union that is a party to the collective agreement.

### **Conditions of employment**

**(6)** If an employer gives notice under paragraph (1)(a) or (c), the employer

**(a)** is prohibited from reducing the rate of wages or altering any other term or condition of employment of the redundant employee except with the written consent of that employee; and

**(b)** must, between the time when the notice is given and the day on which the employee's employment is terminated, pay to them their regular rate of wages for their regular hours of work.

### **Expiration of notice**

**(7)** If a redundant employee to whom notice is given under paragraph (1)(a) or (c) continues to be employed by the employer for more than two weeks after the date specified in the notice, the employer is prohibited from terminating the employment of the employee, unless

**(a)** it is with their written consent;

**(b)** it is by way of dismissal for just cause;

**(c)** it is a termination of employment under another group termination and the employer complies with this Division; or

**(d)** it is an individual termination of employment and the employer complies with Division X.

### **Statement of benefits**

**(8)** An employer must give each redundant employee whose employment is terminated a statement in writing that sets out their vacation benefits, wages, severance pay and any other benefits and pay arising from their employment with the employer as at the date of the statement. The statement must be given to the employee

- (a)** in the case of an employee who receives notice under paragraph (1)(a), as soon as possible, but not later than two weeks before the date of the termination of their employment;
- (b)** in the case of an employee who receives wages in lieu of notice under paragraph (1)(b), not later than the date of the termination of their employment; and
- (c)** in the case of an employee who receives a combination of notice and wages in lieu of notice under paragraph (1)(c), as soon as possible, but not later than two weeks before the date of the termination of their employment unless the period of notice is shorter, in which case, the day on which notice is given to the employee of the date of the termination of their employment.

### **Cooperation with Commission**

**213** An employer who carries out a group termination and any trade union representing a redundant employee must give the Canada Employment Insurance Commission any information requested by it for the purpose of assisting any redundant employee and must cooperate with the Commission to facilitate the re-establishment in employment of that employee.

### **Transitional support measures**

**213.1 (1)** Unless the employer gives a redundant employee referred to in subsection 212.1(1) notice under paragraph 212.1(1)(a), they must provide the transitional support measures set out in the regulations to that redundant employee.

### **Amount payable**

**(2)** If an employer fails to provide the transitional support measures required under subsection (1), the redundant employee is entitled to be paid an amount equal to the prescribed value of those measures.

**481 (1) Section 227 of the Act is amended by adding the following after paragraph (a):**

**(a.1)** prescribing circumstances where an employer is exempted from the application of a provision of this Division and any measure that that employer must take in respect of redundant employees;

**(2) Section 227 of the Act is amended by adding the following after paragraph (b):**

**(b.1)** establishing the method of determining the four-week period referred to in the definition *group termination of employment*;

**(b.2)** establishing the method of determining the four-week period referred to in the definition *group termination period*;

**(3) Section 227 of the Act is amended by striking out “and” at the end of paragraph (c) and by adding the following after paragraph (d):**

**(e)** defining the expressions “regular rate of wages” and “regular hours of work”; and

**(f)** respecting transitional support measures to be provided under section 213.1, including establishing the value of those measures for the purposes of subsection 213.1(2).

**482 Section 228 of the Act is repealed.**

**483 The Act is amended by adding the following after the heading of Division X of Part III of the Act:**

**Application**

**229.1** This Division does not apply to an employee whose termination of employment is by way of dismissal for just cause.

**484 Section 229.1 of the Act is replaced by the following:**

**Application**

**229.1** This Division does not apply to an employee

**(a)** who is a redundant employee to whom subsection 212.1(1) applies; or

**(b)** whose termination of employment is by way of dismissal for just cause.

**485 Subsections 230(1) and (2) of the Act are replaced by the following:**

## **Employer's duty**

**230 (1)** An employer who terminates the employment of an employee must give the employee

- (a)** notice in writing of the employer's intention to terminate their employment on a date specified in the notice, at least the applicable number of weeks set out in subsection (1.1) before that date;
- (b)** wages in lieu of notice, at their regular rate of wages for their regular hours of work, for at least the applicable number of weeks set out in subsection (1.1); or
- (c)** any combination of notice and amounts of wages in lieu of notice so that the total of the number of weeks of notice in writing and the number of weeks for which wages are paid in lieu of notice is equivalent to at least the applicable number of weeks set out in subsection (1.1).

## **Notice period**

**(1.1)** The applicable number of weeks for the purposes of subsections (1) and (2) is

- (a)** two weeks, if the employee has completed at least three consecutive months of continuous employment with the employer;
- (b)** three weeks, if the employee has completed at least three consecutive years of continuous employment with the employer;
- (c)** four weeks, if the employee has completed at least four consecutive years of continuous employment with the employer;
- (d)** five weeks, if the employee has completed at least five consecutive years of continuous employment with the employer;
- (e)** six weeks, if the employee has completed at least six consecutive years of continuous employment with the employer;
- (f)** seven weeks, if the employee has completed at least seven consecutive years of continuous employment with the employer; and



**(g)** eight weeks, if the employee has completed at least eight consecutive years of continuous employment with the employer.

### **Notice to trade union**

**(2)** If an employer is bound by a collective agreement that contains a provision authorizing an employee whose position becomes redundant to displace another employee on the basis of seniority, and the position of an employee who is so authorized becomes redundant, the employer must give at least the applicable number of weeks' notice set out in subsection (1.1) in writing to the trade union that is a party to the collective agreement and to the employee that the employee's position has become redundant.

### **Rights of displaced employee**

**(2.1)** For greater certainty, any employee who is displaced and whose employment is terminated is entitled to and shall be given notice or wages in lieu of notice under subsection (1).

### **Statement of benefits**

**(2.2)** An employer must give any employee whose employment is terminated a statement in writing that sets out their vacation benefits, wages, severance pay and any other benefits and pay arising from their employment with the employer as at the date of the statement. The statement must be given to the employee

**(a)** in the case of an employee who receives notice under paragraph (1)(a), as soon as possible, but not later than two weeks before the date of the termination of their employment;

**(b)** in the case of an employee who receives wages in lieu of notice under paragraph (1)(b), not later than the date of the termination of their employment; and

**(c)** in the case of an employee who receives a combination of notice and wages in lieu of notice under paragraph (1)(c), as soon as possible, but not later than two weeks before the date of the termination of their employment unless the period of notice is shorter, in which case, the day on which notice is given to the employee of the date of the termination of their employment.

**486 The Act is amended by adding the following after section 238:**

**DIVISION XII.1**

Reimbursement of Work-related Expenses

**Entitlement**

**238.1 (1)** Subject to subsection (2), an employee is entitled to and the employer shall provide reimbursement of reasonable work-related expenses.

**Exception**

**(2)** An employee is not entitled to be reimbursed for

- (a)** an expense that is ineligible under any regulation made under this Division;
- (b)** in the case of an employee who is subject to a collective agreement, an expense that the employee is required to pay in accordance with the collective agreement or any other written agreement between the trade union and the employer; or
- (c)** in the case of an employee who is not subject to a collective agreement, an expense that the employee is required to pay in accordance with any written agreement between themselves and the employer.

**Payment**

**(3)** The employer shall pay the employee any amount that is payable under this section

- (a)** in the case of an employee who is subject to a collective agreement, within the time limit set out under the collective agreement or any other written agreement between the trade union and the employer;
- (b)** in the case of an employee who is not subject to a collective agreement, within the time limit set out under a written agreement between themselves and the employer; and
- (c)** in any other case, within the time limit prescribed by regulation.

## **Regulations**

**238.2** The Governor in Council may make regulations for the purposes of this Division including regulations prescribing factors to consider in determining if an expense is or is not work-related and prescribing factors to consider in determining if an expense is or is not reasonable.

**487 Section 239 of the Act and the heading of Division XIII before it are replaced by the following:**

Medical Leave

### **Entitlement to leave**

**239 (1)** Every employee is entitled to and shall be granted a medical leave of absence from employment of up to 17 weeks as a result of

- (a)** personal illness or injury;
- (b)** organ or tissue donation; or
- (c)** medical appointments during working hours.

### **Certificate**

**(2)** If a medical leave of absence is three days or longer, the employer may require that the employee provide a certificate issued by a health care practitioner certifying that the employee was incapable of working for the period of time that they were absent from work.

### **Notice to employer**

**(3)** If an employee intends to take a medical leave of absence, they must give written notice to the employer of the day on which the leave is to begin and the expected duration of the leave at least four weeks before that day, unless there is a valid reason why that notice cannot be given, in which case the employee must provide the employer with written notice as soon as possible.

### **Change — in length of leave**

(4) An employee must provide the employer with written notice of any change in the length of their medical leave of absence as soon as possible.

### **Employment opportunities**

(5) An employee is entitled, on written request, to be informed in writing of every employment, promotion or training opportunity that arises during the period when the employee is on a medical leave of absence under this Division and for which the employee is qualified, and on receiving that request, the employer must provide the information to the employee.

### **Prohibition**

(6) Subject to subsection (7), an employer is prohibited from dismissing, suspending, laying off, demoting or disciplining an employee because the employee intends to take or has taken a medical leave of absence or taking such an intention or absence into account in any decision to promote or train the employee.

### **Exception**

(7) An employer may assign to a different position, with different terms and conditions of employment, any employee who, after a medical leave of absence, is unable to perform the work performed by the employee prior to the absence.

### **Benefits continue**

(8) The pension, health and disability benefits and the seniority of an employee who is absent from work due to medical leave under this Division accumulate during the entire period of the medical leave of absence.

### **Contributions by employee**

(9) If contributions are required from an employee in order for the employee to be entitled to a benefit referred to in subsection (8), the employee is responsible for and must, within a reasonable time, pay those contributions for the period

of any medical leave of absence unless, at the commencement of the absence or within a reasonable time after, the employee notifies the employer of the employee's intention to discontinue contributions during that period.

### **Contributions by employer**

**(10)** An employer who pays contributions in respect of a benefit referred to in subsection (8) must continue to pay those contributions during an employee's medical leave of absence in at least the same proportion as if the employee were not absent, unless the employee does not pay the employee's contributions, if any, within a reasonable time.

### **Failure to pay contributions**

**(11)** For the purposes of calculating the pension, health and disability benefits of an employee in respect of whom contributions have not been paid as required by subsections (9) and (10), the benefits do not accumulate during the medical leave of absence and employment on the employee's return to work is deemed to be continuous with employment before the employee's absence.

### **Deemed continuous employment**

**(12)** For the purposes of calculating benefits, other than benefits referred to in subsection (8), of an employee who is absent from work due to medical leave under this Division, employment on the employee's return to work shall be deemed to be continuous with employment before the employee's absence.

### **Regulations**

**(13)** The Governor in Council may make regulations defining terms for the purposes of this Division.

**488 (1) Section 240 of the Act is amended by adding the following after subsection (1):**

#### **Limitation**

**(1.1)** A person shall not make a complaint under subsection (1) if they have made a complaint that is based on substantially the same facts under either subsection 246.1(1) or 247.99(1), unless that complaint has been withdrawn.

**(2) Subsection 240(3) of the Act is replaced by the following:**

## **Extension of time**

**(3)** The Minister may extend the period set out in subsection (2)

**(a)** if the Minister is satisfied that a complaint was made within that period to a government official who had no authority to deal with the complaint and that the person making the complaint believed the official had that authority; or

**(b)** in any circumstances that are prescribed by regulation.

**489 Section 241 of the Act is amended by adding the following after subsection (3):**

### **Notice**

**(4)** If the person who made the complaint does not reply to a written communication from the inspector within a period that the inspector considers to be reasonable in the circumstances and a period of at least 30 days, or any longer period that may be prescribed by regulation, has elapsed from the day on which the complaint was made, the inspector may give written notice to the person who made the complaint that they have the period of 30 days, or any longer period that may be prescribed by regulation, set out in the notice to make a written request that the complaint be referred to the Board.

### **Time limit**

**(5)** Subject to the regulations, if the person who made the complaint does not, within the period set out in the notice, make a written request that the complaint be referred to the Board, the inspector may deem the complaint to be withdrawn.

**490 The Act is amended by adding the following after section 241:**

### **Suspension of complaint**

**241.1 (1)** If the Board is satisfied that the complainant must take measures before the Board may continue to deal with the complaint referred to it under subsection 241(3), it may, at any time, suspend consideration of the complaint, in whole or in part.

### **Notice**

**(2)** If the Board suspends consideration of a complaint, the Board shall notify the complainant in writing and specify in the notice

**(a)** the measures that the complainant must take; and

**(b)** the period within which they must take those measures.

### **End of suspension**

**(3)** The suspension ends when, in the Board's opinion, the measures specified in the notice have been taken.

### **Rejection of complaint**

**241.2 (1)** The Board may reject a complaint referred to it under subsection 241(3), in whole or in part,

**(a)** if the Board is satisfied that

**(i)** the complaint is not within its jurisdiction,

**(ii)** the complaint is frivolous, vexatious or not made in good faith,

**(iii)** the complaint has been settled in writing between the employer and the complainant,

**(iv)** there are other means available to the complainant to resolve the subject matter of the complaint that the Board considers should be pursued, or

**(v)** the subject matter of the complaint has been adequately dealt with through recourse obtained before a court, tribunal, arbitrator or adjudicator; or

**(b)** if consideration of the complaint was suspended under subsection 241.1(1) and if, in the Board's opinion, the measures specified in the notice under subsection 241.1(2) were not taken within the specified period.

### **Notice of rejection of complaint**

**(2)** If the Board rejects a complaint, it shall notify the complainant in writing, with reasons.

**491 Paragraph 242(3.1)(b) of the Act is replaced by the following:**

(b) a procedure for redress has been provided under Part I or Part II of this Act or under any other Act of Parliament.

**492 Section 245 of the Act is replaced by the following:**

**Regulations**

**245** For the purposes of this Division, the Governor in Council may make regulations

(a) defining the absences from employment that shall be deemed not to have interrupted continuity of employment;

(b) prescribing circumstances for the purposes of paragraph 240(3)(b);

(c) prescribing periods for the purposes of subsection 241(4);

(d) prescribing the circumstances under which a complaint is not to be deemed to be withdrawn under subsection 241(5);  
and

(e) prescribing the conditions that are to be met before a complaint may be deemed to be withdrawn under subsection 241(5).

**493 Paragraph 246.1(1)(a) of the Act is replaced by the following:**

(a) the employer has taken action against the employee in contravention of subsection 173.01(5), 174.1(4), 177.1(7), 182.2(3) or 203.3(3) or section 208, 209.3, 238, 239, 239.1 or 247.96;

**494 (1) The portion of subsection 247.5(1) of the Act before paragraph (a) is replaced by the following:**

**Entitlement to leave**

**247.5 (1)** An employee who is a member of the reserve force and has completed at least three consecutive months of continuous employment with an employer — or a shorter period that is prescribed for a class of employees to which the



employee belongs — is entitled to and shall be granted a leave of absence from employment to take part in the following operations or activities:

**(2) Paragraph 247.5(1)(c) of the Act is replaced by the following:**

(c) Canadian Armed Forces military skills training;

**(3) Section 247.5 of the Act is amended by adding the following after subsection (1):**

**Maximum of 24 months**

(1.1) Leaves taken by an employee under paragraphs (1)(a) to (d) can total no more than an aggregate of 24 months in any 60-month period.

**Exception**

(1.2) Subsection (1.1) does not apply to a leave of absence taken as a result of a *national emergency*, within the meaning of the *Emergencies Act*.

**(4) Subsection 247.5(2) of the Act is replaced by the following:**

**Designation and delegation**

(2) The Minister of National Defence may designate an operation for the purposes of paragraph (1)(a) or may authorize another person to do so.

**495 (1) Paragraph 247.97(d) of the Act is replaced by the following:**

(d) defining “military skills training” for the purposes of paragraph 247.5(1)(c);

**(2) Paragraphs 247.97(j) and (k) of the Act are repealed.**

**496 (1) Section 247.99 of the Act is amended by adding the following after subsection (1):**

**Limitation**

**(1.1)** An employee shall not make a complaint under subsection (1) if they have made a complaint that is based on substantially the same facts under either subsection 240(1) or 246.1(1), unless that complaint has been withdrawn.

**(2) Subsection 247.99(3) of the Act is replaced by the following:**

**Extension of time**

**(3)** The Minister may extend the period set out in subsection (2)

**(a)** if the Minister is satisfied that a complaint was made within that period to a government official who had no authority to deal with the complaint and that the person making the complaint believed the official had that authority; or

**(b)** in any circumstances that are prescribed by regulation.

**(3) The portion of subsection 247.99(5) of the Act before paragraph (a) is replaced by the following:**

**Complaint not settled within reasonable time**

**(5)** If a complaint is not settled under subsection (4) within the period that the inspector endeavouring to assist the parties under that subsection considers to be reasonable in the circumstances, the inspector shall, on the written request of the employee who made the complaint that the complaint be referred to the Board,

**(4) Paragraph 247.99(5)(b) of the Act is replaced by the following:**

**(b)** deliver to the Board the complaint made under subsection (1) and any other statements or documents that the inspector has that relate to the complaint.

**(5) Subsection 247.99(6) of the Act is replaced by the following:**

**Notice**

**(6)** If the employee who made the complaint does not reply to a written communication from the inspector within a period that the inspector considers to be reasonable in the circumstances and a period of at least 30 days, or any longer period that may be prescribed by regulation, has elapsed from the day on which the complaint was made, the inspector may give

written notice to the employee that they have the period of 30 days, or any longer period that may be prescribed by regulation, set out in the notice to make a written request that the complaint be referred to the Board.

### **Time limit**

**(6.1)** Subject to the regulations, if the employee to whom notice is given under subsection (6) does not, within the period set out in the notice, make a written request that the complaint be referred to the Board, the inspector may deem the complaint to be withdrawn.

### **Suspension of complaint**

**(6.2)** If the Board is satisfied that the complainant must take measures before the Board may continue to deal with the complaint referred to it under subsection (5), it may, at any time, suspend consideration of the complaint, in whole or in part.

### **Notice**

**(6.3)** If the Board suspends consideration of a complaint, the Board shall notify the complainant in writing and specify in the notice

- (a)** the measures that complainant must take; and
- (b)** the period within which they must take those measures.

### **End of suspension**

**(6.4)** The suspension ends when, in the Board's opinion, the measures specified in the notice have been taken.

### **Rejection of complaint**

**(6.5)** The Board may reject a complaint referred to it under subsection (5), in whole or in part,

- (a)** if the Board is satisfied that

- (i) the complaint is not within its jurisdiction,
  - (ii) the complaint is frivolous, vexatious or not made in good faith,
  - (iii) the complaint has been settled in writing between the employer and the employee,
  - (iv) there are other means available to the employee to resolve the subject matter of the complaint that the Board considers should be pursued,
  - (v) the subject matter of the complaint has been adequately dealt with through recourse obtained before a court, tribunal, arbitrator or adjudicator, or
  - (vi) in respect of a complaint made by an employee who is subject to a collective agreement, the collective agreement covers the subject matter of the complaint and provides a third-party dispute resolution process; or
- (b) if consideration of the complaint was suspended under subsection (6.2) and if, in the Board's opinion, the measures specified in the notice under subsection (6.3) were not taken within the specified period.

#### **Notice of rejection of complaint**

(6.6) If the Board rejects a complaint, it shall notify the employee in writing, with reasons.

**(6) The portion of subsection 247.99(7) of the Act before paragraph (a) is replaced by the following:**

#### **Decision of Board**

(7) The Board, after a complaint has been referred to it, shall

**(7) The portion of subsection 247.99(8) of the Act before paragraph (a) is replaced by the following:**

#### **Orders**

**(8)** If the Board decides under subsection (7) that an employer has contravened subsection 247.98(4), the Board may, by order, require the employer to cease contravening that subsection and may, if applicable, by order, require the employer to

**(8) Paragraphs 247.99(8)(c) and (d) of the Act are replaced by the following:**

**(c)** pay to the employee or former employee compensation not exceeding the sum that, in the Board's opinion, is equivalent to the remuneration that would, but for the contravention, have been paid by the employer to the employee or former employee;

**(d)** rescind any disciplinary action taken in respect of the contravention and pay compensation to the employee, not exceeding the sum that, in the Board's opinion, is equivalent to any financial or other penalty imposed on the employee by the employer; and

**(9) Subsection 247.99(9) of the Act is repealed.**

**497 The Act is amended by adding the following after section 247.99:**

**Order final**

**247.991 (1)** Every order of the Board is final and shall not be questioned or reviewed in any court.

**No review by certiorari, etc.**

**(2)** No order shall be made, process entered or proceeding taken in any court, whether by way of injunction, *certiorari*, prohibition, *quo warranto* or otherwise, to question, review, prohibit or restrain the Board in any proceedings under section 247.99.

**Enforcement of orders**

**(3)** Any person affected by an order of the Board under subsection 247.99(8), or the Minister on the request of such a person, may, after 14 days from the day on which the order is made, or from the day provided in the order for compliance, whichever is later, file a copy of the order in the Federal Court, exclusive of reasons.

## **Registration**

**(4)** On filing in the Federal Court under subsection (3), an order of the Board shall be registered in the Court and, when registered, has the same force and effect, and all proceedings may be taken in respect of it, as if the order were a judgment obtained in that Court.

## **Civil remedy**

**(5)** The making of a complaint under subsection 247.99(1) does not suspend or affect an employee's civil remedies against their employer.

## **Regulations**

**247.992** For the purposes of this Division, the Governor in Council may make regulations

- (a)** prescribing circumstances for the purposes of paragraph 247.99(3)(b);
- (b)** prescribing periods for the purposes of subsection 247.99(6);
- (c)** prescribing the circumstances under which a complaint is not to be deemed to be withdrawn under subsection 247.99(6.1); and
- (d)** prescribing the conditions that are to be met before a complaint may be deemed to be withdrawn under subsection 247.99(6.1).

**498 (1) Section 251.01 of the Act is amended by adding the following after subsection (1):**

## **Restriction**

**(1.1)** If an employee made a request under subsection 182.2(1) or 203.3(1), they are prohibited from making a complaint in respect of a contravention of subsection 182.1(1) or 203.2(1), as the case may be, until the earlier of the day on which the period set out in the subsection under which they made the request expires and the day on which they receive the employer's response under that subsection.

**(2) Section 251.01 of the Act is amended by adding the following after subsection (2):**

**Complaints — equal treatment**

**(2.1)** Despite subsection (2), a complaint in respect of a contravention of subsection 182.1(1) or 203.2(1) shall be made within six months from

**(a)** in the case of an employee who made a request under subsection 182.2(1) or 203.3(1), the earlier of the day on which the complainant received the employer's response and the day on which the period set out in the subsection under which they made the request expires; and

**(b)** in any other case, the day on which the complainant knew, or in the inspector's opinion ought to have known, of the action or circumstances giving rise to the complaint.

**(3) The portion of subsection 251.01(3) of the Act before paragraph (a) is replaced by the following:**

**Extension of time**

**(3)** The Minister may, subject to the regulations, extend the period set out in subsection (2) or (2.1)

**(4) Subsection 251.01(4) of the Act is replaced by the following:**

**Limitation**

**(3.1)** An employee shall not make a complaint under subsection (1) if they have made a complaint that is based on substantially the same facts under any of subsections 240(1), 246.1(1) and 247.99(1), unless that complaint has been withdrawn.

**Exception**

**(4)** Despite subsection (3.1), the employee may file a complaint under subsection (1) if it relates only to the payment of their wages or other amounts to which they are entitled under this Part, including amounts referred to in subsections 230(1) and 235(1), but that complaint is suspended until the day on which the complaint made under subsection 240(1), 246.1(1) or 247.99(1), as the case may be, is withdrawn or resolved.

**(5) Subsection 251.01(4) of the Act is replaced by the following:**

**Exception**

**(4)** Despite subsection (3.1), the employee may file a complaint under subsection (1) if it relates only to the payment of their wages or other amounts to which they are entitled under this Part, including amounts referred to in subsections 212.1(1), 230(1) and 235(1), and that complaint is suspended until the day on which the complaint made under subsection 240(1), 246.1(1) or 247.99(1), as the case may be, is withdrawn or resolved.

**499 Subsection 251.02(1) of the Act is replaced by the following:**

**Suspension of complaint**

**251.02 (1)** If an inspector is satisfied that the employee must take measures before the inspector may continue to deal with the complaint made under section 251.01, the inspector may, at any time, suspend consideration of the complaint, in whole or in part.

**500 (1) Subparagraph 251.05(1)(a)(iii) of the Act is replaced by the following:**

**(iii)** that the complaint has been settled in writing between the employer and the employee,

**(2) Subsection 251.05(1) of the Act is amended by striking out “or” at the end of paragraph (a), by adding “or” at the end of paragraph (b) and by adding the following after paragraph (b):**

**(c)** subject to the regulations, if an employee to whom notice is given under subsection (1.1) does not respond within the period set out in the notice.

**(3) Section 251.05 of the Act is amended by adding the following after subsection (1):**

**Notice**

**(1.1)** If the employee does not reply to a written communication from the inspector within a period that the inspector considers to be reasonable in the circumstances and a period of at least 30 days, or any longer period that may be prescribed by regulation, have elapsed from the day on which the complaint was made, the inspector may give written



notice to the employee that they have the period of 30 days, or any longer period that may be prescribed by regulation, set out in the notice to indicate in writing that they wish to pursue their complaint.

**501 Section 251.1 of the Act is amended by adding the following after subsection (1.1):**

**Equal treatment**

**(1.2)** Despite subsection (1.1), if a complaint is made in respect of a contravention of subsection 182.1(1) or 203.2(1), any payment order respecting that complaint may only take into account the difference in wages from the earlier of the day on which the complaint is made and the day on which the employee makes a request under subsection 182.2(1) or 203.3(1).

**502 The Act is amended by adding the following after section 253:**

Information Related to Employment

**Copy — employee**

**253.1 (1)** An employer must, within the first 30 days of an employee's employment, provide the employee with a copy of any materials that the Minister makes available and that contains information respecting employers' and employees' rights and obligations under this Part and, within 30 days after updated materials are made available, provide the employee with a copy of the updated materials.

**Materials to be posted**

**(2)** An employer must post and keep posted the most recent version of the materials referred to in subsection (1), in readily accessible places where it is likely to be seen by employees.

**Termination**

**(3)** If an employee's employment is terminated by the employer, the employer must, not later than the last day of the employee's employment, provide the employee with a copy of the most recent version of the materials referred to in subsection (1) that relate to terminations of employment.

**Employment statement**

**253.2 (1)** An employer must, within the first 30 days of an employee's employment, provide the employee with a written statement containing information relating to their employment that is prescribed by regulation.

### **Updated information**

**(2)** An employer must provide an employee with an updated employment statement within 30 days after any change is made to the information contained in the last statement that was provided to the employee.

### **Employer's duties**

**(3)** An employer must retain a copy of any employment statement provided under this section for 36 months after the employee's employment with the employer ends and, on request, the employee must be provided with additional copies.

### **Regulations**

**(4)** The Governor in Council may make regulations prescribing the information that must be included in a employment statement provided under this section.

### **503 Section 260 of the Act is replaced by the following:**

#### **Identity of complainants**

**260 (1)** If a person makes a complaint under this Part and requests that their name and identity be withheld, their name and identity must not be disclosed unless

**(a)** the disclosure is necessary for the purposes of a prosecution;

**(b)** the Minister determines that the disclosure is in the public interest; or

**(c)** an inspector determines that the disclosure is necessary for the investigation of the complaint to be carried out and the complainant consents to the disclosure in writing.

#### **Consent**

**(2)** If a determination is made under paragraph (1)(c) and the complainant refuses to provide their consent after being requested to do so in writing, the inspector may deem the complaint to be withdrawn.

**504 The Act is amended by adding the following after section 262:**

Pilot Projects

**Regulations**

**263** Despite anything in this Part, the Governor in Council may make any regulations that the Governor in Council considers necessary respecting the establishment and operation of one or more pilot projects for testing which possible amendments to this Part or the regulations made under this Part would improve and better protect employees' rights under this Part, including regulations respecting the manner in which and the extent to which any provision of this Part or the regulations made under this Part applies to a pilot project and adapting any such provision for the purposes of that application.

**Repeal**

**263.1** Unless they are repealed earlier, regulations made under section 263 are repealed on the fifth anniversary of the day on which they come into force.

**505 (1) Section 264 of the Act is amended by adding the following after paragraph (b):**

**(b.1)** extending the application of this Part, in the manner and to the extent provided for in the regulations, to any class of persons;

**(2) Paragraph 264(e.1) of the Act is replaced by the following:**

**(e.1)** respecting the calculation and payment of the wages and other amounts to which an employee whose wages are paid on a commission basis, on a salary plus commission basis or on any other basis other than time is entitled to under Divisions V, VII, VIII, X and XI;

**(3) Paragraph 264(1)(e.1) of the Act is replaced by the following:**

**(e.1)** respecting the calculation and payment of the wages and other amounts to which an employee whose wages are paid on a commission basis, on a salary plus commission basis or on any other basis other than time is entitled to under Divisions V, VII, VIII, IX, X and XI;

**(4) Paragraph 264(g) of the Act is repealed.**

**(5) Section 264 of the Act is amended by striking out “and” at the end of paragraph (j.1) and by adding the following after that paragraph:**

**(j.2)** prescribing the circumstances under which a complaint is not to be rejected under paragraph 251.05(1)(c);

**(j.3)** prescribing the conditions that are to be met before a complaint may be rejected under paragraph 251.05(1)(c);

**(j.4)** prescribing periods for the purposes of subsection 251.05(1.1); and

2017, c. 20

Budget Implementation Act, 2017, No. 1

**506 (1) Subsection 356(1) of the *Budget Implementation Act, 2017, No. 1* is amended by replacing the subsection 246.1(2) that it enacts with the following:**

#### **Limitation**

**(2)** An employee shall not make a complaint under subsection (1) if they have made a complaint that is based on substantially the same facts under either subsection 240(1) or 247.99(1), unless that complaint has been withdrawn.

**(2) Subsection 356(1) of the Act is amended by replacing the subsection 246.2(1) that it enacts with the following:**

#### **Suspension of complaint**

**246.2 (1)** If the Board is satisfied that the employee must take measures before the Board may continue to deal with the complaint made under subsection 246.1(1), it may, at any time, suspend consideration of the complaint, in whole or in part.

**(3) Subsection 356(1) of the Act is amended by replacing the subparagraph 246.3(1)(a)(iii) that it enacts with the following:**

**(iii)** the complaint has been settled in writing between the employer and the employee,

**507 Section 357 of the Act is amended by replacing the subsection 251(1.1) that it enacts with the following:**

**For greater certainty**

**(1.1)** For greater certainty, the inspector may, when exercising the powers referred to in subsection (1), make any finding necessary to determine whether an employee is entitled to any wages or other amounts under this Part, including a finding that the employee was dismissed for just cause for the purposes of Division X or XI.

**508 Section 359 of the Act is repealed.**

**509 Section 360 of the Act is amended by replacing the subsection 251.06(2) that it enacts with the following:**

**Limitation**

**(2)** An inspector shall not issue a compliance order under subsection (1) to take any measure that could be set out in an order made under subsection 242(4) or section 246.4 or to make any payment that may be the subject of an order made under subsection 251.1(1).

**510 Section 401 of the Act is repealed.**

2017, c. 33

Budget Implementation Act, 2017, No. 2

**511 Section 197 of the *Budget Implementation Act, 2017, No. 2* is amended by replacing the subsection 174.1(1) that it enacts with the following:**

**Right to refuse**

**174.1 (1)** Subject to subsections (2) and (3), an employee may refuse to work the overtime requested by the employer in order to carry out the employee's family responsibilities referred to in paragraph 206.6(1)(b) or (c).

**512 Section 199 of the Act is amended by adding the following after the subsection 177.1(9) that it enacts:**

**Application of section 189**

**(10)** Section 189 applies for the purposes of this Division.

**513 Section 205 of the Act is repealed.**

**514 (1) Section 206 of the Act is amended by replacing the section 206.6 and the heading before it that it enacts with the following:**

Personal Leave

**Leave — five days**

**206.6 (1)** Every employee is entitled to and shall be granted a leave of absence from employment of up to five days in every calendar year for

- (a)** treating their illness or injury;
- (b)** carrying out responsibilities related to the health or care of any of their family members;
- (c)** carrying out responsibilities related to the education of any of their family members who are under 18 years of age;
- (d)** addressing any urgent matter concerning themselves or their family members;
- (e)** attending their citizenship ceremony under the *Citizenship Act*, and

(f) any other reason prescribed by regulation.

### **Leave with pay**

(2) If the employee has completed three consecutive months of continuous employment with the employer, the employee is entitled to the first three days of the leave with pay at their regular rate of wages for their normal hours of work, and such pay shall for all purposes be considered to be wages.

### **Division of leave**

(3) The leave of absence may be taken in one or more periods. The employer may require that each period of leave be of not less than one day's duration.

### **Documentation**

(4) The employer may, in writing and no later than 15 days after an employee's return to work, request that the employee provide documentation to support the reasons for the leave. The employee shall provide that documentation only if it is reasonably practicable for them to obtain and provide it.

### **Regulations**

(5) The Governor in Council may make regulations for the purposes of this section, including regulations

(a) setting out the other reasons for taking leave under paragraph (1)(f);

(b) defining the expressions "regular rate of wages" and "normal hours of work"; and

(c) specifying the persons who are the employee's family members.

**(2) Section 206 of the Act is amended by adding the following after the subsection 206.7(2) that it enacts:**

### **Leave with pay**

**(2.1)** If the employee has completed three consecutive months of continuous employment with the employer, the employee is entitled to the first five days of the leave with pay at their regular rate of wages for their normal hours of work, and such pay shall for all purposes be considered to be wages.

**(3) Section 206 of the Act is amended by adding the following after the subsection 206.7(5) that it enacts:**

### **Regulations**

**(6)** The Governor in Council may make regulations defining the expressions “regular rate of wages” and “normal hours of work” for the purposes of subsection (2.1).

**515 (1) Subsection 209(1) of the Act is amended by replacing the paragraph 209.4(a) that it enacts with the following:**

**(a)** specifying the absences from employment that are considered not to have interrupted continuous employment referred to in any of sections 206, 206.1 and 206.4 to 206.8;

**(2) Subsection 209(2) of the Act is amended by replacing the paragraph 209.4(g) that it enacts with the following:**

**(g)** prescribing shorter periods of consecutive months of continuous employment for the purposes of subsections 206(1), 206.1(1), 206.4(2) and (2.1), 206.5(2) and (3), 206.6(2), 206.7(2.1) and 206.8(1);

**(3) Subsection 209(3) of the Act is amended by replacing the paragraph 209.4(h.3) that it enacts with the following:**

**(h.3)** prescribing documentation that the employer may request under any of subsections 206.6(4), 206.7(5) and 206.8(3);

**516 (1) Subsection 215(1) of the Act is repealed.**

**(2) Subsection 215(2) of the Act is amended by replacing the paragraph 246.1(1)(a) that it enacts with the following:**



**(a)** the employer has taken action against the employee in contravention of subsection 173.01(5), 174.1(4) or 177.1(7) or of section 208, 209.3, 238, 239, 239.1 or 247.96;

## Transitional Provisions

### **Section 179 of *Canada Labour Code***

**517** Section 179 of the *Canada Labour Code*, as enacted by section 448 of this Act, applies to each person who, on the day on which that section 448 comes into force, is 17 years of age and is employed by an employer as if they were 18 years of age so long as they remain employed by that employer in the position they held on that day.

### **Section 182.1 of *Canada Labour Code***

**518** If a collective agreement that is in effect on the day on which section 452 of this Act comes into force contains a provision that permits differences in rates of wages based on employment status and there is a conflict between that provision and section 182.1 of the *Canada Labour Code*, as enacted by that section 452, the provision of the collective agreement prevails to the extent of the conflict until the day that is two years after the day on which that section 452 comes into force.

### **Subsection 189(1.1) of *Canada Labour Code***

**519** Subsection 189(1.1) of the *Canada Labour Code* applies only if the first day on which the second employer referred to in that subsection carries out the federal work, undertaking or business is on or after the day on which section 457 of this Act comes into force.

### **Section 203.2 of *Canada Labour Code***

**520** If a collective agreement that is in effect on the day on which section 461 of this Act comes into force contains a provision that permits differences in rates of wages between employees of a temporary help agency and rates of wages paid to their client's employees and there is a conflict between that provision and section 203.2 of the *Canada Labour Code*, as enacted by that section 461, the provision of the collective agreement prevails to the extent of the conflict until the day that is two years after the day on which that section 461 comes into force.

#### **Group termination of employment**

**521** If an employer gives notice under subsection 212(1) of the *Canada Labour Code* before the day on which section 479 of this Act comes into force, Divisions IX and X of Part III of the *Canada Labour Code*, as they read on the day on which that notice was given, applies to the employer and to the employees affected by the terminations of employment set out in that notice.

#### **Individual termination of employment**

**522** If an employer gives notice to an employee under paragraph 230(1)(a) of the *Canada Labour Code* before the day on which section 485 of this Act comes into force, Division X of Part III of the *Canada Labour Code*, as it read immediately before that coming into force, applies to the employer and to the employee in respect of that individual termination of employment.

#### **Reimbursement of work-related expenses**

**523** Division XII.1 of the *Canada Labour Code* applies only in respect of expenses incurred on or after the day on which section 486 of this Act comes into force.

#### **Section 239 of *Canada Labour Code***

**524** If section 487 of this Act comes into force during an employee's absence under Division XIII of the *Canada Labour Code*, section 239 of the *Canada Labour Code*, as it read immediately before the coming into force of that section 487, applies in respect of that absence.

**Subsection 247.5(1.1) of *Canada Labour Code***

**525** Subsection 247.5(1.1) of the *Canada Labour Code* applies only in respect of leaves that begin on or after the day on which section 494 of this Act comes into force.

**Complaints — subsection 247.99(1) of *Canada Labour Code***

**526** The *Canada Labour Code*, as it read immediately before the day on which section 496 of this Act comes into force, applies with respect to any complaint made before that day under subsection 247.99(1) of the *Canada Labour Code*.

**Subsection 253.1(1) of *Canada Labour Code***

**527** An employer must, within 90 days after the later of the day on which section 502 of this Act comes into force and the day on which materials are first made available under subsection 253.1(1) of the *Canada Labour Code*, provide their employees with a copy of the materials referred to in that subsection.

**Subsection 253.2(4) of *Canada Labour Code***

**528** If, before the day on which the first regulation made under subsection 253.2(4) of the *Canada Labour Code*, as enacted by section 502 of this Act, comes into force, an employer has not provided an employee with a written statement containing the information set out in the regulation, the employer must, within 90 days after that coming into force, provide the employee with such a statement.

**Coordinating Amendments**

2000, c. 14

**529 (1)** In this section, *other Act* means the *Budget Implementation Act, 2000*.

**(2)** Section 43 of the other Act is repealed.

**(3)** If section 43 of the other Act produces its effects before this section comes into force, then this section is deemed never to have come into force and is repealed.

**(4) If section 43 of the other Act produces its effects on the same day as this section, then this section is deemed to have produced its effects before that section 43.**

2012, c. 27

**530 (1) In this section, *other Act* means the *Helping Families in Need Act*.**

**(2) Paragraph 35(a) of the other Act is amended by replacing the portion of subsection 206.1(1) before paragraph (a) that it enacts with the following:**

**Entitlement to leave**

**206.1 (1)** Subject to subsections (2) and (3), every employee is entitled to and shall be granted a leave of absence from employment of up to 63 weeks to care for

**(3) Paragraph 35(c) of the other Act is repealed.**

**(4) If section 35 of the other Act produces its effects before this section comes into force, then**

**(a) this section is deemed never to have come into force and is repealed; and**

**(b) the portion of subsection 206.1(1) of the *Canada Labour Code* before paragraph (a) is replaced by the following:**

**Entitlement to leave**

**206.1 (1)** Subject to subsections (2) and (3), every employee is entitled to and shall be granted a leave of absence from employment of up to 63 weeks to care for

**(5) If section 35 of the other Act produces its effects on the same day as this section, then this section is deemed to have produced its effects before that section 35.**

2015, c. 36

**531 (1) In this section, *other Act* means the *Economic Action Plan 2015, No. 1*.**

**(2) If subsection 92(3) of the other Act comes into force before subsection 505(2) of this Act, then that subsection 505(2) is replaced by the following:**

**(2) Paragraph 264(1)(e.1) of the Act is replaced by the following:**

**(e.1)** respecting the calculation and payment of the wages and other amounts to which an employee whose wages are paid on a commission basis, on a salary plus commission basis or on any other basis other than time is entitled to under Divisions V, VII, VIII, X and XI;

**(3) If subsection 92(3) of the other Act comes into force on the same day as subsection 505(2) of this Act, then that subsection 505(2) is deemed to have come into force before that subsection 92(3).**

**(4) If subsection 92(3) of the other Act comes into force before subsection 505(4) of this Act, then that subsection 505(4) is replaced by the following:**

**(4) Paragraph 264(1)(g) of the Act is repealed.**

**(5) If subsection 92(3) of the other Act comes into force on the same day as subsection 505(4) of this Act, then that subsection 505(4) is deemed to have come into force before that subsection 92(3).**

**(6) If subsection 92(3) of the other Act comes into force before subsection 505(5) of this Act, then that subsection 505(5) is replaced by the following:**

**(5) Subsection 264(1) of the Act is amended by striking out “and” at the end of paragraph (j.1) and by adding the following after that paragraph:**

**(j.2)** prescribing the circumstances under which a complaint is not to be rejected under paragraph 251.05(1)(c);

**(j.3)** prescribing the conditions that are to be met before a complaint may be rejected under paragraph 251.05(1)(c);

**(j.4)** prescribing periods for the purposes of subsection 251.05(1.1); and

**(7) If subsection 92(3) of the other Act comes into force on the same day as subsection 505(5) of this Act, then that subsection 505(5) is deemed to have come into force before that subsection 92(3).**

2017, c. 20

**532 (1) In this section, *other Act* means the *Budget Implementation Act, 2017, No. 1*.**

**(2) If subsection 356(1) of the other Act comes into force before section 506 of this Act, then**

**(a) that section 506 is deemed never to have come into force and is repealed;**

**(b) subsection 246.1(2) of the *Canada Labour Code* is replaced by the following:**

**Limitation**

**(2) An employee shall not make a complaint under subsection (1) if they have made a complaint that is based on substantially the same facts under either subsection 240(1) or 247.99(1), unless that complaint has been withdrawn.**

**(c) subsection 246.2(1) of the *Canada Labour Code* is replaced by the following:**

**Suspension of complaint**

**246.2 (1) If the Board is satisfied that the employee must take measures before the Board may continue to deal with the complaint made under subsection 246.1(1), it may, at any time, suspend consideration of the complaint, in whole or in part.**

**(d) subparagraph 246.3(1)(a)(iii) of the *Canada Labour Code* is replaced by the following:**

**(iii) the complaint has been settled in writing between the employer and the employee,**

**(3) If subsection 356(1) of the other Act comes into force on the same day as section 506 of this Act, then that section 506 is deemed to have come into force before that subsection 356(1).**

**(4) If section 357 of the other Act comes into force before section 507 of this Act, then**

- (a) that section 507 is deemed never to have come into force and is repealed; and**
- (b) subsection 251(1.1) of the *Canada Labour Code* is replaced by the following:**

**For greater certainty**

**(1.1)** For greater certainty, the inspector may, when exercising the powers referred to in subsection (1), make any finding necessary to determine whether an employee is entitled to any wages or other amounts under this Part, including a finding that the employee was dismissed for just cause for the purposes of Division X or XI.

**(5) If section 357 of the other Act comes into force on the same day as section 507 of this Act, then that section 507 is deemed to have come into force before that section 357.**

**(6) If section 360 of the other Act comes into force before section 509 of this Act, then**

**(a) that section 509 is deemed never to have come into force and is repealed; and**

**(b) subsection 251.06(2) of the *Canada Labour Code* is replaced by the following:**

**Limitation**

**(2)** An inspector shall not issue a compliance order under subsection (1) to take any measure that could be set out in an order made under subsection 242(4) or section 246.4 or to make any payment that may be the subject of an order made under subsection 251.1(1).

**(7) If section 360 of the other Act comes into force on the same day as section 509 of this Act, then that section 509 is deemed to have come into force before that section 360.**

**(8) If section 401 of the other Act produces its effects before section 510 of this Act comes into force, then that section 510 is deemed never to have come into force and is repealed.**

**(9) If section 401 of the other Act produces its effects on the day on which section 510 of this Act comes into force, then that section 510 is deemed to have come into force before that section 401 produces its effects.**

2017, c. 33

**533 (1)** In this section, *other Act* means the *Budget Implementation Act, 2017, No. 2*.

**(2)** If section 197 of the other Act comes into force before section 511 of this Act, then

**(a)** that section 511 is deemed never to have come into force and is repealed; and

**(b)** subsection 174.1(1) of the *Canada Labour Code* is replaced by the following:

**Right to refuse**

**174.1 (1)** Subject to subsections (2) and (3), an employee may refuse to work the overtime requested by the employer in order to carry out the employee's family responsibilities referred to in paragraph 206.6(1)(b) or (c).

**(3)** If section 197 of the other Act comes into force on the same day as section 511 of this Act, then that section 511 is deemed to have come into force before that section 197.

**(4)** If section 199 of the other Act comes into force before section 512 of this Act, then

**(a)** that section 512 is deemed never to have come into force and is repealed; and

**(b)** section 177.1 of the *Canada Labour Code* is amended by adding the following after subsection (9):

**Application of section 189**

**(10)** Section 189 applies for the purposes of this Division.

**(5)** If section 199 of the other Act comes into force on the same day as section 512 of this Act, then that section 512 is deemed to have come into force before that section 199.

**(6)** On the first day on which both section 202 of the other Act and section 487 of this Act are in force, subsection 187.1(3) of the *Canada Labour Code* is replaced by the following:

**Application of subsection 239(7)**



**(3)** If an employee interrupts a vacation to be absent due to a reason referred to in subsection 239(1) and resumes the vacation immediately at the end of that leave, subsection 239(7) applies to them as if they did not resume the vacation before returning to work.

**(7)** If section 205 of the other Act comes into force before section 513 of this Act, then that section 513 is deemed never to have come into force and is repealed.

**(8)** If section 205 of the other Act comes into force on the same day as section 513 of this Act, then that section 513 is deemed to have come into force before that section 205.

**(9)** If section 206 of the other Act comes into force before section 514 of this Act, then

**(a)** that section 514 is deemed never to have come into force and is repealed;

**(b)** section 206.6 of the *Canada Labour Code* and the heading before it are replaced by the following:

Personal Leave

**Leave — five days**

**206.6 (1)** Every employee is entitled to and shall be granted a leave of absence from employment of up to five days in every calendar year, for

**(a)** treating their illness or injury;

**(b)** carrying out responsibilities related to the health or care of any of their family members;

**(c)** carrying out responsibilities related to the education of any of their family members who are less than 18 years of age;

**(d)** addressing any urgent matter concerning themselves or their family members;

**(e)** attending their citizenship ceremony under the *Citizenship Act*, and

**(f)** any other reason prescribed by regulation.

## **Leave with pay**

(2) If the employee has completed three consecutive months of continuous employment with the employer, the employee is entitled to the first three days of the leave with pay at their regular rate of wages for their normal hours of work, and such pay shall for all purposes be considered to be wages.

## **Division of leave**

(3) The leave of absence may be taken in one or more periods. The employer may require that each period of leave be of not less than one day's duration.

## **Documentation**

(4) The employer may, in writing and no later than 15 days after an employee's return to work, request that the employee provide documentation to support the reasons for the leave. The employee shall provide that documentation only if it is reasonably practicable for them to obtain and provide it.

## **Regulations**

(5) The Governor in Council may make regulations, for the purposes of this section, including regulations

- (a) setting out the other reasons for taking leave under paragraph (1)(f);
- (b) defining the expressions "regular rate of wages" and "normal hours of work"; and
- (c) specifying the persons who are the employee's family members.

**(c) section 206.7 of the *Canada Labour Code* is amended by adding the following after subsection (2):**

## **Leave with pay**

**(2.1)** If the employee has completed three consecutive months of continuous employment with the employer, the employee is entitled to the first five days of the leave with pay at their regular rate of wages for their normal hours of work, and such pay shall for all purposes be considered to be wages.

**(d) section 206.7 of the *Canada Labour Code* is amended by adding the following after subsection (5):**

**Regulations**

**(6)** The Governor in Council may make regulations defining the expressions “regular rate of wages” and “normal hours of work” for the purposes of subsection (2.1).

**(10)** If section 206 of the other Act comes into force on the same day as section 514 of this Act, then that section 514 is deemed to have come into force before that section 206.

**(11)** If subsection 209(1) of the other Act comes into force before subsection 515(1) of this Act, then

**(a)** that subsection 515(1) is deemed never to have come into force and is repealed; and

**(b)** paragraph 209.4(a) of the *Canada Labour Code* is replaced by the following:

**(a)** specifying the absences from employment that are considered not to have interrupted continuous employment referred to in any of sections 206, 206.1, and 206.4 to 206.8;

**(12)** If subsection 209(1) of the other Act comes into force on the same day as subsection 515(1) of this Act, then that subsection 515(1) is deemed to have come into force before that subsection 209(1).

**(13)** If subsection 209(2) of the other Act comes into force before subsection 515(2) of this Act, then

**(a)** that subsection 515(2) is deemed never to have come into force and is repealed; and

**(b)** paragraph 209.4(g) of the *Canada Labour Code* is replaced by the following:

**(g)** prescribing shorter periods of consecutive months of continuous employment for the purposes of subsections 206(1), 206.1(1), 206.4(2) and (2.1), 206.5(2) and (3), 206.6(2), 206.7(2.1) and 206.8(1);

**(14)** If subsection 209(2) of the other Act comes into force on the same day as subsection 515(2) of this Act, then that subsection 515(2) is deemed to have come into force before that subsection 209(2).

**(15) If subsection 209(3) of the other Act comes into force before subsection 515(3) of this Act, then**

**(a) that subsection 515(3) is deemed never to have come into force and is repealed; and**

**(b) paragraph 209.4(h.3) of the *Canada Labour Code* is replaced by the following:**

**(h.3) prescribing documentation that the employer may request under any of subsections 206.6(4), 206.7(5) and 206.8(3);**

**(16) If subsection 209(3) of the other Act comes into force on the same day as subsection 515(3) of this Act, then that subsection 515(3) is deemed to have come into force before that subsection 209(3).**

**(17) If subsection 215(1) of the other Act comes into force before section 516 of this Act, then that section 516 is deemed never to have come into force and is repealed.**

**(18) If subsection 215(1) of the other Act comes into force on the same day as section 516 of this Act, then that section 516 is deemed to have come into force before that subsection 215(1).**

Coming into Force

**September 1, 2019**

**534 (1) Sections 441, 442, and 444, subsection 446(3), sections 450, 453 to 456, subsection 457(1), sections 458, 459, 463 to 477, 487, 494 and 495, subsection 505(4) and sections 519, 524 and 525 come into force on the later of September 1, 2019 and the first day on which both section 195 and 206 of the *Budget Implementation Act, 2017, No. 2* are in force.**

**2017, c. 20, s. 377**

**(2) Section 443 comes into force on the first day on which both section 441 of this Act and section 377 of the *Budget Implementation Act, 2017, No. 1* are in force.**

**2017, c. 33, ss. 195 and 206**

**(3) Sections 445 and 462 and subsection 505(2) come into force on the first day on which both sections 195 and 206 of the *Budget Implementation Act, 2017, No. 2* are in force.**

**Order in council**

**(4) Sections 447 to 449 and 517 come into force on a day to be fixed by order of the Governor in Council.**

**Order in council**

**(5) Sections 451, 452, 461 and 493, subsections 498(1) to (3) and sections 501, 518 and 520 come into force on a day to be fixed by order of the Governor in Council but that day must not be earlier than the day on which both sections 445 and 488 are in force.**

**Order in council**

**(6) Subsection 457(2), sections 460, 478 to 482 and 484, subsections 498(5) and 505(3) and section 521 come into force on a day to be fixed by order of the Governor in Council but that day must not be earlier than the day on which both sections 441 and 483 are in force.**

**Order in council**

**(7) Sections 483, 485 and 522 come into force on a day to be fixed by order of the Governor in Council.**

**Order in council**

**(8) Sections 486 and 523 come into force on a day to be fixed by order of the Governor in Council.**

**2017, c. 20, s. 318(1)**

**(9) Sections 488 to 492, 496 and 497, subsection 498(4), sections 499, 500, 503, subsection 505(5) and section 526 come into force on the day on which subsection 318(1) of the *Budget Implementation Act, 2017, No. 1* comes into force.**

**Order in council**

**(10) Sections 502, 527 and 528 come into force on a day to be fixed by order of the Governor in Council.**

## **SUBDIVISION B**

Head of Compliance and Enforcement

R.S., c. L-2

Canada Labour Code

**535 Section 2 of the *Canada Labour Code* is amended by adding the following in alphabetical order:**

***Head*** means the Head of Compliance and Enforcement designated under subsection 122.21(1). (*chef*)

**536 The Act is amended by adding the following after section 122.2:**

### **Head of Compliance and Enforcement**

**122.21 (1)** The Minister may designate a person as Head of Compliance and Enforcement.

### **No designation made**

**(2)** If no Head is designated under subsection (1), the Minister shall exercise the powers and perform the duties and functions of the Head.

**537 (1) Subparagraph 125(1)(d)(iii) of the Act is replaced by the following:**

**(iii)** any other printed material related to health and safety that is prescribed or that may be directed by the Head;

**(2) Paragraph 125(1)(x) of the Act is replaced by the following:**

**(x)** comply with every oral or written direction given to the employer by the Head or the Board concerning the health and safety of employees;

**538 Paragraph 126(1)(i) of the Act is replaced by the following:**

(i) comply with every oral or written direction of the Head or the Board concerning the health and safety of employees;  
and

**539 The portion of subsection 127(1) of the Act before paragraph (a) is replaced by the following:**

**Interference at accident scene prohibited**

**127 (1)** Subject to subsection (2), if an employee is killed or seriously injured in a work place, no person shall, unless authorized to do so by the Head, remove or in any way interfere with or disturb any wreckage, article or thing related to the incident except to the extent necessary to

**540 (1) The portion of subsection 127.1(8) of the Act before paragraph (a) is replaced by the following:**

**Referral to the Head**

(8) The employee or employer may refer a complaint that there has been a contravention of this Part to the Head in the following circumstances:

**(2) Subsection 127.1(9) of the Act is replaced by the following:**

**Investigation**

(9) The Head shall investigate the complaint referred to in subsection (8).

**(3) The portion of subsection 127.1(10) of the Act before paragraph (a) is replaced by the following:**

**Duty and power of Head**

(10) On completion of the investigation, the Head

**(4) Paragraphs 127.1(10)(b) and (c) of the Act are replaced by the following:**

**(b)** may, if in the Head's opinion it is appropriate, recommend that the employee and employer resolve the matter between themselves; or

**(c)** shall, if the Head concludes that a danger exists as described in subsection 128(1), issue directions under subsection 145(2).

**(5) Subsection 127.1(11) of the Act is replaced by the following:**

#### **Interpretation**

**(11)** For greater certainty, nothing in this section limits the Head's authority under section 145.

**541 Subsection 128(16) of the Act is replaced by the following:**

#### **Information to Head**

**(16)** If the employee continues the refusal under subsection (15), the employer shall immediately inform the Head and the work place committee or the health and safety representative of its decision and the continued refusal. The employer shall also provide a copy of the report on the matter prepared under subsection (7.1) to the Head along with a copy of any report referred to in subsection (10.1) or (10.2).

**542 (1) The portion of subsection 129(1) of the Act before paragraph (a) is replaced by the following:**

#### **Head's investigation**

**129 (1)** If the Head is informed of the employer's decision and the continued refusal under subsection 128(16), the Head shall investigate the matter unless the Head is of the opinion that

**(2) Subsections 129(1.1) to (1.3) of the Act are replaced by the following:**

#### **Notices of decision not to investigate**

**(1.1)** If the Head does not proceed with an investigation, the Head shall inform the employer and the employee in writing, as soon as feasible, of that decision. The employer shall then inform in writing, as the case may be, the members of the



work place committee who were designated under subsection 128(10) or the health and safety representative and the person who is designated by the employer under that subsection of the Head's decision.

### **Return to work**

**(1.2)** On being informed of the Head's decision not to proceed with an investigation, the employee is no longer entitled to continue their refusal under subsection 128(15).

### **Refusal of work during investigation**

**(1.3)** If the Head proceeds with an investigation, the employee may continue to refuse, for the duration of the investigation, to use or operate the machine or thing, to work in the place or to perform the activity that may constitute a danger.

**(3) The portion of subsection 129(1.4) of the Act before paragraph (a) is replaced by the following:**

### **Persons present during the investigation**

**(1.4)** If the Head proceeds with an investigation, the Head may do so in the presence of the employer, the employee and one other person who is

**(4) Subsection 129(3) of the Act is replaced by the following:**

### **Absence of any person**

**(3)** The Head may proceed with an investigation in the absence of any person mentioned in subsection (1.4) or (2) if that person chooses not to be present.

**(5) The portion of subsection 129(3.1) of the Act before paragraph (a) is replaced by the following:**

### **Precedent**

**(3.1)** During the Head's investigation, the Head shall verify if there are previous or ongoing investigations in relation to the same employer that involve substantially the same issues and may

**(6) Paragraph 129(3.1)(b) of the Act is replaced by the following:**

**(b)** if there is an ongoing investigation, combine that investigation with the investigation the Head is conducting and issue a single decision.

**(7) Subsection 129(4) of the Act is replaced by the following:**

**Decision of Head**

**(4)** The Head shall, on completion of an investigation made under subsection (1), make one of the decisions referred to in paragraphs 128(13)(a) to (c) and shall immediately give written notification of the decision to the employer and the employee.

**(8) The portion of subsection 129(5) of the Act before paragraph (a) is replaced by the following:**

**Continuation of work**

**(5)** If the employee has exercised their right under subsection (1.3), the employer may, during the investigation and until the Head has issued a decision, require that the employee concerned remain at a safe location near the place in respect of which the investigation is being made or assign the employee reasonable alternative work, and shall not assign any other employee to use or operate the machine or thing, work in that place or perform the activity referred to in subsection (1) unless

**(9) Subsections 129(6) and (7) of the Act are replaced by the following:**

**Directions by Head**

**(6)** If the Head makes a decision referred to in paragraph 128(13)(a), the Head shall issue the directions under subsection 145(2) that the Head considers appropriate, and an employee may continue to refuse to use or operate the machine or thing, work in that place or perform that activity until the directions are complied with or until they are varied or rescinded under this Part.

**Appeal**

**(7)** If the Head makes a decision referred to in paragraph 128(13)(b) or (c), the employee is not entitled under section 128 or this section to continue to refuse to use or operate the machine or thing, work in that place or perform that activity, but the employee, or a person designated by the employee for the purpose, may appeal the decision, in writing, to the Board within 10 days after receiving notice of the decision.

**543 Section 130 of the Act is replaced by the following:**

**When collective agreement exists**

**130** The Head may, on the joint application of the parties to a collective agreement, if the Head is satisfied that the agreement contains provisions that are at least as effective as those under sections 128 and 129 in protecting the employees to whom the agreement relates from danger to their health or safety, exclude the employees from the application of those sections for the period during which the agreement remains in force.

**544 Subsection 133(3) of the Act is replaced by the following:**

**Restriction**

**(3)** A complaint in respect of the exercise of a right under section 128 or 129 may not be made unless the employee has complied with subsection 128(6) or the Head has received the reports referred to in subsection 128(16), as the case may be, in relation to the matter that is the subject-matter of the complaint.

**545 Subsection 134(2) of the Act is replaced by the following:**

**Enforcement of orders**

**(2)** Any person affected by an order of the Board under subsection (1), or the Head on the request of such a person, may, after 14 days from the day on which the order is made, or from the day provided in the order for compliance, whichever is later, file in the Federal Court a copy of the order, exclusive of reasons.

**546 Paragraph 134.1(4)(f) of the Act is replaced by the following:**

**(f)** shall cooperate with the Head;

**547 (1) The portion of subsection 135(6) of the Act before paragraph (b) is replaced by the following:**

**Exemption if agreement**

**(6)** If, under a collective agreement or any other agreement between an employer and the employer's employees, a committee of persons has been appointed and the committee has, in the opinion of the Head, a responsibility for matters relating to health and safety in the work place to such an extent that a work place committee established under subsection (1) for that work place would not be necessary,

**(a)** the Head may, in writing, exempt the employer from the requirements of subsection (1) in respect of that work place;

**(2) Paragraph 135(7)(h) of the Act is replaced by the following:**

**(h)** shall cooperate with the Head;

**548 (1) Subsection 135.1(4) of the Act is replaced by the following:**

**Notification**

**(4)** If a trade union fails to select a person under subparagraph (1)(b)(ii), the Head may notify in writing the local branch of the trade union, and shall send a copy of any such notification to the trade union's national or international headquarters and to the employer, indicating that the committee is not established until a person is selected in accordance with that subparagraph.

**(2) Subsection 135.1(9) of the Act is replaced by the following:**

**Records**

**(9)** A committee shall ensure that accurate records are kept of all of the matters that come before it and that minutes are kept of its meetings. The committee shall make the minutes and records available to the Head at the Head's request.

**549 (1) Subsection 136(3) of the Act is replaced by the following:**

**Notification**

**(3)** If a trade union fails to select a person under subsection (2), the Head may so notify in writing the local branch of the trade union. The Head shall send a copy of the notification to the trade union's national or international headquarters and to the employer.

**(2) Paragraph 136(5)(h) of the Act is replaced by the following:**

**(h)** shall cooperate with the Head;

**550 Section 137 of the Act is replaced by the following:**

**Committees or representatives — specified work places**

**137** Despite sections 135 and 136, if an employer controls more than one work place or the size or nature of the operations of the employer or those of the work place precludes the effective functioning of a single work place committee or health and safety representative, as the case may be, for those work places, the employer shall, subject to the approval or in accordance with the direction of the Head, establish or appoint in accordance with section 135 or 136, as the case may be, a work place committee or health and safety representative for the work places that are specified in the approval or direction.

**551 Subsection 137.1(5) of the Act is replaced by the following:**

**Ineligibility**

**(5)** No person to whom powers, duties or functions have been delegated under subsection 140(1) or (1.1), or under an agreement entered into under subsection 140(2), is eligible to be appointed to the Commission or as alternate chairperson under subsection (2.1), or to be designated for the purposes of subsection 137.2(1) or (2).

**552 The heading before section 140 of the Act is replaced by the following:**

Exercise of Powers in Relation to Health and Safety

**553 (1) Section 140 of the Act is amended by adding the following after subsection (1):**

**Delegation — Head**

**CAVALLUZZO LLP**

141

**(1.1)** Subject to any terms and conditions specified by the Minister, the Head may delegate to any qualified person or class of persons any of the powers the Head is authorized to exercise or any of the duties or functions the Head is authorized to perform for the purposes of this Part. The Head may make the delegation subject to any terms and conditions that the Head considers appropriate.

**(2) Subsections 140(2) and (3) of the Act are replaced by the following:**

#### **Agreements — delegating provincial employees**

**(2)** Subject to subsection (3), the Minister may, with the approval of the Governor in Council, enter into an agreement with any province or any provincial body specifying the terms and conditions under which the Minister may delegate to a person employed by that province or provincial body the powers, duties or functions that the Minister or the Head is authorized to exercise or perform for the purposes of this Part.

#### **Exception**

**(3)** The powers, duties or functions provided for in section 130, subsections 135(3), 137.1(1) to (2.1), and (7) to (9), 137.2(4), 138(1) to (2) and (4) to (6), 140(1) to (2) and (4), 144(1) and 149(1), sections 152 and 155 and subsections 156.1(1), 157(3) and 159(2), shall not be the subject of an agreement under subsection (2).

**(3) Subsection 140(5) of the Act is replaced by the following:**

#### **Certificate of authority — Head**

**(4.1)** The Head may provide any person to whom powers, duties or functions have been delegated under subsection (1.1), or under an agreement entered into under subsection (2), with a certificate of authority and, when exercising those powers or performing those duties or functions, that person shall show the certificate to any person who asks to see it.

#### **Limitation of liability**

**(5)** A person to whom powers, duties or functions have been delegated under subsection (1) or (1.1), or under an agreement entered into under subsection (2), is not personally liable for anything done or omitted to be done by them in good faith in the actual or purported exercise of those powers or performance of those duties or functions.

**554 (1) The portion of subsection 141(1) of the Act before paragraph (a) is replaced by the following:**

**Accessory powers**

**141 (1)** Subject to section 143.2, the Head may, in carrying out the Head's duties and at any reasonable time, enter any work place controlled by an employer and, in respect of any work place, may

**(2) Paragraph 141(1)(c) of the English version of the Act is replaced by the following:**

**(c)** be accompanied or assisted by any person and bring any equipment that the Head deems necessary to carry out the Head's duties;

**(3) Paragraphs 141(1)(f) to (j) of the Act are replaced by the following:**

**(f)** direct the employer to ensure that any place or thing specified by the Head not be disturbed for a reasonable period pending an examination, test, inquiry, investigation or inspection in relation to the place or thing;

**(g)** direct any person not to disturb any place or thing specified by the Head for a reasonable period pending an examination, test, inquiry, investigation or inspection in relation to the place or thing;

**(h)** direct the employer to produce documents and information relating to the health and safety of the employer's employees or the safety of the work place and to permit the Head to examine and make copies of or take extracts from those documents and that information;

**(i)** direct the employer or an employee to make or provide statements, in the form and manner that the Head may specify, respecting working conditions and material and equipment that affect the health or safety of employees;

**(j)** direct the employer or an employee or a person designated by either of them to accompany the Head while the Head, is in the work place; and

**(4) Subsection 141(2) of the Act is replaced by the following:**

**Directions whether or not in work place**

**(2)** The Head may issue a direction under subsection (1) whether or not the Head is in the work place at the time the direction is issued.

**(5) Subsection 141(3) of the English version of the Act is replaced by the following:**

#### **Return of material and equipment**

**(3)** On request by the person from whom material or equipment was taken or removed for testing under paragraph (1)(d), the Head shall return that material or equipment to the person after testing is completed unless it is required for the purposes of a prosecution under this Part.

**(6) Subsections 141(4) to (6) of the Act are replaced by the following:**

#### **Investigation of deaths**

**(4)** The Head shall investigate every death of an employee that occurred in the work place or while the employee was working, or that was the result of an injury that occurred in the work place or while the employee was working.

#### **Investigation of motor vehicle accidents**

**(5)** If the death results from a motor vehicle accident on a public road, as part of the investigation the Head shall obtain a copy of any police report as soon as possible after the accident.

#### **Report**

**(6)** Within 10 days after completing a written report on the findings of an inquiry or investigation, the Head shall provide the employer and the work place committee or the health and safety representative with a copy of the report.

**555 (1) The portion of subsection 141.1(1) of the Act before paragraph (a) is replaced by the following:**

#### **Inspections**

**141.1 (1)** If the Head conducts an inspection of the work place at the work place, it shall be done in the presence of



**(2) Subsection 141.1(2) of the Act is replaced by the following:**

**Inspection not to be delayed**

**(2)** The Head may proceed with an inspection in the absence of any person mentioned in subsection (1) if that person chooses not to be present.

**556 (1) Paragraph 142(a) of the Act is replaced by the following:**

**(a)** the Head to enable him or her to exercise his or her powers or to perform his or her duties or functions under this Part;

**(2) Paragraph 142(b) of the Act is replaced by the following:**

**(b)** every person to whom powers, duties or functions have been delegated under subsection 140(1) or (1.1), or under an agreement entered into under subsection 140(2), who is exercising those powers or performing those duties or functions.

**557 (1) Paragraph 143(a) of the Act is replaced by the following:**

**(a)** the Head in the exercise of his or her powers, or in the performance of his or her duties or functions, under this Part;

**(2) Paragraph 143(b) of the Act is replaced by the following:**

**(b)** any person to whom powers, duties or functions have been delegated under subsection 140(1) or (1.1), or under an agreement entered into under subsection 140(2), who is exercising those powers or performing those duties or functions.

**558 (1) Paragraph 143.1(a) of the Act is replaced by the following:**

**(a)** the Head in the exercise of his or her powers, or in the performance of his or her duties or functions under this Part;

**(2) Paragraph 143.1(b) of the Act is replaced by the following:**

**(b)** any person to whom powers, duties or functions have been delegated under subsection 140(1) or (1.1), or under an agreement entered into under subsection 140(2), who is exercising those powers or performing those duties or functions.

**559 (1) Subsections 144(1) and (1.1) of the Act are replaced by the following:**

### **Evidence in civil or administrative proceedings precluded**

**144 (1)** No person to whom powers, duties or functions have been delegated under subsection 140(1) or (1.1), or under an agreement entered into under subsection 140(2), and no person who has accompanied or assisted that person in exercising those powers or performing those duties or functions may be required to give testimony in civil or administrative proceedings, other than proceedings under this Part, with regard to information obtained in exercising those powers or performing those duties or functions, except with the written permission of the Head, in which case subsection (5) does not apply to restrict the disclosure of the information.

### **Evidence in civil or administrative proceedings precluded — Head**

**(1.1)** The Head shall not be required to give testimony in civil or administrative proceedings, other than proceedings under this Part, with regard to information obtained in the exercise of powers or the performance of duties or functions the Head is authorized to exercise or perform under this Part, except for those powers, duties or functions that shall not be the subject of an agreement entered into under subsection 140(2).

**(2) Subsection 144(3) of the Act is replaced by the following:**

### **Non-disclosure of information**

**(3)** Subject to subsection (4), the Head, an external adjudicator or a member of the Board who is admitted to a work place under the powers conferred by section 141 — or a person who is admitted to a work place under the powers conferred by section 141 that are delegated to them under subsection 140(1.1) or under an agreement entered into under subsection 140(2) — and any person accompanying them, shall not disclose to any person any information obtained in the work place by the Head, external adjudicator or member or person with regard to any secret process or trade secret, except for the purposes of this Part or as required by law.

**(3) Subsections 144(5) and (5.01) of the Act are replaced by the following:**

### **Information not to be published**

**(5)** No person shall, except for the purposes of this Part or for the purposes of a prosecution under this Part or unless the Head is satisfied that the publication or disclosure is in the interest of occupational health and safety or the public interest, publish or disclose any information obtained as a result of activities carried out under section 141.

### **Factors Head may consider**

**(5.01)** Situations in which the Head may be so satisfied include, but are not limited to, situations in which the publication or disclosure is for the purposes of a coroner's inquiry, the administration or enforcement of a federal or provincial law or the administration of a foreign law or international agreement.

**560 (1) The portion of subsection 145(1) of the Act before paragraph (a) is replaced by the following:**

#### **Direction to terminate contravention**

**145 (1)** If the Head is of the opinion that a provision of this Part is being contravened or has recently been contravened, the Head may direct the employer or employee concerned, or both, to

**(2) Paragraph 145(1)(b) of the English version of the Act is replaced by the following:**

**(b)** take steps, as specified by the Head and within the time that the Head may specify, to ensure that the contravention does not continue or re-occur.

**(3) The portion of subsection 145(1.1) of the English version of Act before paragraph (b) is replaced by the following:**

#### **Confirmation in writing**

**(1.1)** If the Head has issued a direction orally, the Head shall provide a written version of it

**(a)** before the Head leaves the work place, if the Head was in the work place when the direction was issued; or

**(4) The portion of subsection 145(2) of the Act before paragraph (a) is replaced by the following:**

#### **Dangerous situations — direction to employer**

**(2)** If the Head considers that the use or operation of a machine or thing, a condition in a place or the performance of an activity constitutes a danger to an employee while at work,

**(5) The portion of paragraph 145(2)(a) of the English version of the Act before subparagraph (i) is replaced by the following:**

**(a)** the Head shall notify the employer of the danger and issue directions in writing to the employer directing the employer, immediately or within the period that the Head specifies, to take measures to

**(6) Paragraph 145(2)(b) of the English version of the Act is replaced by the following:**

**(b)** the Head may, if the Head considers that the danger or the hazard, condition or activity that constitutes the danger cannot otherwise be corrected, altered or protected against immediately, issue a direction in writing to the employer directing that the place, machine, thing or activity in respect of which the direction is issued not be used, operated or performed, as the case may be, until the Head's directions are complied with, but nothing in this paragraph prevents the doing of anything necessary for the proper compliance with the direction.

**(7) Subsections 145(2.1) to (4) of the Act are replaced by the following:**

#### **Dangerous situations — direction to employee**

**(2.1)** If the Head considers that the use or operation of a machine or thing by an employee, a condition in a place or the performance of an activity by an employee constitutes a danger to the employee or to another employee, the Head shall, in addition to the directions issued under paragraph (2)(a), issue a direction in writing to the employee to discontinue the use, operation or activity or cease to work in that place until the employer has complied with the directions issued under that paragraph.

#### **Posting notice of danger**

**(3)** If the Head issues a direction under paragraph (2)(a), the Head shall affix or cause to be affixed to or near the place, machine or thing in respect of which the direction is issued, or in the area in which the activity in respect of which the

direction is issued is performed, a notice of danger in the form and containing the information that the Head may specify, and no person shall remove the notice unless authorized to do so by the Head.

### **Cessation of use**

**(4)** If the Head issues a direction under paragraph (2)(b) in respect of a place, machine, thing or activity, the employer shall cause the use of the place, the use or operation of the machine or thing or the performance of the activity to be discontinued, and no person shall use or operate the machine or thing, work in that place or perform the activity until the measures directed by the Head have been taken.

**(8) The portion of subsection 145(5) of the Act before paragraph (a) is replaced by the following:**

### **Copies of directions and reports**

**(5)** If the Head issues a direction in writing under subsection (1) or (2) or makes a report in writing to an employer on any matter under this Part, the employer shall without delay

**(9) Subsections 145(6) to (8) of the Act are replaced by the following:**

### **Copy to person who made complaint**

**(6)** If the Head issues a direction under subsection (1), (2) or (2.1) or makes a report referred to in subsection (5) in respect of an investigation made by the Head following a complaint, the Head shall immediately provide a copy of the direction or report to each person, if any, whose complaint led to the investigation.

### **Copy to employer**

**(7)** If the Head issues a direction to an employee under subsection (1) or (2.1), the Head shall immediately provide a copy of the direction to the employee's employer.

### **Response to direction or report**

**(8)** If the Head issues a direction under subsection (1), (2) or (2.1) or makes a report referred to in subsection (5), the Head may require the employer or the employee to whom the direction is issued or to whom the report relates to respond

in writing to the direction or report, within the time that the Head may specify. The employer or employee shall provide a copy of the response to the policy committee and a copy to the work place committee or the health and safety representative.

**561 Section 145.1 of the Act is replaced by the following:**

**Powers, duties and functions**

**145.1** For the purposes of sections 146 to 146.5, the Board has all of the powers, duties and functions of the Minister and the Head under this Part, except for those referred to in section 130, subsections 135(3) and (6), 137.1(1) to (2.1) and (7) to (9), 137.2(4), 138(1) to (2) and (4) to (6), section 139, subsections 140(1) to (2) and (4) and 144(1), section 146.01, subsection 149(1), sections 152 and 155 and subsections 156.1(1), 157(3) and 159(2).

**562 Subsection 146(1) of the Act is replaced by the following:**

**Appeal of direction**

**146 (1)** An employer, employee or trade union that feels aggrieved by a direction issued by the Head under this Part may appeal the direction to the Board, in writing, within 30 days after the day on which the direction was issued or confirmed in writing.

**563 Section 146.01 of the Act is replaced by the following:**

**Head informed of appeal**

**146.01 (1)** The Board shall inform the Head in writing when an appeal is brought under subsection 129(7) or section 146 and provide him or her with a copy of the request for appeal.

**Documents provided to Board**

**(2)** The Head shall, on request of the Board, provide to the Board a copy of any document that the Head relied on for the purpose of making the decision or issuing the direction being appealed.

**Documents provided to Head**

**(3)** The Board shall, on request of the Head, provide to the Head a copy of any document that is filed with the Board in the appeal.

### **Power of Head**

**(4)** The Head may, in an appeal, present evidence and make representations to the Board.

### **564 Subsection 146.1(2) of the Act is replaced by the following:**

#### **Decision and reasons**

**(2)** The Board shall provide a written decision, with reasons, and a copy of any direction to the employer, employee or trade union concerned and to the Head, and the employer shall, without delay, give a copy of the decision, the reasons, and any direction to the work place committee or health and safety representative.

### **565 Section 152 of the Act is replaced by the following:**

#### **Injunction proceedings**

**152** The Head may apply or cause an application to be made to a judge of a superior court for an order enjoining any person from contravening a provision of this Part, whether or not a prosecution has been instituted for an offence under this Part, or enjoining any person from continuing any act or default for which the person was convicted of an offence under this Part.

### **566 Section 154.1 of the Act is replaced by the following:**

#### **Publication**

**154.1** The Head may, subject to the regulations, make public the name of an employer convicted of an offence under this Part, the nature of the offence, the punishment imposed and any other prescribed information.

### **567 (1) Subsection 155(1) of the Act is replaced by the following:**

#### **Notice to provide information**

**155 (1)** If a person is required to provide information for the purposes of this Part, the Head may require the information to be provided by a notice to that effect served personally or sent by registered mail addressed to the latest known address of the person, and the person shall comply with the notice within such reasonable time as is specified in it.

**(2) The portion of subsection 155(2) of the Act before paragraph (a) is replaced by the following:**

**Proof of failure to provide information**

**(2)** A certificate purporting to be signed by the Head or by a person authorized by the Head,

**(3) Paragraph 155(2)(b) of the English version of the Act is replaced by the following:**

**(b)** certifying that the information has not been provided as requested in the notice sent by the Head,

**568 Subsection 157(6) of the Act is replaced by the following:**

**Compliance with standards**

**(6)** Regulations made under this section that prescribe or incorporate a standard but that require the standard to be complied with only to the extent that compliance is practicable or reasonably practicable in circumstances governed by the standard may require the employer to report to the Head the reason that full compliance is not practicable or reasonably practicable in particular circumstances.

**569 The definitions *inspector* and *regional director* in section 166 of the Act are repealed.**

**570 (1) Subsections 172.1(1) and (2) of the Act are replaced by the following:**

**Vote**

**172.1 (1)** If a work schedule is established, modified or cancelled under subsection 170(2) or 172(2), any affected employee may, within ninety days after the new schedule or its modification or cancellation takes effect, request that the Head conduct a vote to determine whether seventy per cent of the affected employees approve the new schedule or its modification or cancellation.



## **Duty of Head**

(2) If a request is made under subsection (1), the Head must conduct a secret vote to determine the percentage of the affected employees that approves the new schedule or the modification or cancellation.

(2) **Subsection 172.1(4) to (6) of the Act are replaced by the following:**

### **Counting of ballots**

(4) The Head must count the ballots in the presence of a representative chosen by the affected employees and a representative chosen by the employer.

### **Communication of result of vote**

(5) The Head must inform the employer, by written notice, of the result.

### **Effect of non-approval**

(6) If the result of the vote indicates that less than 70% of the affected employees approve the new schedule or its modification or cancellation, the employer must comply with the result of the vote within 30 days after being informed of that result by the Head.

(3) **Subsection 172.1(8) of the Act is replaced by the following:**

### ***Statutory Instruments Act* not applicable**

(8) The *Statutory Instruments Act* does not apply in respect of the written notice given by the Head to the employer under subsection (5).

**571 (1) Subsections 176(1) and (2) of the Act are replaced by the following:**

### **Excess hours under permit**

**176 (1)** On the application of an employer or an employer's organization, the Head, having regard to the conditions of employment in any industrial establishment and the welfare of the employees, may, by a permit in writing, authorize hours to be worked by any class of employees set out in the permit in excess of the maximum hours of work specified in or prescribed under section 171, established under section 172 or prescribed by regulations made under section 175.

### **Justifying permit**

**(2)** No permit may be issued under subsection (1) unless the applicant has satisfied the Head

**(a)** that exceptional circumstances exist that justify the working of additional hours;

**(b)** that the employer had posted a notice of the application for the permit, for at least 30 days before its proposed effective date, in places readily accessible to the affected class of employees where they were likely to see it; and

**(c)** that the employer had informed the trade union in writing of the application for the permit, if those employees are represented by a trade union.

**(2) Subsection 176(5) of the Act is replaced by the following:**

### **Report**

**(5)** If a permit has been issued under this section, the employer for whom or on whose behalf the permit was issued shall report in writing to the Head, within 15 days after the expiration of the period specified in the permit or within such time as the Head may fix in the permit, stating the number of employees who worked in excess of the maximum hours specified in or prescribed under section 171 or by regulations made under section 175 and the number of additional hours each of them worked.

**572 Subsection 177(2) of the Act is replaced by the following:**

### **Reporting additional work**

**(2)** Where the maximum hours of work in an industrial establishment have been exceeded under the authority of subsection (1), the employer shall report in writing to the Head, and also to the trade union if the affected employees are

subject to a collective agreement, within 15 days after the end of the month in which the maximum was exceeded, stating the nature of the circumstances in which the maximum was exceeded, the number of employees who worked in excess of the maximum and the number of additional hours each of them worked.

**573 Subsection 182(2) of the Act is replaced by the following:**

**Report to Commission**

(2) If the Head has reasonable grounds at any time for believing that an employer is engaging or has engaged in a discriminatory practice described in subsection (1), the Head may notify the Canadian Human Rights Commission or file a complaint with that Commission under section 40 of the *Canadian Human Rights Act*.

**574 (1) Subsection 212(1) of the Act is replaced by the following:**

**Notice of group termination**

**212 (1)** Any employer who terminates, either simultaneously or within any period not exceeding four weeks, the employment of a group of 50 or more employees employed by the employer within a particular industrial establishment, or of such lesser number of employees as prescribed by regulations applicable to the employer made under paragraph 227(b), shall, in addition to any notice required to be given under section 230, give notice to the Head, in writing, of his intention to so terminate at least 16 weeks before the date of termination of the employment of the employee in the group whose employment is first to be terminated.

**(2) Subsection 212(2) of the Act is replaced by the following:**

**Copies of notice**

(2) A copy of any notice given to the Head under subsection (1) must be given immediately by the employer to the Minister of Employment and Social Development and the Canada Employment Insurance Commission and any trade union representing a redundant employee, and if any redundant employee is not represented by a trade union, a copy of that notice must be given to the employee or immediately posted by the employer in a conspicuous place within the industrial establishment in which that employee is employed.

**575 Section 213 of the Act is replaced by the following:**

**Cooperation with Commission**

**213 (1)** An employer who gives notice to the Head under section 212 and any trade union to which a copy of that notice is given must give the Canada Employment Insurance Commission any information requested by it for the purpose of assisting any redundant employee and must cooperate with the Commission to facilitate the re-establishment in employment of that employee.

**Statement of benefits**

**(2)** An employer who gives notice to the Head under section 212 shall give each redundant employee, as soon as possible after the notice is so given but in any case not later than two weeks before the date of the termination of the employment of the employee, a statement in writing setting out, as at the date of the statement, his vacation benefits, wages, severance pay and any other benefits and pay arising from his employment with that employer.

**576 Subsection 214(1) of the Act is replaced by the following:**

**Establishment of joint planning committee**

**214 (1)** An employer who gives notice to the Head under section 212 must, as soon as possible after giving the notice, establish a joint planning committee consisting of any number of members that is required or permitted by this section and sections 215 and 217.

**577 Sections 216 and 217 of the Act are replaced by the following:**

**Time for appointment**

**216** The members of a joint planning committee must be appointed and must convene for their first sitting within two weeks after the date of the notice given to the Head under section 212.

**Failure to appoint**

**217** If a trade union fails, or redundant employees fail, to appoint a member to a joint planning committee as provided in sections 214 and 215, the Head may, on application of any redundant employee, appoint a member to the committee in lieu of that trade union or those employees, as the case may be, and that member is a representative of the redundant employees represented by the trade union or of the redundant employees who failed to appoint the member, as the case may be.

**578 The portion of subsection 222(2) of the Act before paragraph (a) is replaced by the following:**

#### **Head**

(2) The Head may

**579 (1) Subsection 240(1) of the Act is replaced by the following:**

#### **Complaint**

**240 (1)** Subject to subsections (2) and 242(3.1), a person who has been dismissed and considers the dismissal to be unjust may make a complaint in writing to the Head if the employee

(a) has completed 12 consecutive months of continuous employment by an employer; and

(b) is not a member of a group of employees subject to a collective agreement.

**(2) The portion of subsection 240(3) of the Act before paragraph (b) is replaced by the following:**

#### **Extension of time**

(3) The Head may extend the period set out in subsection (2)

(a) if the Head is satisfied that a complaint was made in that period to a government official who had no authority to deal with the complaint but that the person making the complaint believed the official had that authority; or

**580 Section 241 of the Act is replaced by the following:**

**Reasons for dismissal**

**241 (1)** If an employer dismisses a person described in subsection 240(1), the person who was dismissed or the Head may make a request in writing to the employer to provide a written statement giving the reasons for the dismissal, and any employer who receives such a request must provide the person who made the request with such a statement within 15 days after the request is made.

**Head to assist parties**

**(2)** On receipt of a complaint made under subsection 240(1), the Head must endeavour to assist the parties to the complaint to settle the complaint.

**Complaint not settled within reasonable time**

**(3)** If a complaint is not settled under subsection (2) within the period that the Head considers to be reasonable in the circumstances, the Head must, on the written request of the person who made the complaint that the complaint be referred to the Board, deliver to the Board the complaint made under subsection 240(1), any written statement giving the reasons for the dismissal provided under subsection (1) and any other statements or documents that the Head has that relate to the complaint.

**Notice**

**(4)** If the person who made the complaint does not reply to a written communication from the Head within a period that the Head considers to be reasonable in the circumstances and a period of at least 30 days, or any longer period that may be prescribed by regulation, have elapsed from the day on which the complaint was made, the Head may give written notice to the person who made the complaint that they have the period of 30 days, or any longer period that may be prescribed by regulation, set out in the notice to make a written request that the complaint be referred to the Board.

**Time limit**

**(5)** Subject to the regulations, if the person who made the complaint does not, within the period set out in the notice, make a written request that the complaint be referred to the Board, the Head may deem the complaint to be withdrawn.

**581 Subsection 244(1) of the Act is replaced by the following:**

#### **Enforcement of orders**

**244 (1)** Any person affected by an order of the Board under subsection 242(4), or the Head on the request of such a person, may, after 14 days from the day on which the order is made, or from the day provided in the order for compliance, whichever is later, file in the Federal Court a copy of the order, exclusive of reasons.

**582 Subparagraph 246.1(1)(b)(ii) of the Act is replaced by the following:**

**(ii)** has provided information regarding the wages, hours of work, annual vacation or conditions of work of any employee to the Head or provided any other assistance to the Minister or the Head in the exercise or performance of the Minister's or the Head's powers, duties and functions under this Part

**583 Subsection 246.6(1) of the Act is replaced by the following:**

#### **Enforcement of orders**

**246.6 (1)** Any person affected by an order of the Board under section 246.4, or the Head on the request of such a person, may, after 14 days from the day on which the order is made, or from the day provided in the order for compliance, whichever is later, file in the Federal Court a copy of the order, exclusive of reasons.

**584 Subsection 247.5(4) of the Act is replaced by the following:**

#### **Exception**

**(4)** Despite subsection (1), an employee is not entitled to a leave of absence under this Division if, in the opinion of the Head, it would adversely affect public health or safety or would cause undue hardship to the employer if the employee, as an individual or as a member of a class of employees, were to take leave.

**585 (1) Subsections 247.99(1) to (6.1) of the Act are replaced by the following:**

## **Complaint**

**247.99 (1)** An employee who alleges that an employer has taken action against the employee in contravention of subsection 247.98(4) may make a complaint in writing to the Head.

### **Time for making complaint**

**(2)** Subject to subsection (3), the complaint shall be made to the Head not later than 90 days after the day on which the complainant knew, or in the Head's opinion ought to have known, of the action or circumstances giving rise to the complaint.

### **Extension of time**

**(3)** The Head may extend the period of time referred to in subsection (2)

**(a)** if the Head is satisfied that a complaint was made in that period to a government official who had no authority to deal with the complaint but that the employee making the complaint believed the official had that authority; or

**(b)** in any other circumstance that is prescribed by regulation.

### **Head to assist parties**

**(4)** On receipt of a complaint made under subsection (1), the Head shall endeavour to assist the parties to the complaint to settle the complaint.

### **Complaint not settled within reasonable time**

**(5)** If a complaint is not settled under subsection (4) within the period that the Head considers to be reasonable in the circumstances, the Head must, on the written request of the employee who made the complaint that the complaint be referred to the Board, deliver to the Board the complaint made under subsection (1) and any other statements or documents that the Head has that relate to the complaint.

## **Notice**



**(6)** If the employee who made the complaint does not reply to a written communication from the Head within a period that the Head considers to be reasonable in the circumstances and a period of at least 30 days, or any longer period that may be prescribed by regulation, have elapsed from the day on which the complaint was made, the Head may give written notice to the employee that they have the period of 30 days, or any longer period that may be prescribed by regulation, set out in the notice to make a written request that the complaint be referred to the Board.

### **Time limit**

**(6.1)** Subject to the regulations, if the employee to whom notice is given under subsection (6) does not, within the period set out in the notice, make a written request that the complaint be referred to the Board, the Head may deem the complaint to be withdrawn.

**(2) Paragraph 247.99(7)(b) of the Act is replaced by the following:**

**(b)** send a copy of the decision with the reasons for the decision to each party to the complaint and to the Head.

**586 Subsection 247.991(3) of the Act is replaced by the following:**

### **Enforcement of orders**

**(3)** Any person affected by an order of the Board under subsection 247.99(8), or the Head on the request of such a person, may, after 14 days from the day on which the order is made, or from the day provided in the order for compliance, whichever is later, file a copy of the order in the Federal Court, exclusive of reasons.

**587 (1) Subsection 249(1) of the Act is replaced by the following:**

### **Delegation**

**249 (1)** Subject to any terms and conditions specified by the Minister, the Head may delegate to any qualified person or class of persons any of the powers the Head is authorized to exercise or any of the duties or functions the Head is authorized to perform for the purposes of this Part. The Head may make the delegation subject to any terms and conditions that the Head considers appropriate.

## **Certificate to be produced**

(1.1) The Head shall furnish to every person to whom powers, duties or functions are delegated under subsection (1) a certificate of authority and, when entering any place used in connection with a federal work, undertaking or business the person, shall, when requested, show the certificate to the person in charge of that place.

**(2) The portion of subsection 249(2) of the Act before paragraph (a) is replaced by the following:**

### **Powers of Head**

(2) For the purposes of this Part and the regulations, the Head may

**(3) Paragraph 249(2)(d) of the English version of the Act is replaced by the following:**

(d) require an employee to make full disclosure, production and delivery to the Head of all records, documents, statements, writings, books, papers, extracts therefrom or copies thereof or of other information, either orally or in writing, that are in the possession or under the control of the employee and that in any way relate to the wages, hours of work or conditions of his employment; and

**(4) Subsections 249(3) to (8) of the Act are replaced by the following:**

### **Right to enter premises**

(3) The Head may, at any reasonable time, enter on any place used in connection with a federal work, undertaking or business for the purpose of making an inspection authorized under subsection (2), and may, for that purpose, question any employee apart from his employer.

### **Reasonable assistance**

(4) The person in charge of any federal work, undertaking or business and every person employed in it or in connection with its operation shall give the Head all reasonable assistance to enable the Head to carry out the Head's duties and functions under this Part or the regulations.

### **Head accompanied**

**(5)** The Head may, in carrying out the Head's duties and functions, be accompanied or assisted by any persons that the Head considers necessary.

**Evidence precluded — Head**

**(6)** The Head shall not be required to give testimony in any civil suit or civil proceedings, or in any proceeding under section 242, with regard to information obtained in carrying out those duties and functions.

**Evidence precluded — other persons**

**(7)** No person to whom powers, duties or functions have been delegated under subsection (1), and no person who has accompanied or assisted such a person or the Head in carrying out their duties and functions, shall be required to give testimony in any civil suit or civil proceedings, or in any proceeding under section 242, with regard to information obtained in carrying out those duties and functions or in accompanying or assisting the person, except with the written permission of the Head.

**Not liable**

**(8)** Neither the Head nor a person to whom powers, duties or functions have been delegated under subsection (1) is personally liable for anything done or omitted to be done by them in good faith under the authority or purported authority of this Part.

**588 Section 250 of the Act is replaced by the following:**

**Administering oaths**

**250** The Head may administer all oaths and take and receive all affidavits and statutory declarations required with respect to the Head's powers set out in subsection 249(2) and certify to the administration, taking or receiving of them.

**589 Subsections 251(1) to (3) of the Act are replaced by the following:**

**Where underpayments found on inspection**

**251 (1)** If the Head finds that an employer has failed to pay an employee any wages or other amounts to which the employee is entitled under this Part, the Head may determine the difference between the wages or other amounts actually paid to the employee under this Part and the wages or other amounts to which the employee is entitled under this Part.

**For greater certainty**

**(1.1)** For greater certainty, the Head may, when exercising the powers referred to in subsection (1), make any finding necessary to determine whether an employee is entitled to any wages or other amounts under this Part, including a finding that the employee was dismissed for just cause for the purposes of Division X or XI.

**Evidence**

**(1.2)** If the employer fails to make or keep any record in respect of an employee that the employer is required to make or keep under this Part—or fails to allow the Head to examine, take extracts from or make copies of such a record—the Head may, when exercising the powers referred to in subsection (1), rely on any other available evidence.

**Where amount of underpayment agreed to**

**(2)** If, under subsection (1), the Head determines that there is a difference between the wages or other amounts actually paid to an employee and the wages or other amounts to which the employee is entitled and the amount of that difference is agreed to in writing by the employee and his or her employer, the employer must, within five days after the date of the agreement, pay the amount

**(a)** to the employee on the direction of the Head; or

**(b)** to the Head.

**Where amount paid to Head**

**(3)** If an employer pays the amount under subsection (2) to the Head, the Head must, without delay after receiving it, pay it over to the employee who is entitled to the amount.

**590 (1)** The portion of subsection 251.001(1) of the Act before paragraph (a) is replaced by the following:

### **Internal audit order**

**251.001 (1)** Subject to the regulations, the Head may, in writing, for the purpose of verifying compliance or preventing non-compliance with this Part, order an employer to, in accordance with the order,

**(2) Paragraph 251.001(1)(b) of the Act is replaced by the following:**

**(b)** provide a report of the results of the audit to the Head.

**(3) The portion of subsection 251.001(2) of the Act before paragraph (a) is replaced by the following:**

### **Contents of order**

**(2)** The Head shall, in the internal audit order, specify

**(4) Subsection 251.001(3) of the Act is replaced by the following:**

### **Information to include in report**

**(3)** The Head may also specify in the order that the report is to contain any information that the Head considers appropriate.

**(5) Subsection 251.001(5) of the Act is replaced by the following:**

### **Proof of service**

**(5)** A certificate purporting to be signed by the Head certifying that a document referred to in subsection (4) was sent by registered mail or by any other means prescribed by regulation to the addressee, accompanied by a true copy of the document and by an identifying post office certificate of the registration or other proof, prescribed by regulation, that the document has been sent or received, is admissible in evidence and is proof of the statements contained in the certificate, without proof of the signature or official character of the person appearing to have signed the certificate.

**591 (1) The portion of subsection 251.01(1) of the Act before paragraph (a) is replaced by the following:**

## **Making of complaint**

**251.01 (1)** Any employee may make a complaint in writing to the Head if they believe that the employer has contravened

**(2) The portion of subsection 251.01(3) of the Act before paragraph (b) is replaced by the following:**

### **Extension of time**

**(3)** The Head may, subject to the regulations, extend the period set out in subsection (2)

**(a)** if the Head is satisfied that a complaint was made within that period to a government official who had no authority to deal with the complaint and that the person making the complaint believed the official had that authority;

**592 (1) Subsection 251.02(1) of the Act is replaced by the following:**

### **Suspension of complaint**

**251.02 (1)** If the Head is satisfied that the employee must take measures before the Head may continue to deal with the complaint made under section 251.01, the Head may, at any time, suspend consideration of the complaint, in whole or in part.

**(2) The portion of subsection 251.02(2) of the English version of the Act before paragraph (a) is replaced by the following:**

### **Notice**

**(2)** If the Head suspends consideration of a complaint, the Head must notify the employee in writing and specify in the notice

**(3) Subsection 251.02(3) of the English version of the Act is replaced by the following:**

### **Extension of time**

**(3)** The Head may, upon request, extend the time period specified in the notice.

**(4) Subsection 251.02(4) of the Act is replaced by the following:**

**End of suspension**

**(4)** The suspension ends when, in the Head's opinion, the measures specified in the notice have been taken.

**593 Sections 251.03 and 251.04 of the Act are replaced by the following:**

**Assistance — Head**

**251.03** After receipt of a complaint, the Head may assist the parties to the complaint to settle the complaint.

**Settlement of amounts due**

**251.04 (1)** If an employer and an employee who has made a complaint relating to the non-payment of wages or other amounts to which they are entitled under this Part reach a settlement in writing on the wages or other amounts to be paid, the employer may pay those amounts to the employee or to the Head.

**If amount paid to Head**

**(2)** If an employer pays the amounts to the Head, the Head must, without delay after receiving them, pay them over to the employee who is entitled to the amounts.

**Minister's consent required for prosecution**

**(3)** No prosecution for failure to pay an employee the wages or other amounts that were the subject of the complaint may be instituted against an employer, without the written consent of the Minister, if the employer has paid the amounts referred to in subsection (1) to the employee or the Head.

**594 (1) The portion of subsection 251.05(1) of the Act before paragraph (a) is replaced by the following:**

**Rejection of complaint**

**251.05 (1)** The Head may reject a complaint made under section 251.01, in whole or in part,

**(2) The portion of paragraph 251.05(1)(a) of the English version of the Act before subparagraph (i) is replaced by the following:**

**(a)** if the Head is satisfied

**(3) Subparagraph 251.05(1)(a)(iv) of the English version of the Act is replaced by the following:**

**(iv)** that there are other means available to the employee to resolve the subject-matter of the complaint that the Head considers should be pursued,

**(4) Paragraph 251.05(1)(b) of the English version of the Act is replaced by the following:**

**(b)** if consideration of the complaint was suspended under subsection 251.02(1) and if, in the Head's opinion, the other measures specified in the notice under subsection 251.02(2) were not taken within the specified time period.

**(5) Subsections 251.05(1.1) to (6) of the Act are replaced by the following:**

#### **Notice**

**(1.1)** If the employee does not reply to a written communication from the Head within a period that the Head considers to be reasonable in the circumstances and a period of at least 30 days, or any longer period that may be prescribed by regulation, have elapsed from the day on which the complaint was made, the Head may give written notice to the employee that they have the period of 30 days, or any longer period that may be prescribed by regulation, set out in the notice to indicate in writing that they wish to pursue their complaint.

#### **Notice of rejection of complaint**

**(2)** If a complaint has been rejected, the Head shall notify the employee in writing, with reasons.

#### **Request for review**

**(3)** The employee may, within 15 days after the day on which the employee is notified of the rejection, request in writing, with reasons, that the Head review the Head's decision.



## **Review**

(4) The Head may confirm the decision, or rescind it and re-examine the complaint.

## **Notice of Head's decision**

(5) The Head shall notify the employee in writing of the Head's decision.

## **Reconsideration final**

(6) The Head's confirmation or rescission is final and conclusive and is not subject to appeal to or review by any court.

**595 The heading before section 251.06 of the Act is repealed.**

**596 (1) Subsections 251.06(1) and (2) of the Act are replaced by the following:**

## **Compliance order**

**251.06 (1)** If the Head is of the opinion that an employer is contravening or has contravened a provision of this Part, its regulations or any condition of a permit issued under subsection 176(1), the Head may issue a compliance order in writing requiring the employer to terminate the contravention within the time that the Head may specify and take any step, as specified by the Head and within the time that the Head may specify, to ensure that the contravention does not continue or reoccur.

## **Limitation**

(2) The Head shall not issue a compliance order under subsection (1) to take any measure that could be set out in an order made under subsection 242(4) or section 246.4 or to make any payment that may be the subject of an order made under subsection 251.1(1).

**(2) Subsection 251.06(4) of the Act is replaced by the following:**

## **Proof of service**

**(4)** A certificate purporting to be signed by the Head certifying that a document referred to in subsection (3) was sent by registered mail or by any other means prescribed by regulation to the addressee, accompanied by a true copy of the document and by an identifying post office certificate of the registration or other proof, prescribed by regulation, that the document has been sent or received, is admissible in evidence and is proof of the statements contained in the certificate, without proof of the signature or official character of the person appearing to have signed the certificate.

**597 (1) Subsection 251.1(1) of the Act is replaced by the following:**

### **Payment order**

**251.1 (1)** If the Head finds that an employer has not paid an employee wages or other amounts to which the employee is entitled under this Part, the Head may issue a written payment order to the employer, or, subject to section 251.18, to a director of a corporation referred to in that section, ordering the employer or director to pay the amount in question, and the Head shall send a copy of any such payment order to the employee at the employee's latest known address.

**(2) Paragraph 251.1(1.1)(a) of the English version of the Act is replaced by the following:**

**(a)** in the case where the employee made a complaint under subsection 251.01(1) that was not rejected under subsection 251.05(1), the 24 months, plus any extension of the period for making the complaint that is granted by the Head under subsection 251.01(3), immediately before the day on which the complaint was made or, if there was a termination of employment prior to the complaint being made, the 24 months immediately before the date of termination;

**(3) Paragraph 251.1(1.1)(b) of the Act is replaced by the following:**

**(b)** in any other case, the 24 months immediately before the day on which an inspection under this Part, during the course of which the Head made the finding referred to in subsection (1), began.

**(4) Subsections 251.1(2) and (2.1) of the Act are replaced by the following:**

### **If complaint unfounded**

**(2)** If the Head deals with a complaint of non-payment of wages or other amounts to which an employee is entitled under this Part, the Head must notify the employee in writing that their complaint is unfounded if the Head concludes that the

employer has paid to the employee all wages and other amounts to which the employee is entitled under this Part for the period of six months, plus any extension of the period for making the complaint that is granted by the Head under subsection 251.01(3), immediately before the day on which the complaint was made.

### **Notice of voluntary compliance**

**(2.1)** If the Head deals with a complaint of non-payment of wages or other amounts to which an employee is entitled under this Part, the Head shall notify the employee in writing that the employer has voluntarily paid to the employee all wages and other amounts owing if

**(a)** the Head concludes that the employer has, since the complaint was made, paid to the employee all wages and other amounts owing for the period of 24 months, plus any extension of the period for making the complaint that is granted by the Head under subsection 251.01(3), immediately before the day on which the complaint was made and for any subsequent period specified by the Head; and

**(b)** the Head has not issued a payment order or a notice of unfounded complaint with respect to the complaint.

**(5) Subsection 251.1(4) of the Act is replaced by the following:**

### **Proof of service of documents**

**(4)** A certificate purporting to be signed by the Head certifying that a document referred to in subsection (3) was sent by registered mail or by any other means prescribed by regulation to the addressee, accompanied by a true copy of the document and by an identifying post office certificate of the registration or other proof, prescribed by regulation, that the document has been sent or received, is admissible in evidence and is proof of the statements contained in the certificate, without proof of the signature or official character of the person appearing to have signed the certificate.

**598 The heading before section 251.101 of the Act is replaced by the following:**

Orders — Review and Appeal

**599 (1) The portion of subsection 251.101(1) of the Act before paragraph (a) is replaced by the following:**

## **Request for review**

**251.101 (1)** An employer to whom a compliance order has been issued or a person who is affected by a payment order, a notice of unfounded complaint or a notice of voluntary compliance may send a written request with reasons to the Head for a review of the Head's decision

**(2) Subsections 251.101(2) to (3) of the Act are replaced by the following:**

### **Payment of amount and administrative fee**

**(2)** An employer or a director of a corporation is not permitted to request a review of a payment order unless the employer or director pays to the Head the amount indicated in the payment order and, in the case of an employer, the administrative fee specified in the payment order in accordance with subsection 251.131(1), subject to, in the case of a director, the maximum amount of the director's liability under section 251.18.

### **Security**

**(2.1)** The Head may allow an employer or a director of a corporation to give security, in a form satisfactory to the Head and on any conditions specified by the Head, for all or part of the amount and fee referred to in subsection (2).

### **Review**

**(3)** On receipt of the request for review, the Head may, in writing,

**(a)** confirm, rescind or vary, in whole or in part, the payment order or the compliance order; or

**(b)** confirm the notice of unfounded complaint or the notice of voluntary compliance, or rescind the notice, in which case the Head shall re-examine the complaint.

**(3) Subsection 251.101(5) of the Act is replaced by the following:**

### **Proof of service**

**(5)** A certificate purporting to be signed by the Head certifying that a decision referred to in subsection (4) was sent by registered mail or by any other means prescribed by regulation to the addressee, accompanied by a true copy of the decision and by an identifying post office certificate of the registration or other proof, prescribed by regulation, that the decision has been sent or received, is admissible in evidence and is proof of the statements contained in the certificate, without proof of the signature or official character of the person appearing to have signed the certificate.

**(4) Subsection 251.101(7) of the Act is replaced by the following:**

#### **Request treated as an appeal**

**(7)** The Head may, if the Head considers it appropriate in the circumstances, treat the request for review as an appeal of their decision, in which case the Head shall so inform any person who is affected by the payment order, the notice of unfounded complaint or the notice of voluntary compliance — or, in the case of a compliance order, the employer — and shall refer the request for review to the Board, and the Board shall be considered to have an appeal before it for the purposes of section 251.12.

**600 Subsections 251.11(3) and (3.1) of the Act are replaced by the following:**

#### **Payment of amount and administrative fee**

**(3)** An employer or director of a corporation is not permitted to appeal a decision confirming or varying a payment order unless the employer or director pays to the Head the amount indicated in the decision — and, in the case of an employer, the administrative fee specified in the decision in accordance with subsection 251.131(1) — less any amount and administrative fee paid under subsection 251.101(2).

#### **Security**

**(3.1)** The Head may allow an employer or a director of a corporation to give security, in a form satisfactory to the Head and on any conditions specified by the Head, for all or part of the amount and fee referred to in subsection (3).

**601 Section 251.111 of the Act is replaced by the following:**

#### **Head informed of appeal**

**251.111 (1)** The Board shall inform the Head in writing when an appeal is brought under subsection 251.11(1) and provide the Head with a copy of the request for appeal.

**Documents provided to Board — decision**

**(2)** In an appeal under this Part, the Head shall, on request of the Board, provide to the Board a copy of any document that the Head relied on for the purpose of making the decision being appealed.

**Documents provided to Board — order or notice**

**(3)** In an appeal under subsection 251.101(7), the Head shall, on request of the Board, provide to the Board a copy of any document that the Head relied on for the purpose of issuing the order or notice being appealed.

**Documents provided to Head**

**(4)** The Board shall, on request of the Head, provide to the Head a copy of any document that is filed with the Board in the appeal.

**Power of Head**

**(5)** The Head may, in an appeal under this Part, present evidence and make representations to the Board.

**602 Subsection 251.12(2) of the Act is replaced by the following:**

**Copies of decision to be sent**

**(2)** The Board shall send a copy of the decision, with reasons, to each party to the appeal and to the Head.

**603 Subsections 251.13(1) and (1.1) of the Act are replaced by the following:**

**Order to debtor of employer**

**251.13 (1)** The Head may issue a written order to a person who is or is about to become indebted to an employer to whom a payment order has been issued under subsection 251.1(1), to pay any amount owing to the employer, up to the

amount and the administrative fee indicated in the payment order, directly to the Head within 15 days, in satisfaction of the payment order.

### **Order to debtor of director of corporation**

**(1.1)** The Head may issue a written order to a person who is or is about to become indebted to a director of a corporation to whom a payment order has been issued under subsection 251.1(1) to pay any amount owing to the director of the corporation, up to the amount indicated in the payment order, directly to the Head within 15 days, in satisfaction of the payment order.

### **604 Subsection 251.131(2) of the Act is replaced by the following:**

#### **Payment**

**(2)** The employer is liable only for the administrative fee that is specified in a final decision and shall pay it — less any administrative fee paid under subsection 251.101(2) or 251.11(3) — to the Head. In the case of any overpayment, the employer is entitled to its reimbursement.

### **605 The portion of section 251.132 of the Act before paragraph (a) is replaced by the following:**

#### **Return of security**

**251.132** The Head, after a final decision has been made in respect of which security was given,

### **606 Section 251.14 of the Act is replaced by the following:**

#### **Deposit of moneys**

**251.14 (1)** If the Head receives moneys under this Division, the Head shall deposit those moneys to the credit of the Receiver General in the account known as the “Labour Standards Suspense Account” or in any other special account created for the purposes of this section and may authorize payments out of that account to any employee or other person who is entitled to that money.

### **Consolidated Revenue Fund**

**(1.1)** The moneys that are equal to the administrative fees paid to the Head under this Part with respect to matters that are the subject of a final decision shall be debited from the account referred to in subsection (1) and credited to the Consolidated Revenue Fund no later than the fiscal year following the fiscal year in which the final decision is made.

### **Record**

**(2)** The Head shall maintain a detailed record of all transactions relating to the account.

**607 (1) Subsection 251.15(1) of the Act is replaced by the following:**

### **Enforcement of orders**

**251.15 (1)** Any person who is affected by a payment order issued under subsection 251.1(1) or confirmed or varied under subsection 251.101(3) or by an order of the Board made under subsection 251.12(1), or the Head, may, after the day provided in the order for compliance or after 15 days following the day on which the order is issued, made, confirmed or varied, whichever is later, file in the Federal Court a copy of the payment order, or a copy of the order of the Board, exclusive of reasons.

**(2) Subsection 251.15(2) of the Act is replaced by the following:**

### **Enforcement of orders to debtors**

**(2)** After the expiration of the 15 day period specified in an order to a debtor of the employer or of the director of a corporation made under section 251.13, the Head may file a copy of the order in the Federal Court.

**608 Subsections 252(1) and (2) of the Act are replaced by the following:**

### **Information and returns**

**252 (1)** Every employer shall furnish any information that the Head may require that relate to their employees, including their wages, their hours of work and their general holidays, annual vacations and conditions of work as well as any returns that the Head may require.

### **Records to be kept**

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176



**(2)** Every employer shall make and keep for a period of at least 36 months after work is performed the records required to be kept by regulations made under paragraph 264(1)(a) and those records shall be available at all reasonable times for examination by the Head.

**609 Subsections 253(1) to (5) of the Act are replaced by the following:**

**Notice to furnish information**

**253 (1)** Where the Head is authorized to require a person to furnish information under this Part or the regulations, the Head may require the information to be furnished by a notice to that effect served by personal service, by registered mail addressed to the latest known address of the addressee, or by any other means prescribed by regulation, and that person

**(a)** if the notice is sent by registered mail, is deemed to have received the notice on the seventh day after the day on which it was mailed; and

**(b)** shall furnish the information within such reasonable time as is specified in the notice.

**Proof of service**

**(2)** A certificate purporting to be signed by the Head certifying that a notice was sent by registered mail or by any other means prescribed by regulation to the addressee, accompanied by a true copy of the notice and by an identifying post office certificate of the registration or other proof, prescribed by regulation, that the notice has been sent or received, is admissible in evidence and is proof of the statements contained in the certificate, without proof of the signature or official character of the person appearing to have signed the certificate.

**Proof of failure to comply**

**(3)** Where the Head is authorized to require a person to furnish information under this Part or the regulations, a certificate of the Head certifying that the information has not been furnished is admissible in evidence and in the absence of any evidence to the contrary is proof of the statements contained in it.

**Proof of documents**

(4) A certificate of the Head certifying that a document annexed to it is a document or a true copy of the document made by or on behalf of the Head shall be admitted in evidence and has the same force and effect as if it had been proven in the ordinary way.

#### **Proof of authority**

(5) A certificate under this section signed or purporting to be signed by the Head is admissible in evidence without proof of the Head's appointment or signature.

#### **610 (1) Subparagraph 256(1)(c)(ii) of the Act is replaced by the following:**

(ii) has given any information to the Minister or the Head regarding the wages, hours of work, annual vacation or conditions of work of an employee.

#### **(2) Paragraph 256(3)(b) of the Act is replaced by the following:**

(b) refuses to make available for examination by the Head at any reasonable time any such record kept by the employer,

#### **611 Section 259.2 of the Act is replaced by the following:**

#### **Publication**

**259.2** The Head may, subject to the regulations, make public the name of an employer convicted of an offence under this Part, the nature of the offence, the punishment imposed and any other information prescribed by regulation.

#### **612 (1) Paragraphs 260(1)(b) and (c) of the Act are replaced by the following:**

(b) the Head determines that the disclosure is in the public interest; or

(c) the Head determines that the disclosure is necessary for the investigation of the complaint to be carried out and the complainant consents to the disclosure in writing.

#### **(2) Subsection 260(2) of the Act is replaced by the following:**

## **Consent**

**(2)** If a determination is made under paragraph (1)(c) and the complainant refuses to provide their consent after being requested to do so in writing, the Head may deem the complaint to be withdrawn.

### **613 (1) Paragraph 264(1)(a.2) of the Act is replaced by the following:**

**(a.2)** respecting the information that an employer must provide to the Head for the purpose of establishing that the performance of activities referred to in subsection 167(1.2) fulfils the requirements of a program referred to in that subsection, and the circumstances in which an employer must provide it;

### **(2) Paragraph 264(1)(i) of the Act is replaced by the following:**

**(i)** providing for the payment of any wages of an employee to the Head or to another person in the event that the employee cannot be found or in any other case;

### **614 The heading before section 271 and sections 271 and 272 of the Act are replaced by the following:**

Head's Powers

#### **Powers regarding notices of violation**

**271** The Head may

- (a)** establish the form of notices of violation;
- (b)** designate persons, or classes of persons, who are authorized to issue notices of violation; and
- (c)** establish a short-form description for each violation to be used in notices of violation.

#### **Delegation**

**272** Subject to any terms and conditions specified by the Minister, the Head may delegate to any qualified person or class of persons any of the powers the Head is authorized to exercise or any of the duties or functions the Head is

authorized to perform for the purposes of this Part. The Head may make the delegation subject to any terms and conditions that the Head considers appropriate.

**615 Sections 281 to 283 of the Act are replaced by the following:**

**Request for review**

**281** A person or a department that is served with a notice of violation may, within 30 days after the day on which the notice is served, or within any longer period that the Head allows, make a request, in the manner prescribed by regulation, to the Head for a review of the penalty or the facts of the alleged violation, or both.

**Variation or cancellation of notice of violation**

**282** At any time before a request for review in respect of a notice of violation comes before the Head, a person designated under paragraph 271(b) may cancel the notice of violation or correct an error in it.

**Review**

**283 (1)** On receipt of a request for review made under section 281, the Head shall conduct the review of the notice of violation.

**Rules of procedure**

**(2)** The Head may make rules governing the procedure with respect to reviews under this Part.

**Request treated as an appeal**

**(3)** The Head may, if the Head considers it appropriate in the circumstances, treat the request for review as an appeal, in which case the Head shall so inform the applicant and refer the request for review to the Board, and the Board shall be considered to have an appeal before it for the purposes of this Part.

**616 (1) Subsections 284(1) to (3) of the Act are replaced by the following:**

**Object of review**

**284 (1)** The Head shall determine, as the case may be, whether the amount of the penalty for the violation was determined in accordance with the regulations or whether the applicant committed the violation, or both.

#### **Correction of penalty**

**(2)** If the Head determines that the amount of the penalty for the violation was not determined in accordance with the regulations, the Head shall correct the amount of the penalty.

#### **Decision**

**(3)** The Head shall make a decision in writing and serve the applicant with a copy of the decision, with reasons.

**(2) Subsection 284(5) of the English version of the Act is replaced by the following:**

#### **Obligation to pay**

**(5)** If the Head determines that the applicant committed the violation, the applicant is liable for the penalty that is set out in the decision.

**617 Subsection 285(1) of the French version of the Act is replaced by the following:**

#### **Appel**

**285 (1)** L'auteur présumé de la violation peut, par écrit, dans les quinze jours suivant la signification de la décision rendue par le chef en application de l'article 284, interjeter appel de celle-ci auprès du Conseil.

**618 Section 286 of the Act is replaced by the following:**

#### **Head informed of appeal**

**286 (1)** The Board shall inform the Head in writing when an appeal is brought under subsection 285(1) and provide the Head with a copy of the request for appeal.

#### **Documents provided to Board**

(2) The Head shall, on request of the Board, provide to the Board a copy of any document that the Head relied on for the purpose of making the decision being appealed.

#### **Documents provided to Head**

(3) The Board shall, on request of the Head, provide to the Head a copy of any document that is filed with the Board in the appeal.

#### **Power of Head**

(4) The Head may, in an appeal, present evidence and make representations to the Board.

#### **619 Subsection 287(3) of the Act is replaced by the following:**

##### **Decision**

(3) The Board shall make a decision in writing and provide the appellant and the Head with a copy of the decision, with reasons.

#### **620 Subsection 292(1) of the Act is replaced by the following:**

##### **Certificate**

**292 (1)** The Head may issue a certificate certifying the unpaid amount of any debt referred to in subsection 291(1).

#### **621 Section 295 of the Act is replaced by the following:**

##### **Publication**

**295** The Head may, subject to the regulations, make public the name of an employer who committed a violation under this Part, the nature of the violation, the amount of the penalty imposed and any other information prescribed by regulation.

#### **Coordinating Amendments**

This Act

**622 (1) On the first day on which both section 479 and subsection 574(1) are in force, subsection 212(1) of the *Canada Labour Code* is replaced by the following:**

**Notice — Head**

**212 (1)** An employer must give notice to the Head, in writing, of any group termination of employment at least 16 weeks before the first date of termination of employment of an employee in the group.

**(2) If section 479 comes into force before subsection 574(2), then that subsection 574(2) is deemed never to have come into force and is repealed.**

**(3) If section 479 and subsection 574(2) come into force on the same day, then that section 479 is deemed to have come into force before that subsection 574(2) and subsection (2) applies as a consequence.**

**(4) If section 480 comes into force before section 575, then that section 575 is deemed never to have come into force and is repealed.**

**(5) If section 480 and section 575 come into force on the same day, then that section 480 is deemed to have come into force before that section 575 and subsection (4) applies as a consequence.**

**(6) On the first day on which both subsection 498(2) and section 535 are in force, paragraph 251.01(2.1)(b) of the *Canada Labour Code* is replaced by the following:**

**(b)** in any other case, the day on which the complainant knew, or in the Head's opinion ought to have known, of the action or circumstances giving rise to the complaint.

**(7) On the first day on which both subsections 498(3) and 591(2) are in force, the portion of subsection 251.01(3) of the *Canada Labour Code* before paragraph (a) is replaced by the following:**

**Extension of time**

**(3)** The Head may, subject to the regulations, extend the period set out in subsection (2) or (2.1)

**(8) On the first day on which both section 502 and section 535 are in force, subsection 253.1(1) of the *Canada Labour Code* is replaced by the following:**

**Copy — employee**

**253.1 (1)** An employer must, within the first 30 days of an employee's employment, provide the employee with a copy of any materials that the Head makes available and that contains information respecting employers' and employees' rights and obligations under this Part and, within 30 days after updated materials are made available, provide the employee with a copy of the updated materials.

2018, c. 22

**623 (1)** In this section, *other Act* means *An Act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1, chapter 22 of the Statutes of Canada, 2018.*

**(2) On the first day on which both subsection 3(1) of the other Act and subsection 537(1) of this Act are in force, subparagraph 125(1)(d)(iii) of the *Canada Labour Code* is replaced by the following:**

**(iii)** any other information related to health and safety that is prescribed or that may be specified by the Head;

**(3) On the first day on which both subsection 3(4) of the other Act and section 535 of this Act are in force, subsection 125(5) of the *Canada Labour Code* is replaced by the following:**

**Extension**

**(5)** On application by a former employee, the Head may, in the prescribed circumstances, extend the time period referred to in subsection (4).

**(4)** If subsection 5(4) of the other Act comes into force before subsection 540(2) of this Act, then that subsection 540(2) is deemed never to have come into force and is repealed and, on the day on which section 535 of this Act comes into force,



**(a) the portion of subsection 127.1(9) before paragraph (a) of the *Canada Labour Code* is replaced by the following;**

#### **Investigation**

**(9)** The Head shall investigate the complaint referred to in subsection (8) unless it relates to an occurrence of harassment and violence and the Head is of the opinion that

**(b) subsections 127.1(9.1) and (9.2) of the *Canada Labour Code* are replaced by the following;**

#### **Notice**

**(9.1)** If the Head is of the opinion that the conditions described in paragraph (9)(a) or (b) are met, the Head shall inform the employer and the employee in writing, as soon as feasible, that the Head will not investigate.

#### **Combining investigations — harassment and violence**

**(9.2)** The Head may combine an investigation into a complaint relating to an occurrence of harassment and violence with an ongoing investigation relating to the same employer and involving substantially the same issues and, in that case, the Head may issue a single decision.

**(5) If subsection 540(2) of this Act comes into force before subsection 5(4) of the other Act, then that subsection 5(4) is amended by**

**(a) replacing the portion of the subsection 127.1(9) that it enacts before paragraph (a) with the following;**

#### **Investigation**

**(9)** The Head shall investigate the complaint referred to in subsection (8) unless it relates to an occurrence of harassment and violence and the Head is of the opinion that

**(b) replacing the subsections 127.1(9.1) and (9.2) that it enacts with the following;**

#### **Notice**

**(9.1)** If the Head is of the opinion that the conditions described in paragraph (9)(a) or (b) are met, the Head shall inform the employer and the employee in writing, as soon as feasible, that the Head will not investigate.

### **Combining investigations — harassment and violence**

**(9.2)** The Head may combine an investigation into a complaint relating to an occurrence of harassment and violence with an ongoing investigation relating to the same employer and involving substantially the same issues and, in that case, the Head may issue a single decision.

**(6)** If subsection 5(4) of the other Act and subsection 540(2) of this Act come into force on the same day, then that subsection 540(2) is deemed to have come into force before that subsection 5(4) and subsection (5) applies as a consequence.

**(7)** On the first day on which both subsection 5(5) of the other Act and section 535 of this Act are in force, subsection 127.1(13) of the *Canada Labour Code* is replaced by the following:

#### **Extension**

**(13)** On application by a former employee, the Head may, in the prescribed circumstances, extend the time period referred to in subsection (12).

**(8)** On the first day on which both subsection 7(2) of the other Act and subsection 547(1) of this Act are in force, paragraph 135(6)(a) of the *Canada Labour Code* is replaced by the following:

**(a)** at an employer's request, the Head may, in writing, exempt the employer from the requirements of subsection (1) in respect of that work place;

**(9)** On the first day on which both subsection 7(3) of the other Act and section 535 of this Act are in force, subsection 135(6.1) of the *Canada Labour Code* is replaced by the following:

#### **Posting of request**

**(6.1)** A request for an exemption must be posted in a conspicuous place or places where it is likely to come to the attention of employees, and be kept posted until the employees are informed of the Head's decision in respect of the request.

**(10) On the first day on which both section 8 of the other Act and section 535 of this Act are in force, subsection 135.11(1) of the *Canada Labour Code* is replaced by the following:**

**Information likely to reveal identity**

**135.11 (1)** Neither the Head nor an employer shall, without the person's consent, provide, under this Part, a policy committee or a work place committee with any information that is likely to reveal the identity of a person who was involved in an occurrence of harassment and violence in the work place. Neither a policy committee nor a work place committee shall have access to that information without the person's consent.

**(11) On the first day on which both section 11 of the other Act and section 535 of this Act are in force, subsection 136.1(1) of the *Canada Labour Code* is replaced by the following:**

**Information likely to reveal identity**

**136.1 (1)** Neither the Head nor an employer shall, without the person's consent, provide, under this Part, a health and safety representative with any information that is likely to reveal the identity of a person who was involved in an occurrence of harassment and violence in the work place. A health and safety representative shall not have access to that information without the person's consent.

**(12) On the first day on which both section 12 of the other Act and subsection 553(2) of this Act are in force, subsection 140(3) of the *Canada Labour Code* is replaced by the following:**

**Exception**

**(3)** The powers, duties or functions provided for in section 130, subsections 137.1(1) to (2.1) and (7) to (9), 137.2(4), 138(1) to (2) and (4) to (6), 140(1) to (2) and (4), 144(1) and 149(1), sections 152 and 155 and subsections 156.1(1), 157(3) and 159(2) shall not be the subject of an agreement under subsection (2).

**(13) On the first day on which both section 13 of the other Act and section 561 of this Act are in force, section 145.1 of the *Canada Labour Code* is replaced by the following:**

**Powers, duties and functions**

**145.1** For the purposes of sections 146 to 146.5, the Board has all of the powers, duties and functions of the Minister and the Head under this Part, except for those referred to in section 130, subsections 135(6), 137.1(1) to (2.1) and (7) to (9), 137.2(4), 138(1) to (2) and (4) to (6), section 139, subsections 140(1) to (2) and (4) and 144(1), section 146.01, subsection 149(1), sections 152 and 155 and subsections 156.1(1), 157(3) and 159(2).

**(14) On the first day on which both section 21 of the other Act and section 535 of this Act are in force, the portion of section 88.1 of the *Parliamentary Employment and Staff Relations Act* before paragraph (a) is replaced by the following:**

**Head to notify Speakers**

**88.1** The Head, as defined in section 2 of the *Canada Labour Code*, shall notify the Speaker of the Senate or the Speaker of the House of Commons, or both, of the Head's intention to enter, under subsection 141(1) of the *Canada Labour Code*, a work place controlled by an employer. The Head shall also notify the Speaker of the Senate or the Speaker of the House of Commons, or both, as soon as possible after the Head

2017, c. 20

**624 On the first day on which both section 535 of this Act is in force and section 395 of the *Budget Implementation Act, 2017, No 1* has produced its effects, paragraph 46(2)(c) of the *Hazardous Materials Information Review Act* is replaced by the following:**

**(c)** any official of the Department of Employment and Social Development, the Canada Industrial Relations Board in the exercise of its powers or the performance of its duties or functions under Part II of the *Canada Labour Code*, other than the powers, duties and functions set out in sections 133 and 134 of that Act, or any person to whom powers, duties or functions have been delegated by the Minister of Labour or the Head of Compliance and Enforcement under subsection

140(1) or (1.1) of that Act, or under an agreement entered into under subsection 140(2) of that Act, for the purposes of the administration or enforcement of Part II of that Act;

Coming into Force

**2017, c. 20, s. 377**

**625 This Subdivision comes into force on the first day on which both section 441 of this Act and section 377 of the *Budget Implementation Act, 2017, No. 1* are in force.**