



Canada Labour Code, RSC 1985, c L-2

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Canada Labour Code

R.S.C., 1985, c. L-2

An Act to consolidate certain statutes respecting labour

Short Title

Short title

1 This Act may be cited as the *Canada Labour Code*.

R.S., c. L-1, s. 1.

Interpretation

Definitions

2 In this Act,

Board means the Canada Industrial Relations Board established by section 9; (*Conseil*)

external adjudicator means a person appointed under subsection 12.001(1); (*arbitre externe*)

federal work, undertaking or business means any work, undertaking or business that is within the legislative authority of Parliament, including, without restricting the generality of the foregoing,

- (a) a work, undertaking or business operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada,
- (b) a railway, canal, telegraph or other work or undertaking connecting any province with any other province, or extending beyond the limits of a province,
- (c) a line of ships connecting a province with any other province, or extending beyond the limits of a province,
- (d) a ferry between any province and any other province or between any province and any country other than Canada,
- (e) aerodromes, aircraft or a line of air transportation,
- (f) a radio broadcasting station,
- (g) a bank or an authorized foreign bank within the meaning of [section 2](#) of the *Bank Act*,
- (h) a work or undertaking that, although wholly situated within a province, is before or after its execution declared by Parliament to be for the general advantage of Canada or for the advantage of two or more of the provinces,
- (i) a work, undertaking or business outside the exclusive legislative authority of the legislatures of the provinces, and
- (j) a work, undertaking or activity in respect of which federal laws within the meaning of [section 2](#) of the *Oceans Act* apply pursuant to [section 20](#) of that Act and any regulations made pursuant to paragraph 26(1)(k) of that Act; (*entreprises fédérales*)

Head means the Head of Compliance and Enforcement designated under subsection 122.21(1); (*chef*)

Minister means the Minister of Labour. (*ministre*)

R.S., 1985, c. L-2, s. 2; 1990, c. 44, s. 17; 1996, c. 31, s. 89; 1999, c. 28, s. 169; [2017, c. 20, s. 318](#); [2018, c. 27, s. 535](#).

PART I

Industrial Relations

Preamble

WHEREAS there is a long tradition in Canada of labour legislation and policy designed for the promotion of the common well-being through the encouragement of free collective bargaining and the constructive settlement of disputes;

AND WHEREAS Canadian workers, trade unions and employers recognize and support freedom of association and free collective bargaining as the bases of effective industrial relations for the determination of good working conditions and sound labour-management relations;

AND WHEREAS the Government of Canada has ratified Convention No. 87 of the International Labour Organization concerning Freedom of Association and Protection of the Right to Organize and has assumed international reporting responsibilities in this regard;

AND WHEREAS the Parliament of Canada desires to continue and extend its support to labour and management in their cooperative efforts to develop good relations and constructive collective bargaining practices, and deems the development of good industrial relations to be in the best interests of Canada in ensuring a just share of the fruits of progress to all;

NOW THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1972, c. 18, Preamble.

Interpretation

Definitions

3 (1) In this Part,

arbitration board means an arbitration board constituted by or pursuant to a collective agreement or by agreement between the parties to a collective agreement and includes an arbitration board the chairperson of which is appointed by the Minister under this Part; (*conseil d'arbitrage*)

arbitrator means a sole arbitrator selected by the parties to a collective agreement or appointed by the Minister under this Part; (*arbitre*)

bargaining agent means

(a) a trade union that has been certified by the Board as the bargaining agent for the employees in a bargaining unit and the certification of which has not been revoked, or

(b) any other trade union that has entered into a collective agreement on behalf of the employees in a bargaining unit

(i) the term of which has not expired, or

(ii) in respect of which the trade union has, by notice given pursuant to subsection 49(1), required the employer to commence collective bargaining; (*agent négociateur*)

bargaining unit means a unit

(a) determined by the Board to be appropriate for collective bargaining, or

(b) to which a collective agreement applies; (*unité de négociation*)

Board [Repealed, 2017, c. 20, s. 319]

collective agreement means an agreement in writing entered into between an employer and a bargaining agent containing provisions respecting terms and conditions of employment and related matters; (*convention collective*)

conciliation board means a board established by the Minister under paragraph 72(1) (c); (*commission de conciliation*)

conciliation commissioner means a person appointed by the Minister under paragraph 72(1)(b); (*commissaire-conciliateur*)

conciliation officer means a person appointed by the Minister under paragraph 72(1) (a); (*conciliateur*)

dependent contractor means

(a) the owner, purchaser or lessee of a vehicle used for hauling, other than on rails or tracks, livestock, liquids, goods, merchandise or other materials, who is a party to a contract, oral or in writing, under the terms of which they are

(i) required to provide the vehicle by means of which they perform the contract and to operate the vehicle in accordance with the contract, and

(ii) entitled to retain for their own use from time to time any sum of money that remains after the cost of their performance of the contract is deducted from the amount they are paid, in accordance with the contract, for that performance,

(b) a fisher who, pursuant to an arrangement to which the fisher is a party, is entitled to a percentage or other part of the proceeds of a joint fishing venture in which the fisher participates with other persons, and

(c) any other person who, whether or not employed under a contract of employment, performs work or services for another person on such terms and conditions that they are, in relation to that other person, in a position of economic dependence on, and under an obligation to perform duties for, that other person; (*entrepreneur dépendant*)

dispute means a dispute arising in connection with the entering into, renewing or revising of a collective agreement, in respect of which notice may be given to the Minister under section 71; (*différend*)

employee means any person employed by an employer and includes a dependent contractor and a private constable, but does not include a person who performs management functions or is employed in a confidential capacity in matters relating to industrial relations; (*employé*)

employer means

(a) any person who employs one or more employees, and

(b) in respect of a dependent contractor, such person as, in the opinion of the Board, has a relationship with the dependent contractor to such extent that the arrangement that governs the performance of services by the dependent contractor for that person can be the subject of collective bargaining; (*employeur*)

employers' organization means any organization of employers the purposes of which include the regulation of relations between employers and employees; (*organisation patronale*)

lockout includes the closing of a place of employment, a suspension of work by an employer or a refusal by an employer to continue to employ a number of their employees, done to compel their employees, or to aid another employer to compel that other employer's employees, to agree to terms or conditions of employment; (*lock-out*)

parties means

(a) in relation to the entering into, renewing or revising of a collective agreement and in relation to a dispute, the employer and the bargaining agent that acts on behalf of the employer's employees,

(b) in relation to a difference relating to the interpretation, application, administration or alleged contravention of a collective agreement, the employer and the bargaining agent, and

(c) in relation to a complaint to the Board under this Part, the complainant and any person or organization against whom or which the complaint is made; (*parties*)

private constable means a person appointed as a police constable under Part IV.1 of the *Railway Safety Act*; (*agent de police privé*)

professional employee means an employee who

(a) is, in the course of their employment, engaged in the application of specialized knowledge ordinarily acquired by a course of instruction and study resulting in graduation from a university or similar institution, and

(b) is, or is eligible to be, a member of a professional organization that is authorized by statute to establish the qualifications for membership in the organization; (*membre de profession libérale*)

strike includes a cessation of work or a refusal to work or to continue to work by employees, in combination, in concert or in accordance with a common understanding, and a slowdown of work or other concerted activity on the part of employees in relation to their work that is designed to restrict or limit output; (*grève*)

trade union means any organization of employees, or any branch or local thereof, the purposes of which include the regulation of relations between employers and employees; (*syndicat*)

unit means a group of two or more employees. (*unité*)

Employee status preserved

(2) No person ceases to be an employee within the meaning of this Part by reason only of their ceasing to work as the result of a lockout or strike or by reason only of their dismissal contrary to this Part.

R.S., 1985, c. L-2, s. 3; 1996, c. 10, s. 234; 1998, c. 10, s. 182, c. 26, ss. 1, 59(E); 1999, c. 31, ss. 149(E), 162(E); [2007, c. 19, s. 60](#); [2015, c. 3, s. 15\(F\)](#); [2017, c. 20, s. 319](#).

Application

Application of Part

4 This Part applies in respect of employees who are employed on or in connection with the operation of any federal work, undertaking or business, in respect of the employers of all such employees in their relations with those employees and in respect of trade unions and employers' organizations composed of those employees or employers.

R.S., c. L-1, s. 108; 1972, c. 18, s. 1.

Crown corporations

5 (1) This Part applies in respect of any corporation established to perform any function or duty on behalf of the Government of Canada and in respect of the employees of any such corporation, except any such corporation, and the employees thereof, that the Governor in Council excludes from the operation of this Part.

Limitation

(2) The Governor in Council may, pursuant to subsection (1), exclude from the operation of this Part only those corporations in respect of which a minister of the Crown, the Treasury Board or the Governor in Council is authorized to establish or to approve some or all of the terms and conditions of employment of persons employed therein.

Addition of name to Schedule

(3) Where the Governor in Council excludes any corporation from the operation of this Part, the Governor in Council shall, by order, add the name of that corporation to Schedule IV or V to the *Financial Administration Act*.

R.S., 1985, c. L-2, s. 5; [2003, c. 22, s. 107](#).

Canadian carriers

5.1 This Part applies in respect of any Canadian carrier, as defined in section 2 of the *Telecommunications Act*, that is an agent of Her Majesty in right of a province and in respect of the employees of the carrier.

1993, c. 38, s. 88.

Employees of Her Majesty

6 Except as provided by section 5, this Part does not apply in respect of employment by Her Majesty in right of Canada.

1972, c. 18, s. 1.

Major Projects

Major projects

7 Nothing in this Part shall be construed so as to prevent the establishment of agreements on a project basis and where all the parties in a collective bargaining relationship identify themselves to the Minister as being engaged in a project that the Minister determines to be a major project, the Minister and the Board shall act as expeditiously as possible to facilitate the collective bargaining process involving those parties.

1984, c. 39, s. 22.

DIVISION I

Basic Freedoms

Employee freedoms

8 (1) Every employee is free to join the trade union of their choice and to participate in its lawful activities.

Employer freedoms

(2) Every employer is free to join the employers' organization of their choice and to participate in its lawful activities.

R.S., 1985, c. L-2, s. 8; 1999, c. 31, s. 162(E).

DIVISION II

Canada Industrial Relations Board

Establishment and Organization

Establishment of Board

9 (1) A board is established, to be known as the Canada Industrial Relations Board.

Composition of Board

(2) The Board is composed of

(a) a Chairperson, to hold office on a full-time basis;

(b) two or more Vice-Chairpersons, to hold office on a full-time basis, and any other Vice-Chairpersons, to hold office on a part-time basis, that the Governor in Council considers necessary to discharge the responsibilities of the Board;

(c) not more than six other members, of which not more than three represent employees, and of which not more than three represent employers, to hold office on a full-time basis;

(d) any other part-time members, representing, in equal numbers, employees and employers, that the Governor in Council considers necessary to discharge the responsibilities of the Board; and

(e) any other full-time or part-time members that the Governor in Council considers necessary to assist the Board in carrying out its functions under Parts II, III and IV.

R.S., 1985, c. L-2, s. 9; 1998, c. 26, s. 2; [2017, c. 20, s. 320.](#)

Appointment of Chairperson and Vice-Chairpersons

10 (1) The Chairperson and Vice-Chairpersons of the Board are to be appointed by the Governor in Council, on the recommendation of the Minister, to hold office during good behaviour for terms not exceeding five years each, subject to removal by the Governor in Council at any time for cause.

Appointment of other members

(2) Subject to subsection (3), the members of the Board other than the Chairperson and the Vice-Chairpersons are to be appointed by the Governor in Council on the recommendation of the Minister after consultation by the Minister with the organizations representative of employees or employers that the Minister considers appropriate, to hold office during good behaviour for terms not exceeding three years each, subject to removal by the Governor in Council at any time for cause.

Exception

(3) The members of the Board appointed pursuant to [paragraph 9\(2\)\(e\)](#) are to be appointed by the Governor in Council, on the recommendation of the Minister, to hold office during good behaviour for terms not exceeding three years each, subject to removal by the Governor in Council at any time for cause.

Requirement for appointment

(4) The members of the Board must be Canadian citizens or permanent residents within the meaning of [subsection 2\(1\)](#) of the *Immigration and Refugee Protection Act*.

Chairperson and Vice-Chairpersons

(5) The Chairperson and Vice-Chairpersons must have experience and expertise in industrial relations.

R.S., 1985, c. L-2, s. 10; 1998, c. 26, s. 2; [2001, c. 27, s. 215.](#)

Residence of members

10.1 (1) The full-time members of the Board must reside in the National Capital Region as described in the schedule to the *National Capital Act* or within the distance from the National Capital Region that is determined by the Governor in Council.

Exemption

(2) The Governor in Council may, by order, exempt a member from the requirement set out in subsection (1), subject to any conditions that the Governor in Council may

prescribe.

1998, c. 26, s. 2; [2017, c. 20, s. 321](#).

Full-time occupation

11 (1) The full-time members of the Board must not hold any other employment or office in respect of which they receive any remuneration.

Part-time occupation

(2) A part-time Vice-Chairperson, or a member appointed pursuant to [paragraph 9\(2\)\(e\)](#), must not hold any other employment or office in respect of which they receive any remuneration and that is inconsistent with their duties under this Act.

R.S., 1985, c. L-2, s. 11; 1998, c. 26, s. 2.

Reappointment

12 (1) A member of the Board is eligible for reappointment on the expiration of any term of office in the same or another capacity.

Completion of duties

(2) Where a member of the Board ceases to be a member of the Board for any reason other than removal, the member may, despite anything in this Part, at the request of the Chairperson, carry out and complete any duties or responsibilities that the member would otherwise have had if the member had not ceased to be a member, in connection with any matter that came before the Board while the member was still a member of the Board and in respect of which there was any proceeding in which the member participated as a member.

R.S., 1985, c. L-2, s. 12; 1998, c. 26, s. 2.

Appointment of external adjudicator

12.001 (1) The Chairperson may, if the Chairperson considers it advisable, appoint an external adjudicator to determine any matter that comes before the Board under Part II, III or IV.

Powers, duties and functions

(2) An external adjudicator has all the powers, duties and functions that are conferred on the Board by this Act with respect to any matter for which they have been appointed.

Decision of external adjudicator

(3) An order or decision made or a direction issued by an external adjudicator under this Act is deemed to be an order or decision made or a direction issued by the Board, as the case may be.

Remuneration and expenses

(4) An external adjudicator shall be paid the remuneration and the fees that may be fixed by the Chairperson and is entitled to be paid reasonable travel and living expenses incurred by them in the course of their duties while absent from their ordinary place of residence.

2017, c. 20, s. 322.

Functions of Chairperson

12.01 (1) The Chairperson has supervision over and direction of the work of the Board, including

- (a)** the assignment and reassignment of matters that the Board is seized of to panels;
- (b)** the composition of panels and the assignment of Vice-Chairpersons to preside over panels;
- (c)** the determination of the date, time and place of hearings;
- (d)** the conduct of the work of the Board; and
- (e)** the management of the Board's internal affairs.

(f) [Repealed, 2014, c. 20, s. 416]

Delegation

(2) The Chairperson may delegate to a Vice-Chairperson any of the Chairperson's powers, duties and functions under subsection (1).

(3) [Repealed, 2014, c. 20, s. 416]

1998, c. 26, s. 2; 2014, c. 20, s. 416.

Meetings

12.02 (1) The Chairperson convenes and presides over any meeting of the Board concerning the making of regulations under section 15.

Quorum

(2) For the purposes of subsection (1), the following persons constitute a quorum:

- (a)** subject to paragraph (b), the Chairperson, two Vice-Chairpersons and two other members representing, respectively, employees and employers; or
- (b)** at a meeting held for the making of regulations respecting matters that are not governed by Part I, the Chairperson, two Vice-Chairpersons and, if two or more full-time members have been appointed under [paragraph 9\(2\)\(e\)](#), two of those members.

Equal representation

(3) If, at a meeting referred to in subsection (1) held for the making of regulations respecting matters that are governed by Part I, there is an unequal number of members representing employers and employees, the Chairperson shall designate an equal number of members who are authorized to vote on the making of those regulations and who represent employers and employees respectively.

Members not permitted to vote

(4) Members who represent employees or employers are not permitted to vote on the making of regulations respecting matters that are not governed by Part I.
1998, c. 26, s. 2; [2017, c. 20, s. 323](#).

Acting Chairperson

12.03 If the Chairperson of the Board is absent or unable to act or the office of Chairperson is vacant, a Vice-Chairperson designated by the Minister acts as Chairperson for the time being, and a Vice-Chairperson so designated has and may exercise all the powers and perform all the duties and functions of the Chairperson.
1998, c. 26, s. 2.

Remuneration

12.04 (1) The full-time members of the Board shall be paid any remuneration, and the part-time members of the Board and members of the Board carrying out duties and responsibilities under [subsection 12\(2\)](#) shall be paid any fees, that may be fixed by the Governor in Council.

Travel and living expenses

(2) The members of the Board are entitled to be paid reasonable travel and living expenses incurred by them in the course of their duties under this Act while absent from, in the case of full-time members, their ordinary place of work and, in the case of part-time members and members carrying out duties and responsibilities under [subsection 12\(2\)](#), their ordinary place of residence.

1998, c. 26, s. 2.

Compensation

12.05 Each member of the Board is deemed to be an employee for the purposes of the *Government Employees Compensation Act* and to be employed in the federal public administration for the purposes of any regulations made under section 9 of the *Aeronautics Act*.

1998, c. 26, s. 2; [2003, c. 22, s. 224\(E\)](#).

Limitation of liability

12.051 The Chairperson, Vice-Chairpersons, other members and external adjudicators are not personally liable, either civilly or criminally, for anything done or omitted to be done by them in good faith in the exercise or purported exercise of any power, or in the performance or purported performance of any duty or function, conferred on them under this Act.

[2017, c. 20, s. 324](#).

Inquiries

12.06 The Chairperson may request the Minister to decide whether any member of the Board should be subject to remedial or disciplinary measures for any reason set out in [paragraphs 12.14\(2\)\(a\) to \(d\)](#).

1998, c. 26, s. 2.

Measures

12.07 On receipt of the request, the Minister may take one or more of the following measures:

- (a)** obtain, in an informal and expeditious manner, any information that the Minister considers necessary;
- (b)** refer the matter for mediation, where the Minister is satisfied that the issues in relation to the request may be appropriately resolved by mediation;
- (c)** request the Governor in Council to have an inquiry held under [section 12.08](#); or
- (d)** advise the Chairperson that the Minister considers that it is not necessary to take further measures under this section.

1998, c. 26, s. 2.

Appointment of inquirer

12.08 On receipt of a request referred to in paragraph 12.07(c), the Governor in Council may, on the recommendation of the Minister of Justice, appoint a judge of a superior court to conduct the inquiry.

1998, c. 26, s. 2.

Powers

12.09 The judge has all the powers, rights and privileges that are vested in a superior court, including the power

(a) to issue a summons requiring any person to appear at the time and place mentioned in the summons to testify about all matters within that person's knowledge relative to the inquiry and to produce any document or thing relative to the inquiry; and

(b) to administer oaths and examine any person on oath.

1998, c. 26, s. 2.

Staff

12.10 The judge may engage the services of counsel and other persons having technical or specialized knowledge to assist the judge in conducting the inquiry, establish the terms and conditions of their engagement and, with the approval of the Treasury Board, fix and pay their remuneration and expenses.

1998, c. 26, s. 2.

Inquiry in public

12.11 (1) Subject to subsections (2) and (3), an inquiry must be conducted in public.

Confidentiality of inquiry

(2) The judge may, on application, take any appropriate measures and make any order that the judge considers necessary to ensure the confidentiality of the inquiry if, after having considered all available alternate measures, the judge is satisfied that

(a) there is a real and substantial risk that matters involving public security will be disclosed;

(b) there is a real and substantial risk to the fairness of the inquiry such that the need to prevent disclosure outweighs the societal interest that the inquiry be conducted in public; or

(c) there is a serious possibility that the life, liberty or security of a person will be endangered.

Confidentiality of application

(3) Where the judge considers it appropriate, the judge may take any measures and make any order that the judge considers necessary to ensure the confidentiality of a hearing held in respect of an application under subsection (2).

1998, c. 26, s. 2.

Rules of evidence

12.12 (1) In conducting an inquiry, the judge is not bound by any legal or technical rules of evidence and may receive, and base a decision on, evidence presented in the proceedings that the judge considers credible or trustworthy in the circumstances of the case.

Intervenors

(2) An interested party may, with leave of the judge, intervene in an inquiry on the terms and conditions that the judge considers appropriate.

1998, c. 26, s. 2.

Right to be heard

12.13 The member who is the subject of the inquiry must be given reasonable notice of the subject-matter of the inquiry and of the time and place of any hearing and must be given an opportunity, in person or by counsel, to be heard at the hearing, to cross-examine witnesses and to present evidence.

1998, c. 26, s. 2.

Report to Minister

12.14 (1) After an inquiry has been completed, the judge shall submit a report containing the judge's findings and recommendations, if any, to the Minister.

Recommendations

(2) The judge may, in the report, recommend that the member be suspended without pay or removed from office or that any other disciplinary measure or any remedial measure be taken if, in the opinion of the judge, the member

- (a)** has become incapacitated from the proper execution of that office by reason of infirmity;
- (b)** has been guilty of misconduct;
- (c)** has failed in the proper execution of that office; or

(d) has been placed, by conduct or otherwise, in a position that is incompatible with the due execution of that office.

1998, c. 26, s. 2.

Transmission of report to Governor in Council

12.15 Where the Minister receives a report of an inquiry in which the judge makes a recommendation, the Minister shall send the report to the Governor in Council, who may, where the Governor in Council considers it appropriate, suspend the member without pay, remove the member from office or impose any other disciplinary measure or any remedial measure.

1998, c. 26, s. 2.

Head office

13 The head office of the Board must be in the National Capital Region as described in the schedule to the *National Capital Act*.

R.S., 1985, c. L-2, s. 13; 1998, c. 26, s. 2; [2014, c. 20, s. 417](#).

13.1 [Repealed, [2014, c. 20, s. 417](#)]

Panels

14 (1) Subject to subsections (3) and (3.1), a panel of not fewer than three members, at least one of whom is the Chairperson or a Vice-Chairperson, may determine any matter that comes before the Board under this Act.

Equal representation

(2) Where a panel formed under subsection (1) is composed of one or more members representing employees, an equal number of members representing employers must also form part of the panel and vice versa.

Exception – single member

(3) The Chairperson or a Vice-Chairperson may alone determine a matter that comes before the Board under this Part with respect to

- (a)** an uncontested application or question;
- (b)** a question referred to in [paragraph 16\(p\)](#);
- (c)** a complaint made under subsection 97(1) in respect of an alleged contravention of [section 37](#) or [69](#) or any of [paragraphs 95\(f\) to \(i\)](#);
- (d)** a request for an extension of time for instituting a proceeding;

(e) a preliminary proceeding; or

(f) any other matter, if the Chairperson determines that it is appropriate because of the possibility of prejudice to a party, such as undue delay, or if the parties consent to a determination by the Chairperson or a Vice-Chairperson.

Single person — Parts II, III and IV

(3.1) The Chairperson, a Vice-Chairperson or a member appointed under paragraph 9(2)(e) may alone determine a matter that comes before the Board under Part II, III or IV.

Deemed panel

(4) The Chairperson, a Vice-Chairperson or another member who determines a matter under subsection (3) or (3.1) is deemed to be a panel.

Powers, duties and functions

(5) A panel has all the powers, duties and functions that are conferred on the Board by this Act with respect to any matter assigned to the panel.

Chairperson of the panel

(6) The Chairperson is the chairperson of any panel formed under subsection (1) or, where the Chairperson is not a member of the panel, he or she designates a Vice-Chairperson to be the chairperson of the panel.

R.S., 1985, c. L-2, s. 14; 1998, c. 26, s. 2; 2017, c. 20, s. 325.

Continuation of proceeding

14.1 In the event of the death or incapacity of a member of a panel formed under subsection 14(1) who represents either employees or employers, the chairperson of the panel may determine any matter that was before the panel and the chairperson's decision is deemed to be the decision of the panel.

1998, c. 26, s. 2.

Decision of panel

14.2 (1) A decision made by a majority of the members of a panel or, where there is no majority, by the chairperson of the panel is a decision of the Board.

Time limit

(2) If a decision is to be made under this Part, the panel shall make it and give notice of it to the parties no later than 90 days after the day on which the panel reserved the

decision or within any further period that may be determined by the Chairperson.
1998, c. 26, s. 2; [2017, c. 20, s. 326](#).

Powers and Duties

Regulations

15 The Board may make regulations of general application respecting

- (a)** the establishment of rules of procedure for its pre-hearing proceedings and hearings;
- (a.1)** the use of means of telecommunication that permit the parties and the Board or its members to communicate simultaneously for pre-hearing conferences, hearings and Board meetings;
- (b)** the determination of units appropriate for collective bargaining;
- (c)** the certification of trade unions as bargaining agents for bargaining units;
- (d)** the conduct of representation votes;
- (e)** the specification of the period of time after which the Board may receive an application from a trade union for certification as the bargaining agent for a unit where the Board has refused an application from the trade union for certification in respect of the same or substantially the same unit;
- (f)** the specification of the period of time after which the Board may receive an application from an employee for revocation of a trade union's certification as the bargaining agent for a unit where the Board has refused an application for revocation in respect of the same unit;
- (g)** the hearing or determination of any application, complaint, question, dispute, difference or appeal that may be made or referred to the Board;
- (g.1)** an expeditious procedure and matters that may be determined under that procedure;
- (h)** the forms to be used in respect of any proceeding that may come before the Board;
- (i)** the time within which and the circumstances under which the Board may exercise its powers under [section 18](#);
- (j)** any inquiry that the Board may make under [subsection 34\(2\)](#);
- (k)** the form in which and the period during which evidence and information may be presented to the Board in connection with any proceeding that may come before it;

(l) the specification of the time within which and the parties or persons to whom notices and other documents shall be sent and the circumstances in which such notices or other documents shall be deemed to have been given or received by the Board or any party or person;

(m) the determination of the form in which and the period during which evidence as to

(i) the membership of any employees in a trade union,

(ii) any objection by employees to the certification of a trade union, or

(iii) any signification by employees that they no longer wish to be represented by a trade union

shall be presented to the Board on an application made to it pursuant to this Part;

(n) the criteria for determining whether an employee is a member of a trade union;

(o) the circumstances in which evidence referred to in paragraph (m) may be received by the Board as evidence that any employees wish or do not wish to have a particular trade union represent them as their bargaining agent, including the circumstances in which the evidence so received by the Board may not be made public by the Board;

(o.1) the conditions for valid strike or lockout votes;

(p) the authority of any person to act on behalf of the Board and the matters and things to be done and the action to be taken by that person, including the authority of an employee of the Administrative Tribunals Support Service of Canada to make decisions on uncontested applications or questions;

(p.1) the manner and criteria for selecting external adjudicators; and

(q) any other matters and things that may be incidental or conducive to the proper performance of the duties of the Board under this Act.

R.S., 1985, c. L-2, s. 15; 1998, c. 26, s. 3; [2014, c. 20, s. 418](#); [2017, c. 20, s. 327](#).

General power to assist parties

15.1 (1) The Board, any member of the Board or any external adjudicator — or an employee of the Administrative Tribunals Support Service of Canada who is authorized by the Board — may, if the parties agree, assist the parties in resolving any issues in dispute at any stage of a proceeding and by any means that the Board considers appropriate, without prejudice to the Board's power to determine issues that have not been settled.

Declaratory opinions

(2) The Board, on application by an employer or a trade union, may give declaratory opinions.

1998, c. 26, s. 4; [2014, c. 20, s. 419](#); [2017, c. 20, s. 328](#).

Powers of Board

16 The Board has, in relation to any proceeding before it, power

(a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath and to produce such documents and things as the Board deems requisite to the full investigation and consideration of any matter within its jurisdiction that is before the Board in the proceeding;

(a.1) to order pre-hearing procedures, including pre-hearing conferences that are held in private, and direct the times, dates and places of the hearings for those procedures;

(a.2) to order that a hearing or a pre-hearing conference be conducted using a means of telecommunication that permits the parties and the Board to communicate with each other simultaneously;

(b) to administer oaths and solemn affirmations;

(c) to receive and accept such evidence and information on oath, affidavit or otherwise as the Board in its discretion sees fit, whether admissible in a court of law or not;

(d) to examine, in accordance with any regulations of the Board, such evidence as is submitted to it respecting the membership of any employees in a trade union seeking certification;

(e) to examine documents forming or relating to the constitution or articles of association of

(i) a trade union or council of trade unions that is seeking certification, or

(ii) any trade union forming part of a council of trade unions that is seeking certification;

(f) to make such examination of records and such inquiries as it deems necessary;

(f.1) to compel, at any stage of a proceeding, any person to provide information or produce the documents and things that may be relevant to a matter before it, after providing the parties the opportunity to make representations;

(g) to require an employer to post and keep posted in appropriate places, or to transmit by any electronic means that the Board deems appropriate, any notice that it considers necessary to bring to the attention of any employees any matter relating to the proceeding;

(h) subject to such limitations as the Governor in Council may, in the interests of defence or security, prescribe by regulation, to enter any premises of an employer where work is being or has been done by employees and to inspect and view any work, material, machinery, appliances or articles therein and interrogate any person respecting any matter that is before the Board in the proceeding;

(i) to order, at any time before the proceeding has been finally disposed of by the Board, that

(i) a representation vote or an additional representation vote be taken among employees affected by the proceeding in any case where the Board considers that the taking of such a vote would assist the Board to decide any question that has arisen or is likely to arise in the proceeding, whether or not such a representation vote is provided for elsewhere in this Part, and

(ii) the ballots cast in any representation vote ordered by the Board pursuant to subparagraph (i) or any other provision of this Part be sealed in ballot boxes and not counted except as directed by the Board;

(j) to enter on the premises of an employer for the purpose of conducting representation votes during working hours;

(k) to authorize any person to do anything that the Board may do under paragraphs (a) to (h), (j), or (m) and to report to the Board thereon;

(l) to adjourn or postpone the proceeding from time to time;

(l.1) to defer deciding any matter, where the Board considers that the matter could be resolved by arbitration or an alternate method of resolution;

(m) to abridge or extend the time for doing any act, filing any document or presenting any evidence in connection with a proceeding;

(m.1) to extend the time limits set out in this Act for instituting a proceeding;

(n) to amend or permit the amendment of any document filed in connection with the proceeding;

(o) to add a party to the proceeding at any stage of the proceeding;

(o.1) to summarily refuse to hear, or dismiss, a matter for want of jurisdiction or lack of evidence;

(p) to decide for all purposes of this Part any question that may arise in the proceeding, including, without restricting the generality of the foregoing, any question as to whether

- (i)** a person is an employer or an employee,
- (ii)** a person performs management functions or is employed in a confidential capacity in matters relating to industrial relations,
- (iii)** a person is a member of a trade union,
- (iv)** an organization or association is an employers' organization, a trade union or a council of trade unions,
- (v)** a group of employees is a unit appropriate for collective bargaining,
- (vi)** a collective agreement has been entered into,
- (vii)** any person or organization is a party to or bound by a collective agreement, and
- (viii)** a collective agreement is in operation; and

(q) to decide any question that may arise in a proceeding under Part II, III or IV.
R.S., 1985, c. L-2, s. 16; 1998, c. 26, s. 5; [2017, c. 20, s. 329](#).

Determination without oral hearing

16.1 The Board may decide any matter before it without holding an oral hearing.
1998, c. 26, s. 6.

Determination of the wishes of the majority of the employees

17 Where the Board is required, in connection with any application made under this Part, to determine the wishes of the majority of the employees in a unit, it shall determine those wishes as of the date of the filing of the application or as of such other date as the Board considers appropriate.

1977-78, c. 27, s. 41; 1980-81-82-83, c. 47, s. 27.

Review or amendment of orders

18 The Board may review, rescind, amend, alter or vary any order or decision made by it, and may rehear any application before making an order in respect of the application.
R.S., c. L-1, s. 119; 1972, c. 18, s. 1.

Review of structure of bargaining units

18.1 (1) On application by the employer or a bargaining agent, the Board may review the structure of the bargaining units if it is satisfied that the bargaining units are no longer appropriate for collective bargaining.

Agreement of parties

(2) If the Board reviews, pursuant to subsection (1) or section 35 or 45, the structure of the bargaining units, the Board

- (a)** must allow the parties to come to an agreement, within a period that the Board considers reasonable, with respect to the determination of bargaining units and any questions arising from the review; and
- (b)** may make any orders it considers appropriate to implement any agreement.

Orders

(3) If the Board is of the opinion that the agreement reached by the parties would not lead to the creation of units appropriate for collective bargaining or if the parties do not agree on certain issues within the period that the Board considers reasonable, the Board determines any question that arises and makes any orders it considers appropriate in the circumstances.

Content of orders

(4) For the purposes of subsection (3), the Board may

- (a)** determine which trade union shall be the bargaining agent for the employees in each bargaining unit that results from the review;
- (b)** amend any certification order or description of a bargaining unit contained in any collective agreement;
- (c)** if more than one collective agreement applies to employees in a bargaining unit, decide which collective agreement is in force;
- (d)** amend, to the extent that the Board considers necessary, the provisions of collective agreements respecting expiry dates or seniority rights, or amend other such provisions;
- (e)** if the conditions of paragraphs 89(1)(a) to (d) have been met with respect to some of the employees in a bargaining unit, decide which terms and conditions of employment apply to those employees until the time that a collective agreement becomes applicable to the unit or the conditions of those paragraphs are met with respect to the unit; and
- (f)** authorize a party to a collective agreement to give notice to bargain collectively.

1998, c. 26, s. 7.

Application of orders

19 Where the Board may make any decision or issue any order, prescribe any term or condition or do any other thing in relation to any person or organization, the Board may do so generally or in any particular case or class of cases.

R.S., 1985, c. L-2, s. 19; [2017, c. 20, s. 330](#).

Interim orders

19.1 The Board may, on application by a trade union, an employer or an affected employee, make any interim order that the Board considers appropriate for the purpose of ensuring the fulfilment of the objectives of this Act.

1998, c. 26, s. 8; [2017, c. 20, s. 330](#).

Interim decision

20 (1) Where, in order to dispose finally of an application or complaint, it is necessary for the Board to determine two or more issues arising therefrom, the Board may, if it is satisfied that it can do so without prejudice to the rights of any party to the proceeding, issue a decision resolving only one or some of those issues and reserve its jurisdiction to dispose of the remaining issues.

Decision final

(2) A decision referred to in subsection (1) is, except as stipulated by the Board, final.

Definition of decision

(3) In this section, **decision** includes an order, a direction, a determination and a declaration.

R.S., 1985, c. L-2, s. 20; [2017, c. 20, s. 331](#).

Exercise of powers, duties and functions

21 The Board shall exercise the powers and perform the duties and functions that are conferred or imposed on it by this Act, or that may be incidental to the attainment of the objects of this Act, including the making of orders requiring compliance with the provisions of this Act, with any regulation made under this Act or with any decision made in respect of a matter before the Board.

R.S., 1985, c. L-2, s. 21; [2017, c. 20, s. 332](#).

Review and Enforcement of Orders

Order and decision final

22 (1) Subject to this Part, every order or decision made by the Board under this Part is final and shall not be questioned or reviewed in any court, except in accordance with the *Federal Courts Act* on the grounds referred to in paragraph 18.1(4)(a), (b) or (e) of that Act.

Standing of Board

(1.1) The Board has standing to appear in proceedings referred to in subsection (1) for the purpose of making submissions regarding the standard of review to be used with respect to decisions of the Board and the Board's jurisdiction, policies and procedures.

No review by *certiorari*, etc.

(2) Except as permitted by subsection (1), no order, decision or proceeding of the Board made or carried on under or purporting to be made or carried on under this Part shall

(a) be questioned, reviewed, prohibited or restrained, or

(b) be made the subject of any proceedings in or any process of any court, whether by way of injunction, *certiorari*, prohibition, *quo warranto* or otherwise,

on any ground, including the ground that the order, decision or proceeding is beyond the jurisdiction of the Board to make or carry on or that, in the course of any proceeding, the Board for any reason exceeded or lost its jurisdiction.

R.S., 1985, c. L-2, s. 22; 1990, c. 8, s. 56; 1998, c. 26, s. 9; [2002, c. 8, s. 182](#); [2017, c. 20, s. 333](#).

Filing in Federal Court

23 (1) The Board shall, on the request in writing of any person or organization affected by any order or decision of the Board made under this Part, file a copy of the order or decision, exclusive of reasons, in the Federal Court, unless, in the opinion of the Board,

(a) there is no indication of failure or likelihood of failure to comply with the order or decision; or

(b) there is other good reason why the filing of the order or decision in the Federal Court would serve no useful purpose.

Registration of order and proceedings thereon

(2) Where the Board files a copy of any order or decision in the Federal Court pursuant to subsection (1), it shall specify in writing to the Court that the copy of the order or

decision is filed pursuant to that subsection and, where the Board so specifies, the copy of the order or decision shall be accepted for filing by, and registered in, the Court without further application or other proceeding.

Effect of registration of order or decision

(3) When a copy of any order or decision of the Board is registered pursuant to subsection (2), the order or decision has the same force and effect as a judgment obtained in the Federal Court and, subject to this section and the *Federal Courts Act*, all proceedings may be taken thereon by any person or organization affected thereby as if the order or decision were a judgment of that Court.

R.S., 1985, c. L-2, s. 23; 1990, c. 8, s. 57; [2002, c. 8, s. 182](#); [2017, c. 20, s. 334](#).

Filing in provincial superior court

23.1 The Board may, on application by a person or organization affected by an order or decision of the Board made under this Part, file a copy of the order or decision, exclusive of reasons, in the superior court of a province. [Section 23](#) applies, with any modifications that the circumstances require, to an order or decision filed in such a superior court.

1998, c. 26, s. 10; [2017, c. 20, s. 335](#).

DIVISION III

Acquisition and Termination of Bargaining Rights

Application for Certification

Application for certification

24 (1) A trade union seeking to be certified as the bargaining agent for a unit that the trade union considers constitutes a unit appropriate for collective bargaining may, subject to this section and any regulations made by the Board under [paragraph 15\(e\)](#), apply to the Board for certification as the bargaining agent for the unit.

Time of application

(2) Subject to subsection (3), an application by a trade union for certification as the bargaining agent for a unit may be made

(a) where no collective agreement applicable to the unit is in force and no trade union has been certified under this Part as the bargaining agent for the unit, at any time;

- (b) where no collective agreement applicable to the unit is in force but a trade union has been certified under this Part as the bargaining agent for the unit, after the expiration of twelve months from the date of that certification or, with the consent of the Board, at any earlier time;
- (c) where a collective agreement applicable to the unit is in force and is for a term of not more than three years, only after the commencement of the last three months of its operation; and
- (d) where a collective agreement applicable to the unit is in force and is for a term of more than three years, only after the commencement of the thirty-fourth month of its operation and before the commencement of the thirty-seventh month of its operation and, thereafter, only
 - (i) during the three month period immediately preceding the end of each year that the collective agreement continues to operate after the third year of its operation, and
 - (ii) after the commencement of the last three months of its operation.

No application during strike or lockout

(3) An application for certification under subsection (2) in respect of a unit must not, except with the consent of the Board, be made during a strike or lockout that is not prohibited by this Part and that involves employees in the unit.

Terms or conditions of employment not to be changed

(4) Where an application by a trade union for certification as the bargaining agent for a unit is made in accordance with this section, no employer of employees in the unit shall, after notification that the application has been made, alter the rates of pay, any other term or condition of employment or any right or privilege of such employees until

- (a) the application has been withdrawn by the trade union or dismissed by the Board, or
- (b) thirty days have elapsed after the day on which the Board certifies the trade union as the bargaining agent for the unit,

except pursuant to a collective agreement or with the consent of the Board.
R.S., 1985, c. L-2, s. 24; 1993, c. 42, s. 1(F); 1998, c. 26, s. 11.

Exception

24.1 A trade union that is not certified but has entered into a collective agreement the term of which has not expired may, despite paragraphs 24(2)(c) and (d), make an

application for certification at any time, in respect of the unit to which the collective agreement applies or substantially the same unit.

1998, c. 26, s. 12.

Where certification prohibited

25 (1) Notwithstanding anything in this Part, where the Board is satisfied that a trade union is so dominated or influenced by an employer that the fitness of the trade union to represent employees of the employer for the purpose of collective bargaining is impaired, the Board shall not certify the trade union as the bargaining agent for any unit comprised of employees of the employer and any collective agreement between the trade union and the employer that applies to any such employees shall be deemed not to be a collective agreement for the purposes of this Part.

Idem

(2) Notwithstanding anything in this Part, where the Board is satisfied that a trade union denies membership in the trade union to any employee or class of employees in a bargaining unit by virtue of a policy or practice that the trade union applies relating to qualifications for membership in the trade union, the Board shall not certify the trade union as the bargaining agent for the bargaining unit and any collective agreement between the trade union and the employer of the employees in the bargaining unit that applies to the bargaining unit shall be deemed not to be a collective agreement for the purposes of this Part.

R.S., c. L-1, s. 134; 1972, c. 18, s. 1.

Where certification prohibited

26 The Board shall not certify a trade union as, and a trade union shall not act as, the bargaining agent for both a bargaining unit comprised of private constables and a bargaining unit comprised of employees other than private constables if any or all of the employees in both such bargaining units are employed by the same employer.

R.S., c. L-1, s. 135; 1972, c. 18, s. 1.

Determination of Bargaining Units

Determination of appropriate unit

27 (1) Where a trade union applies under section 24 for certification as the bargaining agent for a unit that the trade union considers appropriate for collective bargaining, the Board shall determine the unit that, in the opinion of the Board, is appropriate for collective bargaining.

Idem

(2) In determining whether a unit constitutes a unit that is appropriate for collective bargaining, the Board may include any employees in or exclude any employees from the unit proposed by the trade union.

Professional employees

(3) Where a trade union applies under section 24 for certification as the bargaining agent for a unit comprised of or including professional employees, the Board, subject to subsections (2) and (4), shall determine that the unit appropriate for collective bargaining is a unit comprised of only professional employees, unless such a unit would not otherwise be appropriate for collective bargaining.

Idem

(4) In determining that a unit is appropriate for collective bargaining under subsection (3), the Board may include in the unit

- (a)** professional employees of more than one profession; and
- (b)** employees performing the functions, but lacking the qualifications, of a professional employee.

Supervisory employees

(5) Where a trade union applies for certification as the bargaining agent for a unit comprised of or including employees whose duties include the supervision of other employees, the Board may, subject to subsection (2), determine that the unit proposed in the application is appropriate for collective bargaining.

Private constables

(6) The Board shall not include a private constable in a unit with other employees.
R.S., c. L-1, s. 125; 1972, c. 18, s. 1.

Certification of Bargaining Agents and Related Matters

Duty to certify trade union

28 The Board shall, subject to this Part, certify a trade union as the bargaining agent for a bargaining unit if the Board

- (a)** has received from the trade union an application for certification as the bargaining agent for a unit;
- (b)** has determined the unit that constitutes a unit appropriate for collective bargaining; and

(c) is satisfied that, as of the date of the filing of the application or of any other date that the Board considers appropriate, a majority of the employees in the unit wish to have the trade union represent them as their bargaining agent.

R.S., 1985, c. L-2, s. 28; [2014, c. 40, s. 2](#); [2017, c. 12, s. 1](#).

Representation vote

29 (1) The Board may, in any case, for the purpose of satisfying itself as to whether employees in a unit wish to have a particular trade union represent them as their bargaining agent, order that a representation vote be taken among the employees in the unit.

Employees not in a unit

(1.1) Any person who was not an employee in the bargaining unit on the date on which notice to bargain collectively was given, and was hired or assigned after that date to perform all or part of the duties of an employee in the bargaining unit on strike or locked out, is not an employee in the unit.

Mandatory vote

(2) If a trade union applies for certification as the bargaining agent for a unit in respect of which no other trade union is the bargaining agent, and the Board is satisfied that not less than 35% and not more than 50% of the employees in the unit are members of the trade union, the Board shall order that a representation vote be taken among the employees in the unit.

Determination of union membership

(3) Where the Board is satisfied that a trade union has an established practice of admitting persons to membership without regard to the eligibility requirements of its charter, constitution or by-laws, the Board may disregard those requirements in determining whether a person is a member of a trade union.

R.S., 1985, c. L-2, s. 29; 1998, c. 26, s. 13; [2014, c. 40, s. 3](#); [2017, c. 12, s. 2](#).

Conduct of vote

30 (1) Where the Board orders that a representation vote be taken among employees in a unit, the Board shall

(a) determine the employees that are eligible to vote; and

(b) make such arrangements and give such directions as the Board considers necessary for the proper conduct of the representation vote, including the

preparation of ballots, the method of casting and counting ballots and the custody and sealing of ballot boxes.

Choice

(2) Where the Board orders that a representation vote be taken on an application by a trade union for certification as the bargaining agent for a unit in respect of which no other trade union is the bargaining agent, the Board shall include on the ballots a choice whereby an employee may indicate that they do not wish to be represented by any trade union named on the ballots.

Exception

(3) Notwithstanding subsection (2), where the employees in a unit have cast ballots in favour of all trade unions involved in a representation vote totalling more than fifty per cent of all the ballots cast but have not given majority support to one trade union in that vote and, as a result, a second or subsequent representation vote is required, the Board shall not be required to include the choice referred to in subsection (2) in the ballots for the second or subsequent vote.

R.S., 1985, c. L-2, s. 30; 1998, c. 26, s. 14(F); 1999, c. 31, s. 150(E).

Result of representation vote

31 (1) Subject to subsection (2), the Board shall determine the result of a representation vote on the basis of the ballots cast by the majority of employees voting.

Idem

(2) Where, on considering the result of a representation vote, the Board determines that less than thirty-five per cent of the employees who are eligible to vote have voted, the Board shall determine that the representation vote is void.

Idem

(3) A vote by the majority of the employees voting in a representation vote is evidence that a majority of employees in the unit in respect of which the vote was ordered are of the opinion expressed in the vote of the majority of employees voting.

R.S., c. L-1, s. 129; 1972, c. 18, s. 1.

Council of trade unions

32 (1) Where two or more trade unions have formed a council of trade unions, the council so formed may apply to the Board for certification as the bargaining agent for a unit in the same manner as a trade union.

Certification of council of trade unions

(2) The Board may certify a council of trade unions as the bargaining agent for a bargaining unit where the Board is satisfied that the requirements for certification prescribed by or pursuant to this Part have been met.

Membership in council of trade unions

(3) Membership in any trade union that forms part of a council of trade unions is deemed to be membership in the council of trade unions.

Council of trade unions bound by collective agreement

(4) Where a council of trade unions is certified by the Board as the bargaining agent for a bargaining unit,

(a) the council of trade unions and each trade union forming the council of trade unions is bound by any collective agreement entered into by the council of trade unions and the employer concerned; and

(b) this Part applies, except as otherwise provided, as if the council of trade unions were a trade union.

R.S., c. L-1, s. 130; 1972, c. 18, s. 1; 1977-78, c. 27, s. 48.

Designation of employers' organization

33 (1) Where a trade union applies for certification as the bargaining agent for a unit comprised of employees of two or more employers who have formed an employers' organization, the Board may designate the employers' organization to be the employer if it is satisfied that each of the employers forming the employers' organization has granted appropriate authority to the employers' organization to enable it to discharge the duties and responsibilities of an employer under this Part.

New members

(1.1) The Board may, on application by the employers' organization, include in the designation referred to in subsection (1) any employer that becomes a member of the employers' organization if it is satisfied that that employer has granted appropriate authority to the employers' organization to enable the employers' organization to discharge the duties and responsibilities of an employer and that such an inclusion would ensure the fulfilment of the objectives of this Part.

Designated employers' organization deemed to be employer

(2) Where the Board designates an employers' organization as an employer pursuant to subsection (1),

- (a) the employers' organization and each employer forming the employers' organization is bound by any collective agreement entered into by the employers' organization and the trade union concerned; and
- (b) this Part applies, except as otherwise provided, as if the employers' organization were an employer.

Employer ceasing to be member of employers' organization

(3) Where an employer ceases to be a member of an employers' organization or withdraws the authority referred to in subsection (1) or (1.1) that the employer granted to the employers' organization, the employer

- (a) continues to be bound by any collective agreement applicable to the employer's employees that was entered into by the employers' organization; and
- (b) may be required to commence collective bargaining in accordance with [section 48](#).

R.S., 1985, c. L-2, s. 33; 1998, c. 26, s. 15; 1999, c. 31, s. 151(E).

Certification in long-shoring and other industries

34 (1) Where employees are employed in

- (a) the long-shoring industry, or
- (b) such other industry in such geographic area as may be designated by regulation of the Governor in Council on the recommendation of the Board,

the Board may determine that the employees of two or more employers actively engaged in the industry in the geographic area constitute a unit appropriate for collective bargaining and may, subject to this Part, certify a trade union as the bargaining agent for the unit.

Recommendation of Board

(2) No recommendation under paragraph (1)(b) shall be made by the Board unless, on inquiry, it is satisfied that the employers actively engaged in an industry in a particular geographic area obtain their employees from a group of employees the members of which are employed from time to time by some or all of those employers.

Representative

(3) Where the Board, pursuant to subsection (1), certifies a trade union as the bargaining agent for a bargaining unit, the Board shall, by order,

- (a) require the employers of the employees in the bargaining unit

- (i) to jointly choose a representative, and
 - (ii) to inform the Board of their choice within the time period specified by the Board; and
- (b) appoint the representative so chosen as the employer representative for those employers.

Powers of Board

(4) Where the employers fail to comply with an order made under paragraph (3)(a), the Board shall, after affording to the employers a reasonable opportunity to make representations, by order, appoint an employer representative of its own choosing.

New representative

(4.1) On application by one or more employers of employees in the bargaining unit, the Board may, if it is satisfied that the employer representative is no longer qualified to act in that capacity, revoke the appointment of the employer representative and appoint a new representative.

Status of employer representative

(5) An employer representative shall be deemed to be an employer for the purposes of this Part and, by virtue of having been appointed under this section, has the power to, and shall, discharge all the duties and responsibilities of an employer under this Part on behalf of all the employers of the employees in the bargaining unit, including the power to enter into a collective agreement on behalf of those employers.

Costs

(5.1) The employer representative may require each employer of employees in the bargaining unit to remit its share of the costs that the employer representative has incurred or estimates will be incurred in fulfilling its duties and responsibilities under this Part and under the terms of the collective agreement.

Duty of employer representative

(6) In the discharge of the duties and responsibilities of an employer under this Part, an employer representative, or a person acting for such a representative, shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employers on whose behalf the representative acts.

Board to determine questions

(7) The Board shall determine any question that arises under this section, including any question relating to the choice or appointment of the employer representative.
R.S., 1985, c. L-2, s. 34; 1991, c. 39, s. 1; 1998, c. 26, s. 16.

Board may declare single employer

35 (1) Where, on application by an affected trade union or employer, associated or related federal works, undertakings or businesses are, in the opinion of the Board, operated by two or more employers having common control or direction, the Board may, by order, declare that for all purposes of this Part the employers and the federal works, undertakings and businesses operated by them that are specified in the order are, respectively, a single employer and a single federal work, undertaking or business. Before making such a declaration, the Board must give the affected employers and trade unions the opportunity to make representations.

Review of bargaining units

(2) The Board may, in making a declaration under subsection (1), determine whether the employees affected constitute one or more units appropriate for collective bargaining.

R.S., 1985, c. L-2, s. 35; 1998, c. 26, s. 17.

Effect of certification

36 (1) Where a trade union is certified as the bargaining agent for a bargaining unit,

- (a)** the trade union so certified has exclusive authority to bargain collectively on behalf of the employees in the bargaining unit;
- (b)** the certification of any trade union that was previously certified as the bargaining agent for any employees in the bargaining unit is deemed to be revoked to the extent that the certification relates to those employees;
- (c)** the trade union so certified is substituted as a party to any collective agreement that affects any employees in the bargaining unit, to the extent that the collective agreement relates to those employees, in the place of the bargaining agent named in the collective agreement or any successor thereto; and
- (d)** the trade union so certified is deemed to be the bargaining agent for the purposes of paragraph 50(b).

Notice to bargain

(2) Where, pursuant to paragraph (1)(c), a trade union is substituted as a party to a collective agreement, the trade union may, within three months after the date on which it is certified as the bargaining agent for a bargaining unit affected by the collective

agreement, require the employer who is a party to the collective agreement to commence collective bargaining for the purpose of renewing or revising the collective agreement or entering into a new collective agreement.

Limitation

(3) Subsection (2) does not apply to a trade union certified as a result of an application made under [section 24.1](#).

R.S., 1985, c. L-2, s. 36; 1998, c. 26, s. 18.

Just cause requirement

36.1 (1) During the period that begins on the date of certification and ends on the date on which a first collective agreement is entered into, the employer must not dismiss or discipline an employee in the affected bargaining unit without just cause.

Arbitration

(2) Where a disagreement relating to the dismissal or discipline of an employee during the period referred to in subsection (1) arises between the employer and the bargaining agent,

(a) the bargaining agent may submit the disagreement to an arbitrator for final settlement as if it were a difference; and

(b) [sections 57 to 66](#) apply, with the modifications that the circumstances require, to the disagreement.

1998, c. 26, s. 19.

Duty of fair representation

37 A trade union or representative of a trade union that is the bargaining agent for a bargaining unit shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees in the unit with respect to their rights under the collective agreement that is applicable to them.

1977-78, c. 27, s. 49; 1984, c. 39, s. 28, c. 40, s. 79(F).

Revocation of Certification and Related Matters

Application for revocation of certification

38 (1) If a trade union has been certified as the bargaining agent for a bargaining unit, any employee who claims to represent a majority of the employees in the bargaining unit may, subject to subsection (5), apply to the Board for an order revoking the certification of that trade union.

Time for application

(2) An application for an order pursuant to subsection (1) may be made in respect of a bargaining agent for a bargaining unit,

(a) where a collective agreement applicable to the bargaining unit is in force, only during a period in which an application for certification of a trade union is authorized to be made pursuant to [section 24](#) unless the Board consents to the making of the application for the order at some other time; and

(b) where no collective agreement applicable to the bargaining unit is in force, at any time after a period of one year from the date of certification of the trade union.

Application for order that bargaining agent not entitled to represent bargaining unit

(3) If a collective agreement applicable to a bargaining unit is in force but the bargaining agent that is a party to the collective agreement has not been certified by the Board, any employee who claims to represent a majority of the employees in the bargaining unit may, subject to subsection (5), apply to the Board for an order declaring that the bargaining agent is not entitled to represent the employees in the bargaining unit.

Time for application

(4) An application for an order pursuant to subsection (3) may be made in respect of a bargaining agent for a bargaining unit,

(a) during the term of the first collective agreement that is entered into by the employer of the employees in the bargaining unit and the bargaining agent,

(i) at any time during the first year of the term of that collective agreement, and

(ii) thereafter, except with the consent of the Board, only during a period in which an application for certification of a trade union is authorized to be made pursuant to [section 24](#); and

(b) in any other case, except with the consent of the Board, only during a period in which an application for certification of a trade union is authorized to be made pursuant to [section 24](#).

No application where strike or lockout

(5) An application under subsection (1) or (3) must not, except with the consent of the Board, be made in respect of the bargaining agent for employees in a bargaining unit during a strike or lockout of those employees that is not prohibited by this Part.

R.S., 1985, c. L-2, s. 38; 1998, c. 26, s. 20; [2014, c. 40, s. 4](#); [2017, c. 12, s. 3](#).

Order revoking certification or declaring bargaining agent not entitled to represent bargaining unit

39 (1) If, on receipt of an application for an order made under subsection 38(1) or (3) in respect of a bargaining agent for a bargaining unit, and after any inquiry by way of a representation vote or otherwise that the Board considers appropriate in the circumstances, the Board is satisfied that a majority of the employees in the bargaining unit no longer wish to have the bargaining agent represent them, the Board shall, subject to subsection (2), by order,

- (a)** in the case of an application made under subsection 38(1), revoke the certification of the trade union as the bargaining agent for the bargaining unit; or
- (b)** in the case of an application made under [subsection 38\(3\)](#), declare that the bargaining agent is not entitled to represent the employees in the bargaining unit.

Limitation

(2) If no collective agreement applicable to a bargaining unit is in force, an order shall not be made under paragraph (1)(a) in relation to the bargaining agent for the bargaining unit unless the Board is satisfied that the bargaining agent has failed to make a reasonable effort to enter into a collective agreement in relation to the bargaining unit.

R.S., 1985, c. L-2, s. 39; [2014, c. 40, s. 5](#); [2017, c. 12, s. 4](#).

Application where fraud

40 (1) Where a trade union has been certified as the bargaining agent for a bargaining unit,

- (a)** any employee in the bargaining unit,
- (b)** the employer of the employees in the bargaining unit, or
- (c)** any trade union that appeared before the Board in the certification proceeding, that alleges that the certification was obtained by the fraud of the trade union so certified, may apply to the Board, at any time, for revocation of the certification.

Revocation of certification for fraud

(2) On receipt of an application under subsection (1) in respect of a trade union certification as the bargaining agent for a bargaining unit, the Board shall, by order, revoke the certification of the trade union as the bargaining agent for the bargaining unit if the Board is satisfied that the evidence in support of the application

- (a) was not and could not, by the exercise of reasonable diligence, have been presented to it in the certification proceeding; and
- (b) is such that the Board would have refused to certify the trade union as the bargaining agent for the bargaining unit if the evidence had been presented to it in the certification proceeding.

R.S., c. L-1, ss. 139, 140; 1972, c. 18, s. 1.

Application for revocation of certification of a council of trade unions

41 (1) Where a council of trade unions has been certified as the bargaining agent for a bargaining unit, in addition to any circumstances in which an application for revocation of the certification of the council of trade unions may be made pursuant to section 38 or subsection 40(1), any employee in the bargaining unit, the employer of the employees in the bargaining unit or a trade union that forms part of the council of trade unions may apply to the Board for revocation of the certification on the ground that the council of trade unions no longer meets the requirements for certification of a council of trade unions.

Revocation of certification of a council of trade unions

(2) Where an application for revocation of certification is made under subsection (1), the Board may, by order, revoke the certification of the council of trade unions if, in the opinion of the Board, the council of trade unions no longer meets the requirements for certification of a council of trade unions.

Time for application

(3) An application under subsection (1) may be made in respect of a council of trade unions that has been certified as the bargaining agent for a bargaining unit only during a period in which an application for an order revoking the certification of that council of trade unions is authorized to be made under [section 38](#).

R.S., c. L-1, s. 141; 1972, c. 18, s. 1.

Effect of revocation or declaration

42 Where the Board makes an order under [section 39](#), [subsection 40\(2\)](#) or [section 41](#) revoking the certification of a trade union or council of trade unions, or declaring that a trade union is not entitled to represent the employees in a bargaining unit,

- (a) any collective agreement between the trade union or council of trade unions and the employer of the employees in the bargaining unit that applies to the bargaining unit ceases to have effect from the time the order is made or from such later time as the Board considers appropriate; and

(b) the employer shall not bargain collectively, or enter into a collective agreement with the trade union or council of trade unions, for a period of one year from the date of the order, unless the trade union or council of trade unions is certified by the Board under this Part during that period as the bargaining agent for a bargaining unit comprised of employees of the employer.

R.S., c. L-1, s. 142; 1972, c. 18, s. 1; 1977-78, c. 27, s. 50.

Successor Rights and Obligations

Mergers, etc., of trade unions

43 (1) Where, by reason of a merger or amalgamation of trade unions or a transfer of jurisdiction among trade unions, a trade union succeeds another trade union that, at the time of the merger, amalgamation or transfer of jurisdiction, is a bargaining agent, the successor shall be deemed to have acquired the rights, privileges and duties of its predecessor, whether under a collective agreement or otherwise.

Board may determine questions

(2) Where, on a merger or amalgamation of trade unions or a transfer of jurisdiction among trade unions, any question arises concerning the rights, privileges and duties of a trade union under this Part or under a collective agreement in respect of a bargaining unit or an employee therein, the Board, on application to it by a trade union affected by the merger, amalgamation or transfer of jurisdiction, shall determine what rights, privileges and duties have been acquired or are retained.

Inquiry and votes

(3) Before determining, pursuant to subsection (2), what rights, privileges and duties of a trade union have been acquired or are retained, the Board may make such inquiry or direct that such representation votes be taken as it considers necessary.

R.S., c. L-1, s. 143; 1972, c. 18, s. 1.

Definitions

44 (1) In this section and [sections 45 to 47.1](#),

business means any federal work, undertaking or business and any part thereof; (*entreprise*)

provincial business means a work, undertaking or business, or any part of a work, undertaking or business, the labour relations of which are subject to the laws of a province; (*entreprise provinciale*)

sell, in relation to a business, includes the transfer or other disposition of the business and, for the purposes of this definition, leasing a business is deemed to be selling it.
(*vente*)

Sale of business

(2) Where an employer sells a business,

- (a)** a trade union that is the bargaining agent for the employees employed in the business continues to be their bargaining agent;
- (b)** a trade union that made application for certification in respect of any employees employed in the business before the date on which the business is sold may, subject to this Part, be certified by the Board as their bargaining agent;
- (c)** the person to whom the business is sold is bound by any collective agreement that is, on the date on which the business is sold, applicable to the employees employed in the business; and
- (d)** the person to whom the business is sold becomes a party to any proceeding taken under this Part that is pending on the date on which the business was sold and that affects the employees employed in the business or their bargaining agent.

Change of activity or sale of a provincial business

(3) Where, as a result of a change of activity, a provincial business becomes subject to this Part, or such a business is sold to an employer who is subject to this Part,

- (a)** the trade union that, pursuant to the laws of the province, is the bargaining agent for the employees employed in the provincial business continues to be their bargaining agent for the purposes of this Part;
- (b)** a collective agreement that applied to employees employed in the provincial business at the time of the change or sale continues to apply to them and is binding on the employer or on the person to whom the business is sold;
- (c)** any proceeding that at the time of the change or sale was before the labour relations board or other person or authority that, under the laws of the province, is competent to decide the matter, continues as a proceeding under this Part, with such modifications as the circumstances require and, where applicable, with the person to whom the provincial business is sold as a party; and
- (d)** any grievance that at the time of the change or sale was before an arbitrator or arbitration board continues to be processed under this Part, with such modifications as the circumstances require and, where applicable, with the person to whom the provincial business is sold as a party.

R.S., 1985, c. L-2, s. 44; 1996, c. 18, s. 8; 1998, c. 26, s. 21.

Review of bargaining units

45 In the case of a sale or change of activity referred to in [section 44](#), the Board may, on application by the employer or any trade union affected, determine whether the employees affected constitute one or more units appropriate for collective bargaining.

R.S., 1985, c. L-2, s. 45; 1998, c. 26, s. 22.

Board to determine questions

46 The Board shall determine any question that arises under [section 44](#), including a question as to whether or not a business has been sold or there has been a change of activity of a business, or as to the identity of the purchaser of a business.

R.S., 1985, c. L-2, s. 46; 1998, c. 26, s. 22.

Where portion as federal business

47 (1) Where the name of any portion of the federal public administration specified from time to time in Schedule I, IV or V to the [Financial Administration Act](#) is deleted and that portion of the federal public administration is established as or becomes a part of a corporation or business to which this Part applies, or where a portion of the federal public administration included in another portion of the federal public administration specified in those Schedules is severed from the portion in which it was included and established as or becomes a part of such a corporation or business,

(a) a collective agreement or arbitral award that applies to any employees in that portion of the federal public administration and that is in force at the time the portion of the federal public administration is established as or becomes a part of such a corporation or business continues in force, subject to subsections (3) to (7), until its term expires; and

(b) the [Federal Public Sector Labour Relations Act](#) applies in all respects to the interpretation and application of the collective agreement or arbitral award.

Application for certification

(2) A trade union may apply to the Board for certification as the bargaining agent for the employees affected by a collective agreement or arbitral award referred to in subsection (1), but may so apply only during a period in which an application for certification of a trade union is authorized to be made under [section 24](#).

Application for order

(3) Where the employees in a portion of the federal public administration that is established as or becomes a part of a corporation or business to which this Part applies are bound by a collective agreement or arbitral award, the corporation or business, as

employer of the employees, or any bargaining agent affected by the change in employment, may, during the period beginning on the one hundred and twentieth day and ending on the one hundred and fiftieth day after the date on which the portion of the federal public administration is established as or becomes a part of the corporation or business, apply to the Board for an order determining the matters referred to in subsection (4).

Determination of Board

(4) Where an application is made under subsection (3) by a corporation or business or bargaining agent, the Board, by order, shall

- (a)** determine whether the employees of the corporation or business who are bound by any collective agreement or arbitral award constitute one or more units appropriate for collective bargaining;
- (b)** determine which trade union shall be the bargaining agent for the employees in each such unit; and
- (c)** in respect of each collective agreement or arbitral award that applies to employees of the corporation or business,
 - (i)** determine whether the collective agreement or arbitral award shall remain in force, and
 - (ii)** if the collective agreement or arbitral award is to remain in force, determine whether it shall remain in force until the expiration of its term or expire on such earlier date as the Board may fix.

Application for leave to serve a notice to bargain collectively

(5) Where the Board determines, pursuant to paragraph (4)(c), that a collective agreement or arbitral award shall remain in force, either party to the collective agreement or arbitral award may, not later than sixty days after the date the Board makes its determination, apply to the Board for an order granting leave to serve on the other party a notice to bargain collectively.

Application to bargain collectively

(6) Where no application for an order is made pursuant to subsection (3) within the period specified in that subsection, the corporation or business, as employer of the employees, or any bargaining agent bound by a collective agreement or arbitral award that, by subsection (1), is continued in force, may, during the period commencing on the one hundred and fifty-first day and ending on the two hundred and tenth day after the date the portion of the federal public administration is established as or becomes a

part of the corporation or business, apply to the Board for an order granting leave to serve on the other party a notice to bargain collectively.

Effect of order

(7) Where the Board has made an order pursuant to paragraph (4)(c), this Part applies to the interpretation and application of any collective agreement or arbitral award affected thereby.

Arbitral award deemed part of collective agreement

(8) An arbitral award that is continued in force by virtue of subsection (1) is deemed to be

(a) part of the collective agreement for the bargaining unit to which the award relates, or

(b) where there is no collective agreement for the bargaining unit, a collective agreement for the bargaining unit to which the award relates

for the purposes of [section 49](#), and this Part, other than [section 80](#), applies in respect of the renewal or revision of the collective agreement or entering into a new collective agreement.

R.S., 1985, c. L-2, s. 47; 1996, c. 18, s. 9; [2003, c. 22, ss. 108, 224\(E\)](#); [2017, c. 9, s. 55](#).

Where notice to bargain collectively given prior to deletion

47.1 Where, before the deletion or severance referred to in subsection 47(1), notice to bargain collectively has been given in respect of a collective agreement or arbitral award binding on employees of a corporation or business who, immediately before the deletion or severance, were part of the federal public administration,

(a) the terms and conditions of employment contained in a collective agreement or arbitral award that, by virtue of [section 107](#) of the *Federal Public Sector Labour Relations Act*, are continued in force immediately before the date of the deletion or severance or that were last continued in force before that date, in respect of those employees shall continue or resume in force on and after that date and shall be observed by the corporation or business, as employer, the bargaining agent for those employees and those employees until the requirements of paragraphs 89(1) (a) to (d) have been met, unless the employer and the bargaining agent agree otherwise;

(b) the *Federal Public Sector Labour Relations Act* applies in all respects to the interpretation and application of any term or condition continued or resumed by paragraph (a);

(c) on application by the corporation or business, as employer, or the bargaining agent for those employees, made during the period beginning on the one hundred and twentieth day and ending on the one hundred and fiftieth day after the date of the deletion or severance, the Board shall make an order determining

(i) whether the employees of the corporation or business who are represented by the bargaining agent constitute one or more units appropriate for collective bargaining, and

(ii) which trade union shall be the bargaining agent for the employees in each such unit;

(d) where the Board makes the determinations under paragraph (c), the corporation or business, as employer, or the bargaining agent may, by notice, require the other to commence collective bargaining under this Act for the purpose of entering into a collective agreement; and

(e) this Part, other than [section 80](#), applies in respect of a notice given under paragraph (d).

1996, c. 18, s. 9; 1998, c. 26, s. 23(F); [2003, c. 22, ss. 109, 223\(E\)](#); [2017, c. 9, s. 55](#).

Order

47.2 The Governor in Council may, by order, exclude from the operation of [sections 47](#) and [47.1](#) any portion of the federal public administration that is deleted or severed as described in subsection 47(1) where the Governor in Council, on the recommendation of the Minister after consultation with the Treasury Board and the Minister responsible for that portion of the federal public administration, is of the opinion that it is in the public interest to do so.

1996, c. 18, s. 9; [2003, c. 22, s. 224\(E\)](#).

Successive Contracts for Services

Definition of previous contractor

47.3 (1) In this section, **previous contractor** means an employer who, under the terms of a contract or other arrangement that is no longer in force,

(a) provided services at an airport to another employer, or to a person acting on behalf of that other employer, in an industry referred to in paragraph (e) of the definition federal work, undertaking or business in [section 2](#);

(b) provided prescribed services to another employer, or to a person acting on behalf of that other employer, in a prescribed industry; or

(c) provided prescribed services at a prescribed location to another employer, or to a person acting on behalf of that other employer, in a prescribed industry.

Equal remuneration

(2) An employer who succeeds a previous contractor as the provider of services, in accordance with a contract or other arrangement, must pay to the employees providing the services under that contract or arrangement remuneration not less than that which the employees of the previous contractor who provided the same or substantially similar services were entitled to receive under the terms of a collective agreement to which this Part applied.

Regulations

(3) The Governor in Council may, on the Minister's recommendation, make regulations prescribing anything that is to be prescribed under subsection (1).

1996, c. 18, s. 9; 1998, c. 26, s. 24; [2021, c. 23, s. 245](#).

DIVISION IV

Collective Bargaining and Collective Agreements

Obligation to Bargain Collectively

Notice to bargain to enter into a collective agreement

48 Where the Board has certified a bargaining agent for a bargaining unit and no collective agreement binding on the employees in the bargaining unit is in force, the bargaining agent may, by notice, require the employer of those employees, or the employer may, by notice, require the bargaining agent to commence collective bargaining for the purpose of entering into a collective agreement.

R.S., c. L-1, s. 146; 1972, c. 18, s. 1.

Notice to bargain to renew or revise a collective agreement or enter a new collective agreement

49 (1) Either party to a collective agreement may, within the period of four months immediately preceding the date of expiration of the term of the collective agreement, or within the longer period that may be provided for in the collective agreement, by notice, require the other party to the collective agreement to commence collective bargaining for the purpose of renewing or revising the collective agreement or entering into a new collective agreement.

Idem

(2) Where a collective agreement provides that any provision of the collective agreement may be revised during the term of the collective agreement, a party entitled

to do so by the collective agreement may, by notice, require the other party to commence collective bargaining for the purpose of revising the provision.
R.S., 1985, c. L-2, s. 49; 1998, c. 26, s. 25.

Duty to bargain and not to change terms and conditions

50 Where notice to bargain collectively has been given under this Part,

- (a) the bargaining agent and the employer, without delay, but in any case within twenty days after the notice was given unless the parties otherwise agree, shall
 - (i) meet and commence, or cause authorized representatives on their behalf to meet and commence, to bargain collectively in good faith, and
 - (ii) make every reasonable effort to enter into a collective agreement; and
- (b) the employer shall not alter the rates of pay or any other term or condition of employment or any right or privilege of the employees in the bargaining unit, or any right or privilege of the bargaining agent, until the requirements of paragraphs 89(1)(a) to (d) have been met, unless the bargaining agent consents to the alteration of such a term or condition, or such a right or privilege.

R.S., c. L-1, s. 148; 1972, c. 18, s. 1; 1977-78, c. 27, s. 51.

Technological Change

Definition of technological change

51 (1) In this section and [sections 52 to 55](#), **technological change** means

- (a) the introduction by an employer into their work, undertaking or business of equipment or material of a different nature or kind than that previously utilized by the employer in the operation of the work, undertaking or business; and
- (b) a change in the manner in which the employer carries on the work, undertaking or business that is directly related to the introduction of that equipment or material.

Application of [sections 52, 54 and 55](#)

(2) [Sections 52, 54 and 55](#) do not apply, in respect of a technological change, to an employer and a bargaining agent who are bound by a collective agreement where

- (a) the employer has given to the bargaining agent a notice in writing of the technological change that is substantially in accordance with [subsection 52\(2\)](#),
 - (i) prior to the day on which the employer and the bargaining agent entered into the collective agreement, if the notice requiring the parties to commence collective bargaining for the purpose of entering into that collective agreement was given pursuant to [section 48](#), or

- (ii) not later than the last day on which notice requiring the parties to commence collective bargaining for the purpose of entering into the collective agreement could have been given pursuant to subsection 49(1), if the notice was given under that subsection;
- (b) the collective agreement contains provisions that specify procedures by which any matters that relate to terms and conditions or security of employment likely to be affected by a technological change may be negotiated and finally settled during the term of the agreement; or
- (c) the collective agreement contains provisions that

- (i) are intended to assist employees affected by any technological change to adjust to the effects of the technological change, and
- (ii) specify that sections 52, 54 and 55 do not apply, during the term of the collective agreement, to the employer and the bargaining agent.

R.S., 1985, c. L-2, s. 51; 1999, c. 31, s. 162(E).

Notice of technological change

52 (1) An employer who is bound by a collective agreement and who proposes to effect a technological change that is likely to affect the terms and conditions or security of employment of a significant number of the employer's employees to whom the collective agreement applies shall give notice of the technological change to the bargaining agent bound by the collective agreement at least one hundred and twenty days prior to the date on which the technological change is to be effected.

Contents of notice

(2) The notice referred to in subsection (1) shall be in writing and shall state

- (a) the nature of the technological change;
- (b) the date on which the employer proposes to effect the technological change;
- (c) the approximate number and type of employees likely to be affected by the technological change;
- (d) the effect that the technological change is likely to have on the terms and conditions or security of employment of the employees affected; and
- (e) such other information as is required by the regulations made pursuant to subsection (4).

Details of proposed change

(3) An employer who has given notice under subsection (1) to a bargaining agent shall, on request from the bargaining agent, provide the bargaining agent with a statement in writing setting out

- (a)** a detailed description of the nature of the proposed technological change;
- (b)** the names of the employees who will initially be likely to be affected by the proposed technological change; and
- (c)** the rationale for the change.

Regulations of Governor in Council

(4) The Governor in Council, on the recommendation of the Board, may make regulations

- (a)** specifying the number of employees or the method of determining the number of employees that shall, in respect of any federal work, undertaking or business, be deemed to be "significant" for the purposes of subsections (1) and 54(2); and
- (b)** requiring any information in addition to the information required by subsection (2) to be included in a notice of technological change.

R.S., 1985, c. L-2, s. 52; 1999, c. 31, s. 152(E).

Application for order respecting technological change

53 (1) Where a bargaining agent alleges that [sections 52, 54](#) and [55](#) apply to an employer in respect of an alleged technological change and that the employer has failed to comply with [section 52](#), the bargaining agent may, not later than thirty days after the bargaining agent became aware, or in the opinion of the Board ought to have become aware, of the failure of the employer to comply with [section 52](#), apply to the Board for an order determining the matters so alleged.

Order respecting technological change

(2) On receipt of an application for an order determining the matters alleged under subsection (1) and after affording an opportunity for the parties to make representations, the Board may, by order,

- (a)** determine that [sections 52, 54](#) and [55](#) do not apply to the employer in respect of the alleged technological change; or
- (b)** determine that [sections 52, 54](#) and [55](#) apply to the employer in respect of the alleged technological change and that the employer has failed to comply with [section 52](#) in respect of the technological change.

Idem

(3) The Board may, in any order made under paragraph (2)(b), or by order made after consultation with the parties pending the making of any order under subsection (2),

- (a)** direct the employer not to proceed with the technological change or alleged technological change for such period, not in excess of one hundred and twenty days, as the Board considers appropriate;
- (b)** require the reinstatement of any employee displaced by the employer as a result of the technological change; and
- (c)** where an employee is reinstated pursuant to paragraph (b), require the employer to reimburse the employee for any loss of pay suffered by the employee as a result of their displacement.

Order deemed notice

(4) An order of the Board made under paragraph (2)(b) in respect of an employer is deemed to be a notice of technological change given by the employer pursuant to [section 52](#), and the Board shall concurrently, by order, grant leave to the bargaining agent to serve on the employer a notice to commence collective bargaining for the purpose referred to in subsection 54(1).

R.S., 1985, c. L-2, s. 53; 1998, c. 26, s. 26; 1999, c. 31, s. 162(E).

Application for order to serve notice to bargain

54 (1) Where a bargaining agent receives notice of a technological change pursuant to [section 52](#), the bargaining agent may, in order to assist the employees affected by the change to adjust to the effects of the change, apply to the Board, within thirty days after the date on which it receives the notice, for an order granting leave to serve on the employer a notice to commence collective bargaining for the purpose of

- (a)** revising the existing provisions of the collective agreement by which they are bound that relate to terms and conditions or security of employment; or
- (b)** including new provisions in the collective agreement that relate to terms and conditions or security of employment.

Order to serve notice to bargain

(2) Where the Board has received from a bargaining agent an application for an order under subsection (1), and it is satisfied that the technological change in respect of which the bargaining agent has received notice given pursuant to [section 52](#) is likely, substantially and adversely, to affect the terms and conditions or security of employment of a significant number of employees to whom the collective agreement between the bargaining agent and the employer applies, the Board may, by order,

grant leave to the bargaining agent to serve on the employer a notice to commence collective bargaining for the purpose referred to in subsection (1).

R.S., c. L-1, s. 152; 1972, c. 18, s. 1.

Conditions precedent to technological change

55 Where a bargaining agent applies to the Board for an order under subsection 54(1), the employer in respect of whom the application is made shall not effect the technological change in respect of which the application is made until

- (a)** the Board has made an order refusing to grant leave to the bargaining agent to serve on the employer a notice to commence collective bargaining; or
- (b)** the Board has made an order granting leave to the bargaining agent to serve on the employer a notice to commence collective bargaining and
 - (i)** an agreement has been reached as a result of collective bargaining, or
 - (ii)** the requirements of paragraphs 89(1)(a) to (d) have been met.

R.S., c. L-1, s. 153; 1972, c. 18, s. 1.

Content and Interpretation of Collective Agreements

Effect of collective agreement

56 A collective agreement entered into between a bargaining agent and an employer in respect of a bargaining unit is, subject to and for the purposes of this Part, binding on the bargaining agent, every employee in the bargaining unit and the employer.

R.S., c. L-1, s. 154; 1972, c. 18, s. 1.

Provision for final settlement without stoppage of work

57 (1) Every collective agreement shall contain a provision for final settlement without stoppage of work, by arbitration or otherwise, of all differences between the parties to or employees bound by the collective agreement, concerning its interpretation, application, administration or alleged contravention.

Where arbitrator to be appointed

(2) Where any difference arises between parties to a collective agreement that does not contain a provision for final settlement of the difference as required by subsection (1), the difference shall, notwithstanding any provision of the collective agreement, be submitted by the parties for final settlement

- (a)** to an arbitrator selected by the parties; or

(b) where the parties are unable to agree on the selection of an arbitrator and either party makes a written request to the Minister to appoint an arbitrator, to an arbitrator appointed by the Minister after such inquiry, if any, as the Minister considers necessary.

Idem

(3) Where any difference arises between parties to a collective agreement that contains a provision for final settlement of the difference by an arbitration board and either party fails to name its nominee to the board in accordance with the collective agreement, the difference shall, notwithstanding any provision in the collective agreement, be submitted by the parties for final settlement to an arbitrator in accordance with paragraphs (2)(a) and (b).

Request to Minister for appointment of arbitrator or arbitration board chairperson

(4) Where a collective agreement provides for final settlement, without stoppage of work, of differences described in subsection (1) by an arbitrator or arbitration board and the parties or their nominees are unable to agree on the selection of an arbitrator or arbitration board chairperson, as the case may be, either party or its nominee may, notwithstanding anything in the collective agreement, make a written request to the Minister to appoint an arbitrator or arbitration board chairperson, as the case may be.

Appointment by Minister

(5) On receipt of a written request under subsection (4), the Minister shall, after such inquiry, if any, as the Minister considers necessary, appoint an arbitrator or arbitration board chairperson, as the case may be.

Effect of appointment by Minister

(6) Any person appointed or selected pursuant to subsection (2), (3) or (5) as an arbitrator or arbitration board chairperson shall be deemed, for all purposes of this Part, to have been appointed pursuant to the collective agreement between the parties.
R.S., 1985, c. L-2, s. 57; 1998, c. 26, s. 59(E).

Decisions not to be reviewed by court

58 (1) Every order or decision of an arbitrator or arbitration 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 an arbitrator or arbitration board in any of their proceedings under this Part.

Status

(3) For the purposes of the *Federal Courts Act*, an arbitrator appointed pursuant to a collective agreement or an arbitration board is not a federal board, commission or other tribunal within the meaning of that Act.

R.S., 1985, c. L-2, s. 58; 1999, c. 31, s. 153(E); 2002, c. 8, s. 182.

Copy to be filed with Minister

59 A copy of every order or decision of an arbitrator or arbitration board shall be filed with the Minister by the arbitrator or arbitration board chairperson and shall be available to the public in circumstances prescribed by the Governor in Council.

R.S., 1985, c. L-2, s. 59; 1998, c. 26, s. 59(E).

Powers of arbitrator, etc.

60 (1) An arbitrator or arbitration board has

(a) the powers conferred on the Board by [paragraphs 16\(a\), \(b\), \(c\) and \(f.1\)](#);

(a.1) the power to interpret, apply and give relief in accordance with a statute relating to employment matters, whether or not there is conflict between the statute and the collective agreement;

(a.2) the power to make the interim orders that the arbitrator or arbitration board considers appropriate;

(a.3) the power to consider submissions provided in the form that the arbitrator or the arbitration board considers appropriate or to which the parties agree;

(a.4) the power to expedite proceedings and to prevent abuse of the arbitration process by making the orders or giving the directions that the arbitrator or arbitration board considers appropriate for those purposes; and

(b) power to determine any question as to whether a matter referred to the arbitrator or arbitration board is arbitrable.

Power to extend time

(1.1) The arbitrator or arbitration board may extend the time for taking any step in the grievance process or arbitration procedure set out in a collective agreement, even after the expiration of the time, if the arbitrator or arbitration board is satisfied that

there are reasonable grounds for the extension and that the other party would not be unduly prejudiced by the extension.

Power to mediate

(1.2) At any stage of a proceeding before an arbitrator or arbitration board, the arbitrator or arbitration board may, if the parties agree, assist the parties in resolving the difference at issue without prejudice to the power of the arbitrator or arbitration board to continue the arbitration with respect to the issues that have not been resolved.

Idem

(2) Where an arbitrator or arbitration board determines that an employee has been discharged or disciplined by an employer for cause and the collective agreement does not contain a specific penalty for the infraction that is the subject of the arbitration, the arbitrator or arbitration board has power to substitute for the discharge or discipline such other penalty as to the arbitrator or arbitration board seems just and reasonable in the circumstances.

R.S., 1985, c. L-2, s. 60; 1998, c. 26, s. 27.

Procedure

61 An arbitrator or arbitration board shall determine their own procedure, but shall give full opportunity to the parties to the proceeding to present evidence and make submissions to the arbitrator or arbitration board.

R.S., 1985, c. L-2, s. 61; 1999, c. 31, s. 154(E).

Decision of arbitration board

62 Where a difference described in subsection 57(1) is submitted to an arbitration board, the decision of a majority of those comprising the board is the decision of the board, but if a majority of those comprising the board cannot agree on a decision, the decision of the chairperson of the board is the decision of the board.

R.S., 1985, c. L-2, s. 62; 1998, c. 26, s. 59(E).

Arbitration costs, fees and expenses

63 Where a difference described in subsection 57(1) is submitted by the parties to an arbitrator or arbitration board, the costs, fees and expenses with respect to the arbitration proceedings shall, unless the collective agreement otherwise provides or the parties otherwise agree, be borne as follows:

- (a) each party shall bear its own costs and shall pay the fees and expenses of any member of the arbitration board who is nominated by it; and
- (b) the fees and expenses of an arbitrator or arbitration board chairperson, whether the arbitrator or chairperson is selected by the parties or their nominees or appointed by the Minister under this Part, shall be borne equally by the parties.

R.S., 1985, c. L-2, s. 63; 1998, c. 26, s. 59(E).

Order or decision within sixty days

64 (1) Every order or decision of an arbitrator or arbitration board shall be made or given within sixty days after, in the case of an arbitrator, their appointment as arbitrator, and, in the case of an arbitration board, the appointment of the arbitration board chairperson, unless

- (a) the collective agreement otherwise provides or the parties otherwise agree; or
- (b) owing to circumstances beyond the control of the arbitrator or arbitration board, it is not practicable to make or give the order or decision within those sixty days.

Days not included

(2) For the purposes of subsection (1), any day that is included in a period for which the arbitration proceedings are suspended pursuant to [subsection 65\(2\)](#) shall not be counted as one of the sixty days referred to in subsection (1).

Late order or decision not invalid

(3) The failure of an arbitrator or arbitration board to make or give any order or decision within the sixty days referred to in subsection (1) does not affect the jurisdiction of the arbitrator or arbitration board to continue with and complete the arbitration proceedings and any order or decision made or given by the arbitrator or arbitration board after the expiration of those sixty days is not for that reason invalid.

R.S., 1985, c. L-2, s. 64; 1998, c. 26, s. 59(E); 1999, c. 31, s. 162(E).

Questions may be referred to Board

65 (1) Where any question arises in connection with a matter that has been referred to an arbitrator or arbitration board, relating to the existence of a collective agreement or the identification of the parties or employees bound by a collective agreement, the arbitrator or arbitration board, the Minister or any alleged party may refer the question to the Board for determination.

Arbitration proceeding not suspended

(2) The referral of any question to the Board pursuant to subsection (1) shall not operate to suspend any proceeding before an arbitrator or arbitration board unless the arbitrator or arbitration board decides that the nature of the question warrants a suspension of the proceeding or the Board directs the suspension of the proceeding.

R.S., 1985, c. L-2, s. 65; 1998, c. 26, s. 28.

Filing of orders and decisions in Federal Court

66 (1) Any person or organization affected by any order or decision of an arbitrator or arbitration board may, after fourteen days from the date on which the order or decision is made or given, or from the date provided in it for compliance, whichever is the later date, file in the Federal Court a copy of the order or decision, exclusive of the reasons therefor.

Idem

(2) On filing an order or decision of an arbitrator or arbitration board in the Federal Court under subsection (1), the order or decision shall be registered in the Court and, when registered, has the same force and effect, and all proceedings may be taken thereon, as if the order or decision were a judgment obtained in the Court.

R.S., c. L-1, s. 159; 1972, c. 18, s. 1; 1977-78, c. 27, s. 57.

Term of collective agreement

67 (1) Where a collective agreement contains no provision as to its term or is for a term of less than one year, the collective agreement shall be deemed to be for a term of one year from the date on which it comes into force and shall not, except as provided by [subsection 36\(2\)](#) or with the consent of the Board, be terminated by the parties thereto within that term of one year.

Revision of collective agreement

(2) Nothing in this Part prohibits the parties to a collective agreement from agreeing to a revision of any provision of the collective agreement other than a provision relating to the term of the collective agreement.

Board may order alteration of termination date

(3) The Board may, on application made jointly by both parties to a collective agreement, order that the termination date of the collective agreement be altered for the purpose of establishing a common termination date for two or more collective agreements binding a single employer.

Provision for settlement of differences to remain in force

(4) Notwithstanding anything contained in a collective agreement, the provision required to be contained therein by subsection 57(1) shall remain in force after the termination of the collective agreement and until the requirements of paragraphs 89(1)(a) to (d) have been met.

Power of arbitrator where agreement terminates

(5) Where a difference between the parties to a collective agreement relating to a provision contained in the collective agreement arises during the period from the date of its termination to the date the requirements of paragraphs 89(1)(a) to (d) have been met,

- (a)** an arbitrator or arbitration board may hear and determine the difference; and
- (b)** [sections 57 to 66](#) apply to the hearing and determination.

Powers of arbitrator when conditions of paragraphs 89(1)(a) to (d) have been met

(6) Where a disagreement concerning the dismissal or discipline of an employee in the bargaining unit arises during the period that begins on the date on which the requirements of paragraphs 89(1)(a) to (d) are met and ends on the date on which a new or revised collective agreement is entered into, the bargaining agent may submit the disagreement for final settlement in accordance with the provisions for the settlement of differences contained in the previous collective agreement. The relevant provisions in the collective agreement and [sections 57 to 66](#) apply, with such modifications as the circumstances require, to the settlement of the disagreement.

Revision of term

(7) Despite subsection (2), if a notice to bargain referred to in [subsection 65.12\(1\)](#) of the *Bankruptcy and Insolvency Act* has been served, the parties may agree to revise the term of the collective agreement without approval of the Board.

Revision of term

(8) Despite subsection (2), if a notice to bargain referred to in [subsection 33\(2\)](#) of the *Companies' Creditors Arrangement Act* has been served, the parties may agree to revise the term of the collective agreement without approval of the Board.

R.S., 1985, c. L-2, s. 67; 1998, c. 26, s. 29; [2005, c. 47, s. 136](#).

Collective agreement may contain certain provisions

68 Nothing in this Part prohibits the parties to a collective agreement from including in the collective agreement a provision

- (a)** requiring, as a condition of employment, membership in a specified trade union; or
- (b)** granting a preference of employment to members of a specified trade union.

R.S., c. L-1, s. 161; 1972, c. 18, s. 1.

Definition of referral

69 (1) In this section, **referral** includes assignment, designation, dispatching, scheduling and selection.

Operation of hiring halls

(2) Where, pursuant to a collective agreement, a trade union is engaged in the referral of persons to employment, it shall establish rules for the purpose of making such referrals and apply those rules fairly and without discrimination.

Posting of rules

(3) Rules applied by a trade union pursuant to subsection (2) shall be kept posted in a conspicuous place in every area of premises occupied by the trade union in which persons seeking referral normally gather.

1977-78, c. 27, s. 58; 1980-81-82-83, c. 47, s. 53(F).

Compulsory Check-Off

Union dues to be deducted

70 (1) Where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union forthwith.

Religious objections

(2) Where the Board is satisfied that an employee, because of their religious conviction or beliefs, objects to joining a trade union or to paying regular union dues to a trade union, the Board may order that the provision in a collective agreement requiring, as a condition of employment, membership in a trade union or requiring the payment of regular union dues to a trade union does not apply to that employee so long as an amount equal to the amount of the regular union dues is paid by the employee, either directly or by way of deduction from their wages, to a registered charity mutually agreed on by the employee and the trade union.

Designation by Board

(3) Where an employee and the trade union are unable to agree on a registered charity for the purposes of subsection (2), the Board may designate any such charity as the charity to which payment should be made.

Definitions

(4) In this section,

registered charity has the meaning assigned to that expression by the *Income Tax Act*; (*organisme de bienfaisance enregistré*)

regular union dues means, in respect of

(a) an employee who is a member of a trade union, the dues uniformly and regularly paid by a member of the union in accordance with the constitution and by-laws of the union, and

(b) an employee who is not a member of a trade union, the dues referred to in paragraph (a), other than any amount that is for payment of pension, superannuation, sickness insurance or any other benefit available only to members of the union. (*cotisation syndicale normale*)

R.S., 1985, c. L-2, s. 70; 1999, c. 31, ss. 162(E), 241(F), 246(F).

DIVISION V

Conciliation and First Agreements

Federal Mediation and Conciliation Service

Federal Mediation and Conciliation Service

70.1 (1) The Federal Mediation and Conciliation Service, the employees of which are employees of the Department of Employment and Social Development, advises the Minister of Labour with respect to industrial relations matters and is responsible for fostering harmonious relations between trade unions and employers by assisting them in the negotiation of collective agreements and their renewal and the management of the relations resulting from the implementation of the agreements.

Head

(2) The head of the Federal Mediation and Conciliation Service reports to the Minister in respect of responsibilities relating to the resolution of disputes.

1998, c. 26, s. 30; 2005, c. 34, s. 79; 2013, c. 40, s. 237.

Conciliation Procedures

Notice of dispute

71 (1) Where a notice to commence collective bargaining has been given under this Part, either party may inform the Minister, by sending a notice of dispute, of their failure to enter into, renew or revise a collective agreement where

- (a) collective bargaining has not commenced within the time fixed by this Part; or
- (b) the parties have bargained collectively for the purpose of entering into or revising a collective agreement but have been unable to reach agreement.

Copy to other party

(2) The party who sends a notice of dispute under subsection (1) must immediately send a copy of it to the other party.

R.S., 1985, c. L-2, s. 71; 1998, c. 26, s. 30.

Options of Minister

72 (1) The Minister shall, not later than fifteen days after receiving a notice in writing under section 71,

- (a) appoint a conciliation officer;
- (b) appoint a conciliation commissioner;
- (c) establish a conciliation board in accordance with section 82; or
- (d) notify the parties, in writing, of the Minister's intention not to appoint a conciliation officer or conciliation commissioner or establish a conciliation board.

Idem

(2) Where the Minister has not received a notice under section 71 but considers it advisable to take any action set out in paragraph (1)(a), (b) or (c) for the purpose of assisting the parties in entering into or revising a collective agreement, the Minister may take such action.

Limitation

(3) The Minister may only take one action referred to in this section with respect to any particular dispute involving a bargaining unit.

R.S., 1985, c. L-2, s. 72; 1998, c. 26, s. 31; 1999, c. 31, s. 155(E).

Delivery of notice to conciliation officer

73 (1) Where a conciliation officer has been appointed under subsection 72(1), the Minister shall forthwith deliver to the officer a copy of the notice given under [section 71](#) in respect of the dispute.

Duties of conciliation officer

(2) Where a conciliation officer has been appointed under [section 72](#), the conciliation officer shall

- (a)** forthwith after the appointment, confer with the parties to the dispute and endeavour to assist them in entering into or revising a collective agreement; and
- (b)** within fourteen days after the date of the appointment or within the longer period that may be agreed to by the parties or allowed by the Minister, report to the Minister as to whether or not the officer has succeeded in assisting the parties in entering into or revising a collective agreement.

R.S., 1985, c. L-2, s. 73; 1998, c. 26, s. 32.

Delivery of notice

74 (1) Where a conciliation commissioner has been appointed or a conciliation board has been established, the Minister must immediately deliver to the conciliation commissioner or the members of the conciliation board a copy of the notice of dispute sent under [section 71](#) and may, until their report has been submitted, refer other questions to them.

Duties of conciliation commissioner or conciliation board

(2) Where a conciliation commissioner has been appointed or a conciliation board has been established under subsection 72(1), the conciliation commissioner or conciliation board shall

- (a)** immediately endeavour to assist the parties to the dispute in entering into or revising a collective agreement; and
- (b)** within fourteen days after the date of appointment or establishment, or within the longer period that may be agreed to by the parties or allowed by the Minister, report to the Minister as to the commissioner's or board's success or failure in assisting the parties to the dispute and as to their findings and recommendations.

Report of the Board

(3) The report of the majority of the members of a conciliation board is the report of the conciliation board, except where each member of the conciliation board makes a report, in which case the report made by the person appointed by the Minister as a

member and chairperson of the conciliation board is the report of the conciliation board.

R.S., 1985, c. L-2, s. 74; 1998, c. 26, s. 33.

Time limits

75 (1) Except with the consent of the parties, the Minister may not extend the time for a conciliation officer to report, or for a conciliation commissioner or conciliation board to submit a report, beyond sixty days after the date of appointment or establishment.

Deemed reporting

(2) The conciliation officer is deemed to have reported sixty days after the date on which that officer was appointed or at the end of the extended time limit to which the parties consent, unless she or he actually reports earlier.

Deemed receipt of report

(3) The Minister is deemed to have received the report of the conciliation commissioner or conciliation board sixty days after the date on which the conciliation commissioner was appointed or the board was established or at the end of the extended time limit to which the parties consent, unless the Minister actually receives the report earlier.

R.S., 1985, c. L-2, s. 75; 1998, c. 26, s. 33.

Reconsideration of report

76 After a conciliation commissioner or conciliation board has submitted their report, the Minister may direct the conciliation commissioner or conciliation board to reconsider the report and clarify or amplify any part of it.

R.S., 1985, c. L-2, s. 76; 1998, c. 26, s. 33.

Release of report

77 After receiving the report of a conciliation commissioner or conciliation board, the Minister

- (a)** immediately releases a copy of the report to the parties to the dispute; and
- (b)** may make the report available to the public in a manner that the Minister considers advisable.

R.S., 1985, c. L-2, s. 77; 1998, c. 26, s. 33.

Report binding by agreement

78 Where a conciliation commissioner or conciliation board has been appointed or established in respect of a dispute, the parties, at any time before the report of the conciliation commissioner or conciliation board is made, may agree in writing to be bound by the recommendations of the conciliation commissioner or conciliation board and, on their making, shall give effect to those recommendations.

R.S., 1985, c. L-2, s. 78; 1998, c. 26, s. 33.

Agreement

79 (1) Despite any other provision of this Part, an employer and a bargaining agent may agree in writing, as part of a collective agreement or otherwise, to refer any matter respecting the renewal or revision of a collective agreement or the entering into of a new collective agreement to a person or body for final and binding determination.

Effect of agreement

(2) The agreement suspends the right to strike or lockout and constitutes an undertaking to implement the determination.

R.S., 1985, c. L-2, s. 79; 1998, c. 26, s. 33.

Settlement of First Agreement

Minister may refer dispute to Board

80 (1) Where an employer or a bargaining agent is required, by notice given under section 48, to commence collective bargaining for the purpose of entering into the first collective agreement between the parties with respect to the bargaining unit for which the bargaining agent has been certified and the requirements of paragraphs 89(1)(a) to (d) have otherwise been met, the Minister may, if the Minister considers it necessary or advisable, at any time thereafter direct the Board to inquire into the dispute and, if the Board considers it advisable, to settle the terms and conditions of the first collective agreement between the parties.

Board may settle terms and conditions

(2) The Board shall proceed as directed by the Minister under subsection (1) and, if the Board settles the terms and conditions of a first collective agreement referred to in that subsection, those terms and conditions shall constitute the collective agreement between the parties and shall be binding on them and on the employees in the bargaining unit, except to the extent that such terms and conditions are subsequently amended by the parties by agreement in writing.

Matters the Board may consider

(3) In settling the terms and conditions of a first collective agreement under this section, the Board shall give the parties an opportunity to present evidence and make representations and the Board may take into account

- (a)** the extent to which the parties have, or have not, bargained in good faith in an attempt to enter into the first collective agreement between them;
- (b)** the terms and conditions of employment, if any, negotiated through collective bargaining for employees performing the same or similar functions in the same or similar circumstances as the employees in the bargaining unit; and
- (c)** such other matters as the Board considers will assist it in arriving at terms and conditions that are fair and reasonable in the circumstances.

Duration of agreement

(4) Where the terms and conditions of a first collective agreement are settled by the Board under this section, the agreement is effective for a period of two years after the date on which the Board settles the terms and conditions of the collective agreement.
R.S., 1985, c. L-2, s. 80; 1998, c. 26, s. 34.

Establishment of Conciliation Boards

Composition

81 (1) A conciliation board shall consist of three members appointed in the manner specified in [section 82](#).

Eligibility of members

(2) A person is not eligible to be a member of a conciliation board if the person has a pecuniary interest that may be directly affected by any matter referred to the board.

R.S., c. L-1, s. 172; 1972, c. 18, s. 1.

Nomination by parties

82 (1) Where the Minister has, pursuant to [section 72](#), decided to establish a conciliation board, the Minister shall immediately, by notice in writing, require each of the parties to the dispute to nominate, within seven days after receipt by the party of the notice, one person to be a member of the conciliation board and, on receipt of the nomination within those seven days, the Minister shall appoint the nominee to be a member of the conciliation board.

Failure to nominate

(2) Where either party to whom a notice is given pursuant to subsection (1) fails or neglects to nominate a person to be a member of the conciliation board to be established by the Minister within seven days after the receipt by that party of the notice, the Minister shall appoint, as a member of the conciliation board, a person the Minister considers to be qualified to be such a member, and the member so appointed shall be deemed to have been appointed on the nomination of that party.

Nomination of chairperson

(3) The members of a conciliation board appointed under subsection (1) or (2) shall, within five days after the appointment of the second member, nominate a third person, who is willing and ready to act, to be a member and chairperson of the conciliation board, and the Minister shall appoint that person to be a member and chairperson of the conciliation board.

Failure to nominate chairperson

(4) Where the members of a conciliation board appointed under subsection (1) or (2) fail or neglect to nominate a chairperson within five days after the appointment of the second such member, the Minister shall forthwith appoint, as the third member and chairperson of the conciliation board, a person whom the Minister considers qualified to be a member and chairperson of the conciliation board.

R.S., 1985, c. L-2, s. 82; 1998, c. 26, ss. 35(E), 59(E).

Notification to parties of establishment of board

83 When the members of a conciliation board have been appointed under [section 82](#) in respect of a dispute, the Minister shall forthwith give notice to the parties of the names of the members of the board, and thereupon it shall be conclusively presumed that the conciliation board described in the notice has been established in accordance with this Part as of the date the notice is given.

1972, c. 18, s. 1.

General

Powers of board

84 A conciliation commissioner or a conciliation board

- (a)** may determine their own procedure;
- (b)** has, in relation to any proceeding before them, the powers conferred on the Board, in relation to any proceeding before the Board, by [paragraphs 16\(a\), \(b\), \(c\), \(f\) and \(h\); and](#)

(c) may authorize any person to do anything described in paragraph 16(b) or (f) that the conciliation commissioner or conciliation board may do and to report to the conciliation commissioner or conciliation board thereon.

R.S., 1985, c. L-2, s. 84; 1999, c. 31, s. 156.

Sittings

85 (1) The chairperson of a conciliation board shall

(a) after consultation with the other members of the board, fix the time and place of sittings of the conciliation board;

(b) notify the parties to the dispute of the time and place so fixed; and

(c) at the conclusion of the sittings of the conciliation board, send to the Minister a detailed certified statement as to those sittings and as to the members of the conciliation board and witnesses present at each sitting.

Quorum

(2) The chairperson and one other member of a conciliation board constitute a quorum but, in the absence of any member, the other members shall not proceed unless the absent member has been given reasonable notice of the sitting.

Substitute member

(3) Where a person ceases to be a member of a conciliation board before the board has completed its work, another member shall be nominated and appointed in their place in accordance with section 82.

R.S., 1985, c. L-2, s. 85; 1998, c. 26, s. 59(E); 1999, c. 31, s. 162(E).

Proceedings prohibited

86 No order shall be made, process entered or proceeding taken in any court

(a) to question the appointment of, or refusal to appoint, a conciliation officer or conciliation commissioner, or the establishment of, or the refusal to establish, a conciliation board; or

(b) to review, prohibit or restrain any proceeding of a conciliation officer, conciliation commissioner or conciliation board.

R.S., 1985, c. L-2, s. 86; 1998, c. 26, s. 36.

Report and testimony not evidence

87 No report of a conciliation commissioner or conciliation board, and no testimony or record of proceedings before a conciliation commissioner or conciliation board, are admissible in evidence in any court in Canada, except in the case of a prosecution for perjury.

1972, c. 18, s. 1.

DIVISION V.1

Obligations Relating to Strikes and Lockouts

Definitions

87.1 The following definitions apply in this Division.

employer includes an employers' organization. (*employeur*)

trade union includes a council of trade unions. (*syndicat*)

1998, c. 26, s. 37.

Strike notice

87.2 (1) Unless a lockout not prohibited by this Part has occurred, a trade union must give notice to the employer, at least seventy-two hours in advance, indicating the date on which a strike will occur, and must provide a copy of the notice to the Minister.

Lockout notice

(2) Unless a strike not prohibited by this Part has occurred, an employer must give notice to the trade union, at least seventy-two hours in advance, indicating the date on which a lockout will occur, and must provide a copy of the notice to the Minister.

New notice

(3) Unless the parties agree otherwise in writing, where no strike or lockout occurs on the date indicated in a notice given pursuant to subsection (1) or (2), a new notice of at least seventy-two hours must be given by the trade union or the employer if they wish to initiate a strike or lockout.

1998, c. 26, s. 37.

Secret ballot – strike vote

87.3 (1) Unless a lockout not prohibited by this Part has occurred, a trade union may not declare or authorize a strike unless it has, within the previous sixty days, or any longer period that may be agreed to in writing by the trade union and the employer,

held a secret ballot vote among the employees in the unit and received the approval of the majority of the employees who voted.

Secret ballot — lockout vote

(2) Unless a strike not prohibited by this Part has occurred, an employers' organization may not declare or cause a lockout unless it has, within the previous sixty days, or any longer period that may be agreed to in writing by the trade union and the employers' organization, held a secret ballot vote among the employers who are members of the organization and received the approval of the majority of the employers who voted.

Conduct of vote

(3) A vote held under subsection (1) or (2) must be conducted in such a manner as to ensure that those employees or employers who are eligible to vote are given a reasonable opportunity to participate in the vote and to be informed of the results.

Application to have vote declared invalid

(4) An employee who is a member of a bargaining unit for which a strike vote has been held pursuant to subsection (1) and who alleges that there were irregularities in the conduct of the vote may, no later than ten days after the announcement of the results of the vote, make an application to the Board to have the vote declared invalid.

Application to have vote declared invalid

(5) An employer who is a member of an employers' organization that has held a lockout vote pursuant to subsection (2) and who alleges that there were irregularities in the conduct of the vote may, no later than ten days after the announcement of the results of the vote, make an application to the Board to have the vote declared invalid.

Summary procedure

(6) The Board may summarily dismiss an application made pursuant to subsection (4) or (5) if it is satisfied that, even if the alleged irregularities were proven, the outcome of the vote would not be different.

Order that vote invalid

(7) Where the Board declares the vote invalid, it may order that a new vote be held in accordance with the conditions it specifies in the order.

1998, c. 26, s. 37.

Maintenance of activities

87.4 (1) During a strike or lockout not prohibited by this Part, the employer, the trade union and the employees in the bargaining unit must continue the supply of services, operation of facilities or production of goods to the extent necessary to prevent an immediate and serious danger to the safety or health of the public.

Notice

(2) An employer or a trade union may, no later than fifteen days after notice to bargain collectively has been given, give notice to the other party specifying the supply of services, operation of facilities or production of goods that, in its opinion, must be continued in the event of a strike or a lockout in order to comply with subsection (1) and the approximate number of employees in the bargaining unit that, in its opinion, would be required for that purpose.

Agreement

(3) Where, after the notice referred to in subsection (2) has been given, the trade union and the employer enter into an agreement with respect to compliance with subsection (1), either party may file a copy of the agreement with the Board. When the agreement is filed, it has the same effect as an order of the Board.

Where no agreement entered into

(4) Where, after the notice referred to in subsection (2) has been given, the trade union and the employer do not enter into an agreement, the Board shall, on application made by either party no later than fifteen days after notice of dispute has been given, determine any question with respect to the application of subsection (1).

Referral

(5) At any time after notice of dispute has been given, the Minister may refer to the Board any question with respect to the application of subsection (1) or any question with respect to whether an agreement entered into by the parties is sufficient to ensure that subsection (1) is complied with.

Board order

(6) Where the Board, on application pursuant to subsection (4) or referral pursuant to subsection (5), is of the opinion that a strike or lockout could pose an immediate and serious danger to the safety or health of the public, the Board, after providing the parties an opportunity to agree, may, by order,

(a) designate the supply of those services, the operation of those facilities and the production of those goods that it considers necessary to continue in order to prevent an immediate and serious danger to the safety or health of the public;

- (b) specify the manner and extent to which the employer, the trade union and the employees in the bargaining unit must continue that supply, operation and production; and
- (c) impose any measure that it considers appropriate for carrying out the requirements of this section.

Review of order

(7) On application by the employer or the trade union, or on referral by the Minister, during a strike or lockout not prohibited by this Part, the Board may, where in the Board's opinion the circumstances warrant, review and confirm, amend or cancel an agreement entered into, or a determination or order made, under this section and make any orders that it considers appropriate in the circumstances.

Binding settlement

(8) Where the Board is satisfied that the level of activity to be continued in compliance with subsection (1) renders ineffective the exercise of the right to strike or lockout, the Board may, on application by the employer or the trade union, direct a binding method of resolving the issues in dispute between the parties for the purpose of ensuring settlement of a dispute.

1998, c. 26, s. 37.

Rights unaffected

87.5 (1) Where the Board has received an application pursuant to subsection 87.4(4) or a question has been referred to the Board pursuant to subsection 87.4(5), the employer must not alter the rates of pay or any other term or condition of employment or any right or privilege of the employees in the bargaining unit, or any right or privilege of the bargaining agent, without the consent of the bargaining agent, until the later of the date on which the Board has determined the application or the question referred and the date on which the requirements of paragraphs 89(1)(a) to (d) have been met.

Rights unaffected

(2) Unless the parties otherwise agree, the rates of pay or any other term or condition of employment, and any rights, duties or privileges of the employees, the employer or the trade union in effect before the requirements of paragraphs 89(1)(a) to (d) were met, continue to apply with respect to employees who are members of the bargaining unit and who have been assigned to maintain services, facilities and production pursuant to section 87.4.

Continuation of strike or lockout

(3) A referral made pursuant to subsection 87.4(5), during a strike or lockout not prohibited by this Part, or an application or referral made pursuant to subsection 87.4(7), does not suspend the strike or lockout.

1998, c. 26, s. 37.

Reinstatement of employees after strike or lockout

87.6 At the end of a strike or lockout not prohibited by this Part, the employer must reinstate employees in the bargaining unit who were on strike or locked out, in preference to any person who was not an employee in the bargaining unit on the date on which notice to bargain collectively was given and was hired or assigned after that date to perform all or part of the duties of an employee in the unit on strike or locked out.

1998, c. 26, s. 37.

Services to grain vessels

87.7 (1) During a strike or lockout not prohibited by this Part, an employer in the long-shoring industry, or other industry included in paragraph (a) of the definition **federal work, undertaking or business** in section 2, its employees and their bargaining agent shall continue to provide the services they normally provide to ensure the tie-up, let-go and loading of grain vessels at licensed terminal and transfer elevators, and the movement of the grain vessels in and out of a port.

Rights unaffected

(2) Unless the parties otherwise agree, the rates of pay or any other term or condition of employment, and any rights, duties or privileges of the employees, the employer or the trade union in effect before the requirements of paragraphs 89(1)(a) to (d) were met, continue to apply with respect to employees who are members of the bargaining unit and who have been assigned to provide services pursuant to subsection (1).

Board order

(3) On application by an affected employer or trade union, or on referral by the Minister, the Board may determine any question with respect to the application of subsection (1) and make any order it considers appropriate to ensure compliance with that subsection.

1998, c. 26, s. 37.

DIVISION VI

Prohibitions and Enforcement

Strikes and Lockouts

Definitions

88 In this Division,

employer includes an employers' organization; (*employeur*)

trade union includes a council of trade unions. (*syndicat*)

1972, c. 18, s. 1.

Strikes and lockouts prohibited during term of collective agreement

88.1 Strikes and lockouts are prohibited during the term of a collective agreement except if

- (a) a notice to bargain collectively has been given pursuant to a provision of this Part, other than subsection 49(1); and
- (b) the requirements of subsection 89(1) have been met.

1998, c. 26, s. 38.

No strike or lockout until certain requirements met

89 (1) No employer shall declare or cause a lockout and no trade union shall declare or authorize a strike unless

- (a) the employer or trade union has given notice to bargain collectively under this Part;
- (b) the employer and the trade union
 - (i) have failed to bargain collectively within the period specified in paragraph 50(a), or
 - (ii) have bargained collectively in accordance with section 50 but have failed to enter into or revise a collective agreement;
- (c) the Minister has
 - (i) received a notice, given under section 71 by either party to the dispute, informing the Minister of the failure of the parties to enter into or revise a collective agreement, or
 - (ii) taken action under subsection 72(2);
- (d) twenty-one days have elapsed after the date on which the Minister

- (i) notified the parties of the intention not to appoint a conciliation officer or conciliation commissioner, or to establish a conciliation board under subsection 72(1),
 - (ii) notified the parties that a conciliation officer appointed under subsection 72(1) has reported,
 - (iii) released a copy of the report to the parties to the dispute pursuant to paragraph 77(a), or
 - (iv) is deemed to have been reported to pursuant to subsection 75(2) or to have received the report pursuant to subsection 75(3);
- (e) the Board has determined any application made pursuant to subsection 87.4(4) or any referral made pursuant to subsection 87.4(5); and
- (f) sections 87.2 and 87.3 have been complied with.

No employee to strike until certain requirements met

(2) No employee shall participate in a strike unless

- (a) the employee is a member of a bargaining unit in respect of which a notice to bargain collectively has been given under this Part; and
- (b) the requirements of subsection (1) have been met in respect of the bargaining unit of which the employee is a member.

R.S., 1985, c. L-2, s. 89; 1998, c. 26, s. 39; 1999, c. 31, s. 157(E).

Right to strike or lockout limited during period between Parliaments

90 (1) Where a strike or lockout not prohibited by this Part occurs or may occur during the time commencing on the date of a dissolution of Parliament and ending on the date fixed for the return of the writs at the next following general election and, in the opinion of the Governor in Council, adversely affects or would adversely affect the national interest, the Governor in Council may during that time make an order deferring the strike or lockout during the period commencing on the day the order is made and ending on the twenty-first day following the date fixed for the return of the writs.

Minister's report

(2) Where the Governor in Council makes an order pursuant to subsection (1) during the time mentioned in that subsection, the Minister shall, on any of the first ten sitting days of the first session of Parliament next following that time, lay before Parliament a report stating the reasons for the making of the order.

1972, c. 18, s. 1; 1984, c. 39, s. 33.

Declarations Relating to Strikes and Lockouts

Employer may apply for declaration that strike unlawful

91 (1) Where an employer alleges that a trade union has declared or authorized a strike, or that employees have participated, are participating or are likely to participate in a strike, the effect of which was, is or would be to involve the participation of an employee in a strike in contravention of this Part, the employer may apply to the Board for a declaration that the strike was, is or would be unlawful.

Declaration that strike unlawful and strike prohibited

(2) Where an employer applies to the Board under subsection (1) for a declaration that a strike was, is or would be unlawful, the Board may, after affording the trade union or employees referred to in subsection (1) an opportunity to make representations on the application, make such a declaration and, if the employer so requests, may make an order

(a) requiring the trade union to revoke the declaration or authorization to strike and to give notice of such revocation forthwith to the employees to whom it was directed;

(b) enjoining any employee from participating in the strike;

(c) requiring any employee who is participating in the strike to perform the duties of their employment; and

(d) requiring any trade union, of which any employee with respect to whom an order is made under paragraph (b) or (c) is a member, and any officer or representative of that union, forthwith to give notice of any order made under paragraph (b) or (c) to any employee to whom it applies.

R.S., 1985, c. L-2, s. 91; 1998, c. 26, s. 40; 1999, c. 31, s. 162(E).

Declaration that lockout unlawful and prohibition of lockout

92 Where a trade union alleges that an employer has declared or caused or is about to declare or cause a lockout of employees in contravention of this Part, the trade union may apply to the Board for a declaration that the lockout was, is or would be unlawful and the Board may, after affording the employer an opportunity to make representations on the application, make such a declaration and, if the trade union so requests, may make an order

(a) enjoining the employer or any person acting on behalf of the employer from declaring or causing the lockout;

(b) requiring the employer or any person acting on behalf of the employer to discontinue the lockout and to permit any employee of the employer who was affected by the lockout to return to the duties of their employment; and

(c) requiring the employer forthwith to give notice of any order made against the employer under paragraph (a) or (b) to any employee who was affected, or would likely have been affected, by the lockout.

R.S., 1985, c. L-2, s. 92; 1998, c. 26, s. 41; 1999, c. 31, s. 162(E).

Terms and duration of order

93 (1) An order made under section 91 or 92

(a) shall be in such terms as the Board considers necessary and sufficient to meet the circumstances of the case; and

(b) subject to subsection (2), shall have effect for such time as is specified in the order.

Application for supplementary order

(2) Where the Board makes an order under section 91 or 92, the Board may, from time to time on application by the employer or trade union that requested the order or any employer, trade union, employee or other person affected thereby, notice of which application has been given to the parties named in the order, by supplementary order,

(a) continue the order, with or without modification, for such period as is stated in the supplementary order; or

(b) revoke the order.

1977-78, c. 27, s. 64.

Unfair Practices

Employer interference in trade union

94 (1) No employer or person acting on behalf of an employer shall

(a) participate in or interfere with the formation or administration of a trade union or the representation of employees by a trade union; or

(b) contribute financial or other support to a trade union.

Exception

(2) An employer is deemed not to contravene subsection (1) by reason only that they

- (a)** in respect of a trade union that is the bargaining agent for a bargaining unit comprised of or including employees of the employer,
- (i)** permit an employee or representative of the trade union to confer with them during hours of work or to attend to the business of the trade union during hours of work without any deduction from wages or any deduction of time worked for the employer;
 - (ii)** provide free transportation to representatives of the trade union for purposes of collective bargaining, the administration of a collective agreement and related matters, or
 - (iii)** permit the trade union to use their premises for the purposes of the trade union;
- (b)** contribute financial support to any pension, health or other welfare trust fund the sole purpose of which is to provide pension, health or other welfare rights or benefits to employees; or
- (c)** express a personal point of view, so long as the employer does not use coercion, intimidation, threats, promises or undue influence.

Prohibition relating to replacement workers

(2.1) No employer or person acting on behalf of an employer shall use, for the demonstrated purpose of undermining a trade union's representational capacity rather than the pursuit of legitimate bargaining objectives, the services of a person who was not an employee in the bargaining unit on the date on which notice to bargain collectively was given and was hired or assigned after that date to perform all or part of the duties of an employee in the bargaining unit on strike or locked out.

Prohibitions relating to employers

(3) No employer or person acting on behalf of an employer shall

- (a)** refuse to employ or to continue to employ or suspend, transfer, lay off or otherwise discriminate against any person with respect to employment, pay or any other term or condition of employment or intimidate, threaten or otherwise discipline any person, because the person
 - (i)** is or proposes to become, or seeks to induce any other person to become, a member, officer or representative of a trade union or participates in the promotion, formation or administration of a trade union,
 - (ii)** has been expelled or suspended from membership in a trade union for a reason other than a failure to pay the periodic dues, assessments and initiation

fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union,

(iii) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Part,

(iv) has made or is about to make a disclosure that the person may be required to make in a proceeding under this Part,

(v) has made an application or filed a complaint under this Part, or

(vi) has participated in a strike that is not prohibited by this Part or exercised any right under this Part;

(b) impose any condition in a contract of employment that restrains, or has the effect of restraining, an employee from exercising any right conferred on them by this Part;

(c) suspend, discharge or impose any financial or other penalty on an employee, or take any other disciplinary action against an employee, by reason of their refusal to perform all or some of the duties and responsibilities of another employee who is participating in a strike or subject to a lockout that is not prohibited by this Part;

(d) deny to any employee any pension rights or benefits to which the employee would be entitled but for

(i) the cessation of work by the employee as the result of a lockout or strike that is not prohibited by this Part, or

(ii) the dismissal of the employee contrary to this Part;

(d.1) where the requirements of paragraphs 89(1)(a) to (d) have been met, cancel or threaten to cancel a medical, dental, disability, life or other insurance plan, whether administered by the employer or otherwise, that benefits employees, so long as the bargaining agent tenders or attempts to tender to the employer payments or premiums sufficient to continue the plan;

(d.2) where the requirements of paragraphs 89(1)(a) to (d) have been met and the bargaining agent has tendered or attempted to tender to the employer payments or premiums sufficient to continue an insurance plan referred to in paragraph (d.1), deny or threaten to deny to any employee any benefits under the plan to which the employee was entitled before those requirements were met;

(e) seek, by intimidation, threat of dismissal or any other kind of threat, by the imposition of a financial or other penalty or by any other means, to compel a person to refrain from becoming or to cease to be a member, officer or representative of a trade union or to refrain from

- (i) testifying or otherwise participating in a proceeding under this Part,
 - (ii) making a disclosure that the person may be required to make in a proceeding under this Part, or
 - (iii) making an application or filing a complaint under this Part;
- (f) suspend, discharge or impose any financial or other penalty on a person employed by them, or take any other disciplinary action against such a person, by reason of that person having refused to perform an act that is prohibited by this Part; or
- (g) bargain collectively for the purpose of entering into a collective agreement or enter into a collective agreement with a trade union in respect of a bargaining unit, if another trade union is the bargaining agent for that bargaining unit.

R.S., 1985, c. L-2, s. 94; 1998, c. 26, s. 42; 1999, c. 31, ss. 158(E), 162(E); 2000, c. 20, s. 23(E).

Prohibitions relating to trade unions

95 No trade union or person acting on behalf of a trade union shall

- (a) seek to compel an employer to bargain collectively with the trade union if the trade union is not the bargaining agent for a bargaining unit that includes employees of the employer;
- (b) bargain collectively for the purpose of entering into a collective agreement or enter into a collective agreement with an employer in respect of a bargaining unit, if that trade union or person knows or, in the opinion of the Board, ought to know that another trade union is the bargaining agent for that bargaining unit;
- (c) participate in or interfere with the formation or administration of an employers' organization;
- (d) except with the consent of the employer of an employee, attempt, at an employee's place of employment during the working hours of the employee, to persuade the employee to become, to refrain from becoming or to cease to be a member of a trade union;
- (e) require an employer to terminate the employment of an employee because the employee has been expelled or suspended from membership in the trade union for a reason other than a failure to pay the periodic dues, assessments and initiation fees uniformly required to be paid by all members of the trade union as a condition of acquiring or retaining membership in the trade union;
- (f) expel or suspend an employee from membership in the trade union or deny membership in the trade union to an employee by applying to the employee in a

discriminatory manner the membership rules of the trade union;

(g) take disciplinary action against or impose any form of penalty on an employee by applying to that employee in a discriminatory manner the standards of discipline of the trade union;

(h) expel or suspend an employee from membership in the trade union or take disciplinary action against or impose any form of penalty on an employee by reason of that employee having refused to perform an act that is contrary to this Part; or

(i) discriminate against a person with respect to employment, a term or condition of employment or membership in a trade union, or intimidate or coerce a person or impose a financial or other penalty on a person, because that person

(i) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Part,

(ii) has made or is about to make a disclosure that the person may be required to make in a proceeding under this Part, or

(iii) has made an application or filed a complaint under this Part.

1972, c. 18, s. 1.

General prohibition

96 No person shall seek by intimidation or coercion to compel a person to become or refrain from becoming or to cease to be a member of a trade union.

1972, c. 18, s. 1.

Complaints to the Board

97 (1) Subject to subsections (2) to (5), any person or organization may make a complaint in writing to the Board that

(a) an employer, a person acting on behalf of an employer, a trade union, a person acting on behalf of a trade union or an employee has contravened or failed to comply with [subsection 24\(4\)](#) or [34\(6\)](#) or [section 37, 47.3, 50, 69, 87.5](#) or [87.6](#), subsection 87.7(2) or section 94 or 95; or

(b) any person has failed to comply with [section 96](#).

Time for making complaint

(2) Subject to subsections (4) and (5), a complaint pursuant to subsection (1) must be made to the Board not later than ninety days after the date on which the complainant knew, or in the opinion of the Board ought to have known, of the action or circumstances giving rise to the complaint.

(3) [Repealed, 1998, c. 26, s. 43]**Limitation on complaints against trade unions**

(4) Subject to subsection (5), no complaint shall be made to the Board under subsection (1) on the ground that a trade union or any person acting on behalf of a trade union has failed to comply with paragraph 95(f) or (g) unless

(a) the complainant has presented a grievance or appeal in accordance with any procedure that has been established by the trade union and to which the complainant has been given ready access;

(b) the trade union

(i) has dealt with the grievance or appeal of the complainant in a manner unsatisfactory to the complainant, or

(ii) has not, within six months after the date on which the complainant first presented their grievance or appeal pursuant to paragraph (a), dealt with the grievance or appeal; and

(c) the complaint is made to the Board not later than ninety days after the first day on which the complainant could, in accordance with paragraphs (a) and (b), make the complaint.

Exception

(5) The Board may, on application to it by a complainant, determine a complaint in respect of an alleged failure by a trade union to comply with paragraph 95(f) or (g) that has not been presented as a grievance or appeal to the trade union, if the Board is satisfied that

(a) the action or circumstance giving rise to the complaint is such that the complaint should be dealt with without delay; or

(b) the trade union has not given the complainant ready access to a grievance or appeal procedure.

R.S., 1985, c. L-2, s. 97; 1991, c. 39, s. 2; 1998, c. 26, s. 43; 1999, c. 31, s. 162(E).

Duty and power of the Board

98 (1) Subject to subsection (3), on receipt of a complaint made under section 97, the Board may assist the parties to the complaint to settle the complaint and shall, where it decides not to so assist the parties or the complaint is not settled within a period considered by the Board to be reasonable in the circumstances, determine the complaint.

(2) [Repealed, 1998, c. 26, s. 44]**Board may refuse to determine complaint involving collective agreement**

(3) The Board may refuse to determine any complaint made pursuant to section 97 in respect of a matter that, in the opinion of the Board, could be referred by the complainant pursuant to a collective agreement to an arbitrator or arbitration board.

Burden of proof

(4) Where a complaint is made in writing pursuant to section 97 in respect of an alleged failure by an employer or any person acting on behalf of an employer to comply with subsection 94(3), the written complaint is itself evidence that such failure actually occurred and, if any party to the complaint proceedings alleges that such failure did not occur, the burden of proof thereof is on that party.

R.S., 1985, c. L-2, s. 98; 1998, c. 26, s. 44.

Board orders

99 (1) Where, under section 98, the Board determines that a party to a complaint has contravened or failed to comply with subsection 24(4) or 34(6), section 37, 47.3, 50 or 69, subsection 87.5(1) or (2), section 87.6, subsection 87.7(2) or section 94, 95 or 96, the Board may, by order, require the party to comply with or cease contravening that subsection or section and may

(a) in respect of a failure to comply with subsection 24(4), section 47.3, paragraph 50(b) or subsection 87.5(1) or (2) or 87.7(2), by order, require an employer to pay to any employee compensation not exceeding such sum as, in the opinion of the Board, is equivalent to the remuneration that would, but for that failure, have been paid by the employer to the employee;

(a.1) in respect of a contravention of subsection 34(6), by order, require an employer representative to take and carry on on behalf of any employer affected by the contravention, or to assist any such employer to take and carry on, such action or proceeding as the Board considers that the representative ought to have taken and carried on on the employer's behalf or ought to have assisted the employer to take and carry on;

(b) in respect of a contravention of section 37, require a trade union to take and carry on on behalf of any employee affected by the contravention or to assist any such employee to take and carry on such action or proceeding as the Board considers that the union ought to have taken and carried on on the employee's behalf or ought to have assisted the employee to take and carry on;

- (b.1)** in respect of a contravention of the obligation to bargain collectively in good faith mentioned in paragraph 50(a), by order, require that an employer or a trade union include in or withdraw from a bargaining position specific terms or direct a binding method of resolving those terms, if the Board considers that this order is necessary to remedy the contravention or counteract its effects;
- (b.2)** in respect of a failure to comply with section 87.6, by order, require an employer to reinstate any employee who the employer has failed to reinstate in accordance with that section and pay to the employee compensation not exceeding the sum that, in the opinion of the Board, is equivalent to the remuneration that would, but for that failure, have been paid by the employer to that employee;
- (b.3)** in respect of a failure to comply with subsection 94(2.1), by order, require the employer to stop using, for the duration of the dispute, the services of any person who was not an employee in the bargaining unit on the date on which notice to bargain collectively was given and was hired or assigned after that date to perform all or part of the duties of employees in the bargaining unit on strike or locked out;
- (c)** in respect of a failure to comply with paragraph 94(3)(a), (c) or (f), by order, require an employer to
- (i)** employ, continue to employ or permit to return to the duties of their employment any employee or other person whom the employer or any person acting on behalf of the employer has refused to employ or continue to employ, has suspended, transferred, laid off or otherwise discriminated against, or discharged for a reason that is prohibited by one of those paragraphs,
 - (ii)** pay to any employee or other person affected by that failure compensation not exceeding such sum as, in the opinion of the Board, is equivalent to the remuneration that would, but for that failure, have been paid by the employer to that employee or other person, and
 - (iii)** rescind any disciplinary action taken in respect of and pay compensation to any employee affected by that failure, not exceeding such sum as, in the opinion of the Board, is equivalent to any financial or other penalty imposed on the employee by the employer;
- (c.1)** in respect of a contravention of paragraph 94(3)(d.1) or (d.2), by order, require the employer to reinstate any medical, dental, disability, life or other insurance plan, or to pay to any employee any benefits under such a plan to which the employee was entitled before the requirements of paragraphs 89(1)(a) to (d) were met;
- (d)** in respect of a failure to comply with paragraph 94(3)(e), by order, require an employer to rescind any action taken in respect of and pay compensation to any

employee affected by the failure, not exceeding such sum as, in the opinion of the Board, is equivalent to any financial or other penalty imposed on the employee by the employer;

(e) in respect of a failure to comply with paragraph 95(f) or (h), by order, require a trade union to reinstate or admit an employee as a member of the trade union; and

(f) in respect of a failure to comply with paragraph 95(g), (h) or (i), by order, require a trade union to rescind any disciplinary action taken in respect of and pay compensation to any employee affected by the failure, not exceeding such sum as, in the opinion of the Board, is equivalent to any financial or other penalty imposed on the employee by the trade union.

Idem

(2) For the purpose of ensuring the fulfilment of the objectives of this Part, the Board may, in respect of any contravention of or failure to comply with any provision to which subsection (1) applies and in addition to or in lieu of any other order that the Board is authorized to make under that subsection, by order, require an employer or a trade union to do or refrain from doing any thing that it is equitable to require the employer or trade union to do or refrain from doing in order to remedy or counteract any consequence of the contravention or failure to comply that is adverse to the fulfilment of those objectives.

R.S., 1985, c. L-2, s. 99; 1991, c. 39, s. 3; 1998, c. 26, s. 45; 1999, c. 31, s. 162(E).

Certification

99.1 The Board may certify a trade union despite a lack of evidence of majority support if

(a) the employer has failed to comply with section 94; and

(b) the Board is of the opinion that, but for the unfair labour practice, the trade union could reasonably have been expected to have had the support of a majority of the employees in the unit.

1998, c. 26, s. 46.

Offences and Punishment

Lockout contrary to this Part

100 (1) Every employer who declares or causes a lockout contrary to this Part is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars for each day that the lockout continues.

Idem

(2) Every person who, on behalf of an employer, declares or causes a lockout contrary to this Part is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

Strike contrary to this Part

(3) Every trade union that declares or authorizes a strike contrary to this Part is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars for each day that the strike continues.

Idem

(4) Every officer or representative of a trade union who declares or authorizes a strike contrary to this Part is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

1972, c. 18, s. 1.

General offences by persons

101 (1) Subject to [section 100](#), every person other than an employer or a trade union who contravenes or fails to comply with any provision of this Part other than [section 50, 94 or 95](#) is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars.

General offences by employers or trade unions

(2) Subject to [section 100](#), every employer or trade union who or that contravenes or fails to comply with any provision of this Part other than [section 50, 94 or 95](#) is guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

1972, c. 18, s. 1.

Further offences

102 Every person who

(a) being required to attend to give evidence pursuant to [paragraph 16\(a\)](#), fails, without valid excuse, to attend accordingly,

(b) being commanded to produce, pursuant to [paragraph 16\(a\)](#), any document or thing in their possession or under their control, fails to produce the document or thing,

(c) refuses to be sworn or to affirm, as the case may be, after being required to do so pursuant to [paragraph 16\(a\)](#), or

(d) refuses to answer any proper question put to them, pursuant to paragraph 16(a), by the Board, a conciliation board, a conciliation commissioner, an arbitrator or an arbitration board,

is guilty of an offence and liable on summary conviction to a fine not exceeding four hundred dollars.

R.S., 1985, c. L-2, s. 102; 1999, c. 31, ss. 159(E), 162(E).

Prosecution of employers' organizations, trade unions and councils of trade unions

103 (1) A prosecution for an offence under this Part may be brought against and in the name of an employers' organization, a trade union or a council of trade unions.

Idem

(2) For the purpose of a prosecution under subsection (1),

(a) an employers' organization, trade union or council of trade unions shall be deemed to be a person; and

(b) any act or thing done or omitted to be done by an officer or agent of an employers' organization, trade union or council of trade unions within the scope of their authority to act on behalf of the employers' organization, trade union or council of trade unions shall be deemed to be an act or thing done or omitted to be done by the employers' organization, trade union or council of trade unions.

R.S., 1985, c. L-2, s. 103; 1999, c. 31, s. 162(E).

Consent of Board before prosecution

104 Except with the consent in writing of the Board, no prosecution shall be instituted in respect of an offence under this Part.

1972, c. 18, s. 1; 1977-78, c. 27, s. 69.

DIVISION VII

General

Promotion of Industrial Peace

Round-table meetings

104.1 The Minister shall meet from time to time with a group consisting of the experts in industrial relations, and representatives of employers and of trade unions, that the Minister considers advisable for the purpose of discussing industrial relations issues.

1998, c. 26, s. 47.

Mediators

105 (1) The Minister, on request or on the Minister's own initiative, may, where the Minister deems it expedient, at any time appoint a mediator to confer with the parties to a dispute or difference and endeavour to assist them in settling the dispute or difference.

Recommendations

(2) At the request of the parties or the Minister, a mediator appointed pursuant to subsection (1) may make recommendations for settlement of the dispute or the difference.

R.S., 1985, c. L-2, s. 105; 1998, c. 26, s. 48; 1999, c. 31, s. 160(E); 2000, c. 20, s. 24(E).

Inquiries regarding industrial matters

106 The Minister, on application or on the Minister's own initiative, may, where the Minister deems it expedient, make any inquiries that the Minister considers advisable regarding matters that may affect industrial relations.

R.S., 1985, c. L-2, s. 106; 1999, c. 31, s. 160(E).

Additional powers

107 The Minister, where the Minister deems it expedient, may do such things as to the Minister seem likely to maintain or secure industrial peace and to promote conditions favourable to the settlement of industrial disputes or differences and to those ends the Minister may refer any question to the Board or direct the Board to do such things as the Minister deems necessary.

R.S., 1985, c. L-2, s. 107; 1999, c. 31, s. 160(E).

Industrial Inquiry Commission

108 (1) Pursuant to section 106 or where, in any industry, a dispute or difference between any employer and employees exists or is apprehended, the Minister may appoint a commission to be designated as an Industrial Inquiry Commission and to which the Minister shall refer the matter under consideration for investigation and report to the Minister.

Idem

(2) Where a matter under consideration is referred, pursuant to subsection (1), to an Industrial Inquiry Commission, the Minister shall

- (a)** furnish the Commission with a statement of the matter; and
- (b)** where the inquiry will involve any particular person or organization, inform the person or organization of the appointment.

Composition of Commission

(3) An Industrial Inquiry Commission shall consist of one or more members to be appointed by the Minister.

Functions of Commission

(4) Forthwith on its appointment, an Industrial Inquiry Commission

- (a)** shall inquire into the matters referred to it by the Minister and endeavour to carry out its terms of reference; and
- (b)** where the Commission is inquiring into a dispute or difference between any employer and employees and a settlement of the dispute or difference is not effected during the inquiry, shall make its report and recommendations to the Minister within fourteen days after its appointment or within such longer period as the Minister may allow.

Distribution and publication of report

(5) On receipt of a report of an Industrial Inquiry Commission relating to any dispute or difference between any employer and employees, the Minister shall

- (a)** furnish a copy of the report to each employer and trade union involved in the dispute or difference; and
- (b)** publish the report in such manner as the Minister considers advisable.

Powers of Commission

(6) An Industrial Inquiry Commission has all of the powers of a person appointed as a Commissioner under Part I of the *Inquiries Act*.
R.S., 1985, c. L-2, s. 108; 1999, c. 31, s. 161(E).

Vote on Employer's Offer

Minister may order vote to be held

108.1 (1) Where notice to bargain collectively has been given under this Part, and the Minister is of the opinion that it is in the public interest that the employees in the

affected bargaining unit be given the opportunity to accept or reject the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties, the Minister may

- (a) on such terms and conditions as the Minister considers appropriate, direct that a vote of the employees in the bargaining unit to accept or reject the offer be held as soon as possible; and
- (b) designate the Board, or any other person or body, to be in charge of conducting that vote.

No effect on time limits or periods

(2) A direction under subsection (1) that a vote be held, or the holding of that vote, does not abridge or extend any time limit or period provided for in this Part, including those stipulated in section 89 for the acquisition of the right to lockout or strike.

Consequences of favourable vote

(3) Where the majority of the employees participating in the vote accept the employer's last offer,

- (a) the parties are bound by that offer and shall, without delay, enter into a collective agreement that incorporates the terms of that offer; and
- (b) any lockout or strike not prohibited by this Part that is in progress when the Board or other person or body in charge of conducting the vote notifies the parties in writing of the employees' acceptance shall cease forthwith.

Powers respecting vote

(4) The Board or other person or body in charge of conducting the vote shall determine any question that arises under this section, including any question relating to the conduct of the vote or the determination of its result.

1993, c. 42, s. 2.

Access to Employees

Application for access order

109 (1) Where the Board receives from a trade union an application for an order granting an authorized representative of the trade union access to employees living in an isolated location on premises owned or controlled by their employer or by any other person, the Board may make an order granting the authorized representative of the trade union designated in the order access to the employees on the premises of their

employer or such other person, as the case may be, that are designated in the order if the Board determines that access to the employees

- (a)** would be impracticable unless permitted on premises owned or controlled by their employer or by such other person; and
- (b)** is reasonably required for purposes relating to soliciting union memberships, the negotiation or administration of a collective agreement, the processing of a grievance or the provision of a union service to employees.

Content of order

(2) The Board shall, in every order made under subsection (1), specify the method of access to the employees, the times at which access is permitted and the periods of its duration.

1972, c. 18, s. 1; 1977-78, c. 27, s. 69.1.

Communication with off-site workers

109.1 (1) On application by a trade union, the Board may, by order, require an employer to give an authorized representative of the trade union mentioned in the order, or the Board, or both, the names and addresses of employees whose normal workplace is not on premises owned or controlled by their employer and authorize the trade union to communicate with those employees, by electronic means or otherwise, if the Board is of the opinion that such communication is required for purposes relating to soliciting trade union memberships, the negotiation or administration of a collective agreement, the processing of a grievance or the provision of a trade union service to employees.

Contents of order

(2) An order made under subsection (1)

- (a)** must specify the method of communication, the times of day and the periods during which the communication is authorized, and the conditions that must be met in order to ensure the protection of the privacy and the safety of affected employees and to prevent the abusive use of information; and

- (b)** may include a requirement that the employer, in accordance with any terms and conditions that the Board establishes, transmit the information that the union wishes to communicate to the employees by means of any electronic communications system that the employer uses to communicate with the employees.

Board transmission

(3) If the Board is of the opinion that the privacy and safety of affected employees cannot otherwise be protected, the Board may

- (a)** provide each employee with the opportunity to refuse the giving of their name and address to the representative of the trade union that the Board authorizes and, if the employee does not so refuse, may transmit that name and address to the authorized representative; or
- (b)** transmit the information that the union wishes to communicate to the employees in the manner it considers appropriate.

Protection of names and addresses

(4) The names and addresses of employees provided under subsection (1) shall not be used unless it is for a purpose consistent with this section.

1998, c. 26, s. 50.

Access to Financial Statements

Financial statement of trade union and employers' organization

110 (1) Every trade union and every employers' organization shall, forthwith on the request of any of its members, provide the member, free of charge, with a copy of a financial statement of its affairs to the end of the last fiscal year, certified to be a true copy by its president and treasurer or by its president and any other officer responsible for the handling and administration of its funds.

Idem

(2) Any financial statement provided under subsection (1) shall contain information in sufficient detail to disclose accurately the financial condition and operations of the trade union or employers' organization for the fiscal year for which it was prepared.

Complaint to Board where failure to provide financial statement

(3) The Board, on the complaint of any member of a trade union or employers' organization that it has failed to comply with subsection (1), may make an order requiring the trade union or employers' organization to file with the Board, within the time set out in the order, a statement in such form and with such particulars as the Board may determine.

Order of the Board

(4) The Board may make an order requiring a trade union or employers' organization to provide a copy of a statement filed under subsection (3) to such members of the trade union or employers' organization as the Board in its discretion directs.

1977-78, c. 27, s. 70; 1980-81-82-83, c. 47, s. 53(F); 1984, c. 40, s. 79(F).

Regulations

Regulations

111 The Governor in Council may make regulations

- (a) prescribing to or by whom and in what manner any notice, request or report that may be given or made to or received by the Minister shall be given, made or received;
- (b) prescribing in what form and manner any notice or report that is authorized or required to be given or sent by the Minister, a conciliation commissioner, a conciliation board or an Industrial Inquiry Commission shall be given or sent and what shall constitute sufficient service of such notice or report on the person to whom it is given or sent;
- (c) designating, with respect to any notice or request authorized or required to be given or sent by the Minister, the officer who may give or send the notice or request on behalf of the Minister;
- (d) prescribing the form and content of a notice to commence collective bargaining;
- (e) prescribing the form and content of a notice under [section 71](#) and prescribing any additional information that is to be furnished with such a notice;
- (f) prescribing the form and content of a notice under [section 87.2](#) and prescribing any additional information that is to be furnished with such a notice;
- (g) and (h) [Repealed, 1998, c. 26, s. 51]
- (i) prescribing the form and content of any written request to the Minister under [subsection 57\(2\)](#) or (4) and prescribing any additional information that is to be furnished with such a request;
- (j) prescribing the manner in which and the time within which a copy of an order or decision referred to in [section 59](#) shall be filed with the Minister;
- (k) prescribing the circumstances in which copies of orders and decisions filed with the Minister pursuant to [section 59](#) may be examined by members of the public and the fees, if any, to be charged for providing copies thereof; and
- (l) prescribing the manner in which a report of a conciliation commissioner or a conciliation board may be released by the Minister to the parties to a dispute pursuant to [paragraph 77\(a\)](#).

R.S., 1985, c. L-2, s. 111; 1998, c. 26, s. 51.

Delegation

111.1 The Minister may delegate to the head of the Federal Mediation and Conciliation Service his or her powers of appointment under this Act.

1998, c. 26, s. 52.

Miscellaneous

Documents as evidence

112 (1) Any document purporting to contain or to be a copy of any order or decision of the Board and purporting to be signed by a member of the Board is admissible in any court in evidence without proof of the signature or official character of the person appearing to have signed the document and without further proof thereof.

Certificate of Minister is evidence

(2) A certificate purporting to be signed by the Minister or an official of the Federal Mediation and Conciliation Service stating that a report, request or notice was or was not received or given by the Minister pursuant to this Part and, if so received or given, stating the date on which it was so received or given, is admissible in any court in evidence without proof of the signature or official character of the person appearing to have signed the certificate and without further proof thereof.

R.S., 1985, c. L-2, s. 112; 1998, c. 26, s. 53.

Late report not invalid

113 The failure of a conciliation officer, conciliation commissioner or conciliation board to report to the Minister within a period limited by this Part does not invalidate the proceeding or terminate the authority of the conciliation officer, conciliation commissioner or conciliation board.

1972, c. 18, s. 1.

Defect in form or irregularity

114 No proceeding under this Part is invalid by reason only of a defect in form or a technical irregularity.

1972, c. 18, s. 1.

Collective agreement to be filed

115 Each party to a collective agreement shall, forthwith on its execution, file one copy of the collective agreement with the Minister.

1972, c. 18, s. 1.

Remuneration and expenses

116 The members of an Industrial Inquiry Commission, the members of a conciliation board and every person not employed in the federal public administration who acts as a conciliation officer or conciliation commissioner or who functions under this Part in any other capacity at the request of the Minister, except as an arbitrator or arbitration board chairperson, shall be paid such remuneration and expenses as may be fixed by the Governor in Council by regulation or by order.

R.S., 1985, c. L-2, s. 116; 1998, c. 26, s. 59(E); [2003, c. 22, s. 224\(E\)](#).

Persons deemed not to be employed in public service

117 Unless the Governor in Council otherwise orders in a case or class of cases, a person appointed under this Part shall be deemed not to be employed in the public service for the purposes of the [*Public Service Superannuation Act*](#).

R.S., 1985, c. L-2, s. 117; [2003, c. 22, s. 225\(E\)](#).

Witness fees and expenses

118 A person who is summoned by the Board, a conciliation board, a conciliation commissioner or an Industrial Inquiry Commission to attend as a witness in any proceeding taken under this Part, and who so attends, is entitled to be paid an allowance for expenses and a witness fee, determined in accordance with the scale for the time being in force with respect to witnesses in civil suits in the superior court of the province in which the proceeding is being taken.

1972, c. 18, s. 1.

Not required to give evidence — Part I

119 (1) No member of a conciliation board or no conciliation officer, conciliation commissioner, officer or employee employed in the federal public administration or person appointed by the Board or the Minister under this Part shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of their duties under this Part.

Not required to give evidence — Act

(1.1) No member of the Board or no external adjudicator shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of their duties under this Act.

Chief Administrator and employees not required to give evidence

(2) Neither the Chief Administrator nor an employee of the Administrative Tribunals Support Service of Canada shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of their duties in providing services to the Board.

R.S., 1985, c. L-2, s. 119; 1999, c. 31, s. 162(E); [2003, c. 22, s. 224\(E\)](#); [2014, c. 20, s. 420](#); [2017, c. 20, s. 336](#).

No disclosure

119.1 For greater certainty, the following may not be disclosed without the consent of the person who made them:

- (a)** notes or draft orders or decisions of the Board or any of its members, of an external adjudicator or of an arbitrator or arbitration board chairperson appointed by the Minister under this Part; and
- (b)** notes or draft reports of persons appointed by the Minister under this Part to assist in resolving disputes or differences, or of persons authorized or designated by the Board to assist in resolving complaints or issues in dispute before the Board.

1998, c. 26, s. 54; [2017, c. 20, s. 337](#).

Arrangements with Provinces

Where uniform provincial legislation

120 (1) Where this Part and legislation enacted by the legislature of a province are substantially uniform, the Minister may, on behalf of the Government of Canada, with the approval of the Governor in Council, enter into an agreement with the government of the province to provide for the administration of the legislation of the province by officers and employees employed in the federal public administration.

Agreement for administration by Canada

(2) An agreement made pursuant to subsection (1) in respect of the administration of any legislation of a province may provide

- (a)** for the administration by Canada of the legislation of the province with respect to any particular work, undertaking or business;
- (b)** that the Minister may, on behalf of the province, exercise the powers conferred or perform the duties imposed under the legislation of the province;
- (c)** that the members of the Board, or officers and employees employed in the federal public administration, may exercise the powers conferred or perform the duties imposed under the legislation of the province; and

(d) for payment by the government of the province to the Government of Canada for expenses incurred by the Government of Canada in the administration of the legislation of the province.

Where powers or duties conferred by provincial legislation

(3) Where an agreement has been entered into between the Government of Canada and the government of a province in respect of any legislation of the province, the Minister, the members of the Board and any officers or employees employed in the federal public administration may, if the legislation so provides and the Governor in Council so orders, exercise the powers and perform the duties specified in the legislation or agreement.

R.S., 1985, c. L-2, s. 120; [2003, c. 22, s. 224\(E\)](#).

Annual Reports

Annual report of Board

121 (1) The Board shall, on or before January 31 next following the end of each fiscal year, submit to the Minister a report on the activities of the Board during the immediately preceding fiscal year and the Minister shall cause the report to be laid before Parliament within fifteen days after the receipt thereof or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting.

(2) [Repealed, [1996, c. 11, s. 65](#)]

R.S., 1985, c. L-2, s. 121; [1996, c. 11, s. 65](#).

Application of Provincial Laws

Provincial Crown corporations

121.1 The Governor in Council may by regulation direct that this Part applies in respect of any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation that is, or is part of, a corporation that is an agent of Her Majesty in right of a province and whose activities are regulated, in whole or in part, pursuant to the [Nuclear Safety and Control Act](#).

[1996, c. 12, s. 1](#); [1997, c. 9, s. 125](#).

Exclusion from application

121.2 (1) The Governor in Council may by regulation exclude, in whole or in part, from the application of any of the provisions of this Part any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the

regulation whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

Regulations

(2) On the recommendation of the Minister, the Governor in Council may make regulations respecting any matter relating to industrial relations, including the prevention of a work stoppage or the continuation or resumption of operations, in relation to employment that is subject to a regulation made pursuant to subsection (1).

Incorporation of provincial law

(3) A regulation made under subsection (2) incorporating by reference, in whole or in part, an Act of the legislature of a province or an instrument made under such an Act may incorporate the Act or instrument as amended to a certain date or from time to time.

Application of regulation

(4) A regulation made under subsection (2) may apply

- (a)** generally, with respect to all employment that is subject to a regulation made pursuant to subsection (1); or
- (b)** to any class or classes of employment that are subject to a regulation made pursuant to subsection (1).

Administration and enforcement

(5) A regulation made under subsection (2) incorporating an Act or instrument shall, after consultation by the Minister with the appropriate provincial minister, be administered and enforced by the person or authority that is responsible for the administration and enforcement of the Act or instrument.

Offence and penalty

(6) Subject to subsection (7), every person who contravenes a regulation made under subsection (2) by contravening a provision of an Act of the legislature of a province that, or an instrument made under such an Act that, is incorporated by the regulation is guilty of an offence against this Act and liable to the same punishment as is imposed by or under an Act of that legislature for the contravention of that provision.

Defence

(7) No person may be convicted of an offence or subjected to a punishment for a contravention described in subsection (6) unless it is proved that, at the time of the

alleged contravention,

- (a) the incorporated Act or instrument was reasonably accessible to the person;
- (b) reasonable steps had been taken to ensure that the incorporated Act or instrument was accessible to persons likely to be affected by the regulation; or
- (c) the incorporated Act or instrument had been published in the official gazette of the province or as otherwise authorized by the legislature of the province.

Procedure

(8) The prosecution of a contravention described in subsection (6) shall be commenced by the attorney general of the province in which the offence was committed.
1996, c. 12, s. 1; 1997, c. 9, s. 125.

Non-application of *Statutory Instruments Act*

121.3 Subsection 5(1) of the *Statutory Instruments Act* does not apply to a regulation made pursuant to section 121.1 or 121.2.

1996, c. 12, s. 1.

Definition of regulation

121.4 (1) In this section, **regulation** means a regulation made under subsection 121.2(2).

Bargaining agents

(2) A bargaining agent that represents a bargaining unit immediately before the time when a regulation is made to which the employees in the bargaining unit are subject continues, at that time, to represent the bargaining unit for the purposes of the application of the regulation.

Collective agreements continued

(3) Every collective agreement that is in force immediately before the time when a regulation is made that applies to employees who are subject to the collective agreement continues in force, at that time, under the regulation until its term expires.

Notice to bargain

(4) A notice to bargain given under this Part is deemed, at the time when a regulation is made to which the employees who are affected by the notice to bargain are subject, to have been given pursuant to the regulation on the day on which it was given.

Acquired rights, etc.

(5) Any rights, privileges or duties acquired under this Part by the bargaining unit, bargaining agent, employer or employees before the time when a regulation is made are deemed to have been acquired pursuant to the regulation on the day on which they were acquired.

Decisions

(6) A person or authority that, under an Act of the legislature of a province, is competent to decide a matter that is contemplated by this section in relation to a provision of an Act of the legislature of a province or an instrument made under such an Act may, on application by the employer or bargaining agent or, where the person or authority considers it appropriate, an employee, decide any matter that is contemplated by this section in relation to a regulation incorporating that provision.
1996, c. 12, s. 1.

Regulations

121.5 Notwithstanding [section 121.4](#), the Governor in Council may make regulations respecting any matter referred to in that section in relation to a regulation made under [subsection 121.2\(2\)](#).

1996, c. 12, s. 1.

PART II

Occupational Health and Safety

Interpretation

Definitions

122 (1) In this Part,

appeals officer [Repealed, 2017, c. 20, s. 338]

Board [Repealed, 2017, c. 20, s. 338]

collective agreement has the same meaning as in [section 166](#); (*convention collective*)

danger means any hazard, condition or activity that could reasonably be expected to be an imminent or serious threat to the life or health of a person exposed to it before the hazard or condition can be corrected or the activity altered; (*danger*)

employee means a person employed by an employer; (*employé*)

employer means a person who employs one or more employees and includes an employers' organization and any person who acts on behalf of an employer; (*employeur*)

harassment and violence means any action, conduct or comment, including of a sexual nature, that can reasonably be expected to cause offence, humiliation or other physical or psychological injury or illness to an employee, including any prescribed action, conduct or comment; (*harcèlement et violence*)

hazardous substance includes a hazardous product and a chemical, biological or physical agent that, by reason of a property that the agent possesses, is hazardous to the safety or health of a person exposed to it; (*substance dangereuse*)

health and safety officer [Repealed, 2013, c. 40, s. 176]

health and safety representative means a person who is appointed as a health and safety representative under section 136; (*représentant*)

policy committee means a policy health and safety committee established under section 134.1; (*comité d'orientation*)

prescribe means prescribe by regulation of the Governor in Council or determine in accordance with rules prescribed by regulation of the Governor in Council; (*règlement*)

regional health and safety officer [Repealed, 2013, c. 40, s. 176]

regional safety officer [Repealed, 2000, c. 20, s. 2]

safety means protection from danger and hazards arising out of, linked with or occurring in the course of employment; (*sécurité*)

safety and health committee [Repealed, 2000, c. 20, s. 2]

safety and health representative [Repealed, 2000, c. 20, s. 2]

safety officer [Repealed, 2000, c. 20, s. 2]

work place means any place where an employee is engaged in work for the employee's employer; (*lieu de travail*)

work place committee means a work place health and safety committee established under section 135. (*comité local*)

Definitions

(2) In this Part, **hazardous product, label** and **safety data sheet** have the same meanings as in section 2 of the *Hazardous Products Act*.

Idem

(3) Except where otherwise provided in this Part, all other words and expressions have the same meanings as in Part I.

R.S., 1985, c. L-2, s. 122; R.S., 1985, c. 9 (1st Supp.), s. 1, c. 24 (3rd Supp.), s. 3; 1993, c. 42, s. 3; 1998, c. 26, s. 55; 2000, c. 20, s. 2; [2013, c. 40, s. 176](#); [2014, c. 20, s. 139](#); [2017, c. 20, s. 338](#); [2018, c. 22, s. 0.1](#).

Purpose of Part

Prevention of accidents, injuries and illnesses

122.1 The purpose of this Part is to prevent accidents, occurrences of harassment and violence and physical or psychological injuries and illnesses arising out of, linked with or occurring in the course of employment to which this Part applies.

R.S., 1985, c. 9 (1st Supp.), s. 1; [2018, c. 22, s. 1](#).

Preventive measures

122.2 Preventive measures should consist first of the elimination of hazards, then the reduction of hazards and finally, the provision of personal protective equipment, clothing, devices or materials, all with the goal of ensuring the health and safety of employees.

2000, c. 20, s. 3.

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.

[2018, c. 27, s. 536](#).

Methods of Communication

Rights of employees

122.3 (1) An employee with a special need shall be given any direction, notice, information, instruction or training that is required to be given to employees under this

Part by any method of communication that readily permits the employee to receive it, including braille, large print, audio tape, computer disk, sign language and verbal communication.

Meaning of special need

(2) For the purposes of this section, an employee has a special need if the employee is affected by a condition that impairs their ability to receive any direction, notice, information, instruction or training given by a method that would otherwise be sufficient under this Part.

2000, c. 20, s. 3.

Application

Application of Part

123 (1) Notwithstanding any other Act of Parliament or any regulations thereunder, this Part applies to and in respect of employment

(a) on or in connection with the operation of any federal work, undertaking or business other than a work, undertaking or business of a local or private nature in Yukon, the Northwest Territories or Nunavut;

(b) by a corporation established to perform any function or duty on behalf of the Government of Canada; and

(c) by a Canadian carrier, as defined in [section 2](#) of the *Telecommunications Act*, that is an agent of Her Majesty in right of a province.

Application to federal public administration

(2) This Part applies to the federal public administration and to persons employed in the federal public administration to the extent provided for under Part 3 of the [Federal Public Sector Labour Relations Act](#).

Persons appointed and their employer

(2.1) This Part applies to persons appointed under [subsection 128\(1\)](#) of the [Public Service Employment Act](#), other than persons appointed by a person holding the recognized position of Leader of the Opposition in the Senate or Leader of the Opposition in the House of Commons, and to their employer.

Application to other persons

(3) This Part applies to any person who is not an employee but who performs for an employer to which this Part applies activities whose primary purpose is to enable the person to acquire knowledge or experience, and to the employer, as if that person were

an employee of the employer, and every provision of this Part must be read accordingly.

R.S., 1985, c. L-2, s. 123; R.S., 1985, c. 9 (1st Supp.), s. 2; 1993, c. 28, s. 78, c. 38, s. 89; 2000, c. 20, s. 4; [2002, c. 7, s. 97\(E\)](#); [2003, c. 22, s. 110](#); [2015, c. 36, s. 87](#); [2017, c. 9, s. 55](#); [2018, c. 22, s. 2](#).

Canadian Human Rights Act

123.1 For greater certainty, nothing in this Part shall be construed so as to abrogate or derogate from the rights provided for under the [Canadian Human Rights Act](#).

R.S., 1985, c. 9 (1st Supp.), s. 3; [1996, c. 12, s. 2](#); [2018, c. 22, s. 2.1](#).

Duties of Employers

General duty of employer

124 Every employer shall ensure that the health and safety at work of every person employed by the employer is protected.

R.S., 1985, c. L-2, s. 124; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 5.

Specific duties of employer

125 (1) Without restricting the generality of [section 124](#), every employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls the activity,

- (a)** ensure that all permanent and temporary buildings and structures meet the prescribed standards;
- (b)** install guards, guard-rails, barricades and fences in accordance with prescribed standards;
- (c)** except as provided for in the regulations, investigate, record and report, in accordance with the regulations, all accidents, occurrences of harassment and violence, occupational illnesses and other hazardous occurrences known to the employer;
- (d)** make readily available to employees, in printed and electronic form,
 - (i)** a copy of this Part and a copy of the regulations made under this Part that apply to the work place,
 - (ii)** a statement of the employer's general policy concerning the health and safety at work of employees, and

(iii) any other information related to health and safety that is prescribed or that may be specified by the Head;

(e) [Repealed, 2018, c. 22, s. 3]

(f) if the information referred to in any of subparagraphs (d)(i) to (iii) is made available in electronic form, ensure that employees receive appropriate training to enable them to have access to the information and, on the request of an employee, make a printed copy of the information available;

(g) keep and maintain in prescribed form and manner prescribed health and safety records;

(h) provide prescribed first-aid facilities and health services;

(i) provide prescribed sanitary and personal facilities;

(j) provide, in accordance with prescribed standards, potable water;

(k) ensure that the vehicles and mobile equipment used by the employees in the course of their employment meet prescribed standards;

(l) provide every person granted access to the work place by the employer with prescribed safety materials, equipment, devices and clothing;

(m) ensure that the use, operation and maintenance of the following are in accordance with prescribed standards:

(i) boilers and pressure vessels,

(ii) escalators, elevators and other devices for moving persons or freight,

(iii) all equipment for the generation, distribution or use of electricity,

(iv) gas or oil burning equipment or other heat generating equipment, and

(v) heating, ventilation and air-conditioning systems;

(n) ensure that the levels of ventilation, lighting, temperature, humidity, sound and vibration are in accordance with prescribed standards;

(o) comply with prescribed standards relating to fire safety and emergency measures;

(p) ensure, in the prescribed manner, that employees have safe entry to, exit from and occupancy of the work place;

(q) provide, in the prescribed manner, each employee with the information, instruction, training and supervision necessary to ensure their health and safety at work;

- (r)** maintain all installed guards, guard-rails, barricades and fences in accordance with prescribed standards;
- (s)** ensure that each employee is made aware of every known or foreseeable health or safety hazard in the area where the employee works;
- (t)** ensure that the machinery, equipment and tools used by the employees in the course of their employment meet prescribed health, safety and ergonomic standards and are safe under all conditions of their intended use;
- (u)** ensure that the work place, work spaces and procedures meet prescribed ergonomic standards;
- (v)** adopt and implement prescribed safety codes and safety standards;
- (w)** ensure that every person granted access to the work place by the employer is familiar with and uses in the prescribed circumstances and manner all prescribed safety materials, equipment, devices and clothing;
- (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;
- (y)** ensure that the activities of every person granted access to the work place do not endanger the health and safety of employees;
- (z)** ensure that employees who have supervisory or managerial responsibilities are adequately trained in health and safety and are informed of the responsibilities they have under this Part where they act on behalf of their employer;
- (z.01)** ensure that members of policy and work place committees and health and safety representatives receive the prescribed training in health and safety and are informed of their responsibilities under this Part;
- (z.02)** respond as soon as possible to reports made by employees under paragraph 126(1)(g);
- (z.03)** develop, implement and monitor, in consultation with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative, a prescribed program for the prevention of hazards in the work place appropriate to its size and the nature of the hazards in it that also provides for the education of employees in health and safety matters;
- (z.04)** where the program referred to in paragraph (z.03) does not cover certain hazards unique to a work place, develop, implement and monitor, in consultation with the work place committee or the health and safety representative, a prescribed program for the prevention of those hazards that also provides for the education of employees in health and safety matters related to those hazards;

(z.05) consult the policy committee or, if there is no policy committee, the work place committee or the health and safety representative to plan the implementation of changes that might affect occupational health and safety, including work processes and procedures;

(z.06) consult the work place committee or the health and safety representative in the implementation of changes that might affect occupational health and safety, including work processes and procedures;

(z.07) ensure the availability in the work place of premises, equipment and personnel necessary for the operation of the policy and work place committees;

(z.08) cooperate with the policy and work place committees or the health and safety representative in the execution of their duties under this Part;

(z.09) develop health and safety policies and programs in consultation with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative;

(z.10) respond in writing to recommendations made by the policy and work place committees or the health and safety representative within thirty days after receiving them, indicating what, if any, action will be taken and when it will be taken;

(z.11) provide to the policy committee, if any, and to the work place committee or the health and safety representative, a copy of any report on hazards in the work place, including an assessment of those hazards;

(z.12) ensure that the work place committee or the health and safety representative inspects each month all or part of the work place, so that every part of the work place is inspected at least once each year;

(z.13) when necessary, develop, implement and monitor a program for the provision of personal protective equipment, clothing, devices or materials, in consultation, except in emergencies, with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative;

(z.14) take all reasonable care to ensure that all of the persons granted access to the work place, other than the employer's employees, are informed of every known or foreseeable health or safety hazard to which they are likely to be exposed in the work place;

(z.15) meet with the health and safety representative as necessary to address health and safety matters;

(z.16) take the prescribed measures to prevent and protect against harassment and violence in the work place, respond to occurrences of harassment and violence

in the work place and offer support to employees affected by harassment and violence in the work place;

(z.161) ensure that employees, including those who have supervisory or managerial responsibilities, receive training in the prevention of harassment and violence in the work place and are informed of their rights and obligations under this Part in relation to harassment and violence;

(z.162) undergo training in the prevention of harassment and violence in the work place;

(z.163) ensure that the person designated by the employer to receive complaints relating to occurrences of harassment and violence has knowledge, training and experience in issues relating to harassment and violence and has knowledge of relevant legislation;

(z.17) post and keep posted, in a conspicuous place or places where they are likely to come to the attention of employees, the names, work place telephone numbers and work locations of all of the members of work place committees or of the health and safety representative;

(z.18) provide, within thirty days after receiving a request, or as soon as possible after that, the information requested from the employer by a policy committee under subsection 134.1(5) or (6), by a work place committee under subsection 135(8) or (9) or by a health and safety representative under subsection 136(6) or (7); and

(z.19) consult with the work place committee or the health and safety representative on the implementation and monitoring of programs developed in consultation with the policy committee.

Exception

(2) Paragraph (1)(z.17) does not apply to an employer who controls

(a) a single work place at which fewer than twenty employees are normally employed, if all of those employees and the health and safety representative normally work at the same time and in the same location; or

(b) a single work place at which only one employee is normally employed.

Regulations

(3) The Governor in Council may make regulations respecting the investigations, records and reports referred to in paragraph (1)(c).

Former employees

(4) Except as provided for in the regulations, the obligations set out in paragraphs (1) (c) and (z.16) apply to an employer in respect of a former employee in relation to an occurrence of harassment and violence in the work place if the occurrence becomes known to the employer within three months after the day on which the former employee ceases to be employed by the employer.

Extension

(5) On application by a former employee, the Head may, in the prescribed circumstances, extend the time period referred to in subsection (4).

Regulations — former employees

(6) For the purpose of subsection (4), the Governor in Council may make regulations respecting an employer's obligations in respect of former employees.

R.S., 1985, c. L-2, s. 125; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 24 (3rd Supp.), s. 4; 1993, c. 42, s. 4(F); 2000, c. 20, s. 5; [2013, c. 40, s. 177](#); [2017, c. 20, s. 339](#); [2018, c. 22, s. 3](#); [2018, c. 27, s. 537](#); [2018, c. 27, s. 623](#).

Further specific duties of employer

125.1 Without restricting the generality of [section 124](#) or limiting the duties of an employer under [section 125](#) but subject to any exceptions that may be prescribed, every employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls the activity,

- (a)** ensure that concentrations of hazardous substances in the work place are controlled in accordance with prescribed standards;
- (b)** ensure that all hazardous substances in the work place are stored and handled in the manner prescribed;
- (c)** ensure that all hazardous substances in the work place, other than hazardous products, are identified in the manner prescribed;
- (d)** subject to the [Hazardous Materials Information Review Act](#), ensure that each hazardous product in the work place or each container in the work place in which a hazardous product is contained has affixed to it, printed on it, attached to it or otherwise applied to it a label that meets the prescribed requirements;
- (e)** subject to the [Hazardous Materials Information Review Act](#), make available to every employee, in the prescribed manner, a safety data sheet for each hazardous product to which the employee may be exposed that meets the requirements set out in the regulations made under [subsection 15\(1\)](#) of the [Hazardous Products Act](#);

(f) where employees may be exposed to hazardous substances, investigate and assess the exposure in the manner prescribed, with the assistance of the work place committee or the health and safety representative; and

(g) ensure that all records of exposure to hazardous substances are kept and maintained in the prescribed manner and that personal records of exposure are made available to the affected employees.

R.S., 1985, c. 24 (3rd Supp.), s. 5; 1993, c. 42, s. 5(F); 2000, c. 20, s. 6; 2014, c. 20, s. 140.

Employer to provide information in emergency

125.2 (1) An employer shall, in respect of every work place controlled by the employer and, in respect of every work activity carried out by an employee in a work place that is not controlled by the employer, to the extent that the employer controls that activity, provide, in respect of any hazardous product to which an employee may be exposed, as soon as is practicable in the circumstances, any information that is included in the safety data sheet that is in the employer's possession for the hazardous product to any physician or other prescribed medical professional who requests that information for the purpose of making a medical diagnosis of, or rendering medical treatment to, an employee in an emergency.

Information to be kept confidential

(2) Any physician or other prescribed medical professional to whom information is provided by an employer pursuant to subsection (1) shall keep confidential any information specified by the employer as being confidential, except for the purpose for which it is provided.

R.S., 1985, c. 24 (3rd Supp.), s. 5; 2000, c. 20, s. 7; 2014, c. 20, s. 141.

Coal mines

125.3 (1) Every employer of employees employed in a coal mine shall

(a) comply with every condition imposed on the employer pursuant to paragraph 137.2(2)(b) or (3)(a);

(b) comply with every provision substituted for a provision of the regulations, in respect of the employer, pursuant to paragraph 137.2(3)(b);

(c) permit inspections and tests to be carried out on behalf of the employees, in any part of the mine and on any machinery or equipment therein, in the prescribed manner and at intervals not greater than the prescribed interval; and

(d) as a condition of carrying out any activity for which the submission of plans and procedures is prescribed, submit to the Coal Mining Safety Commission for approval, in the form and manner and at the time prescribed, plans and procedures relating to that activity and carry out the activity in conformity with plans and procedures as approved.

Methods, machinery and equipment

(2) No employer shall require or permit the use in a coal mine of any mining method, machinery or equipment in respect of which no prescribed safety standards are applicable unless the use thereof has been approved pursuant to [paragraph 137.2\(2\)\(a\)](#).

Searches

(3) Every employer of employees employed in a coal mine shall, at intervals not greater than the prescribed interval, for the purpose of preventing alcohol, articles for use in smoking and drugs, other than drugs exempted by the regulations, from being brought into the mine,

(a) require every person entering an underground portion of the mine who is not employed there to submit to a personal search conducted in the prescribed manner; and

(b) require a proportion, not less than the prescribed proportion, of employees employed in the underground portions of the mine to submit to personal searches conducted in the prescribed manner.

Definition of coal mine

(4) For the purposes of this section and [section 137.2](#), **coal mine** includes any work place above ground that is used in the operation of the mine and is under the control of the employer of employees employed in the mine.

R.S., 1985, c. 26 (4th Supp.), s. 1.

Duties of Employees

Health and safety matters

126 (1) While at work, every employee shall

(a) use any safety materials, equipment, devices and clothing that are intended for the employee's protection and furnished to the employee by the employer or that are prescribed;

(b) follow prescribed procedures with respect to the health and safety of employees;

- (c)** take all reasonable and necessary precautions to ensure the health and safety of the employee, the other employees and any person likely to be affected by the employee's acts or omissions;
- (d)** comply with all instructions from the employer concerning the health and safety of employees;
- (e)** cooperate with any person carrying out a duty imposed under this Part;
- (f)** cooperate with the policy and work place committees or the health and safety representative;
- (g)** report to the employer any thing or circumstance in a work place that is likely to be hazardous to the health or safety of the employee, or that of the other employees or other persons granted access to the work place by the employer;
- (h)** report in the prescribed manner every accident or other occurrence arising in the course of or in connection with the employee's work that has caused injury to the employee or to any other person;
- (i)** comply with every oral or written direction of the Head or the Board concerning the health and safety of employees; and
- (j)** report to the employer any situation that the employee believes to be a contravention of this Part by the employer, another employee or any other person.

No relief of employer's duties

(2) Nothing in subsection (1) relieves an employer from any duty imposed on the employer under this Part.

Limitation of liability

(3) No employee is personally liable for anything done or omitted to be done in good faith by the employee when the employee is assisting the employer, as requested by the employer, in providing first-aid or in carrying out any other emergency measures.
R.S., 1985, c. L-2, s. 126; R.S., 1985, c. 9 (1st Supp.), s. 4; 1993, c. 42, s. 6(F);
2000, c. 20, s. 8; [2013, c. 40, s. 178](#); [2017, c. 20, s. 340](#); [2018, c. 22, s. 4\(F\)](#); [2018, c. 27, s. 538](#).

Employment Safety

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

- (a) save a life, prevent injury or relieve human suffering in the vicinity;
- (b) maintain an essential public service; or
- (c) prevent unnecessary damage to or loss of property.

Exception

(2) No authorization referred to in subsection (1) is required where an employee is killed or seriously injured by an accident or incident involving

(a) an aircraft, a vessel, rolling stock or a pipeline, if the accident or incident is being investigated under the *Aeronautics Act*, the *Canada Shipping Act, 2001* or the *Canadian Transportation Accident Investigation and Safety Board Act*; or

(b) a motor vehicle on a public highway.

R.S., 1985, c. L-2, s. 127; R.S., 1985, c. 9 (1st Supp.), s. 4; 1989, c. 3, s. 45; 1996, c. 10, s. 235; 1998, c. 20, s. 29; 2000, c. 20, s. 9; *2001, c. 26, s. 305*; *2013, c. 40, s. 179*; *2018, c. 27, s. 539*.

Internal Complaint Resolution Process

Complaint to supervisor

127.1 (1) An employee who believes on reasonable grounds that there has been a contravention of this Part or that there is likely to be an accident, injury or illness arising out of, linked with or occurring in the course of employment shall, before exercising any other recourse available under this Part, except the rights conferred by sections *128*, *129* and *132*, make a complaint to the employee's supervisor.

Supervisor or designated person

(1.1) However, in the case of a complaint relating to an occurrence of harassment and violence, the employee may make the complaint to the employee's supervisor or to the person designated in the employer's work place harassment and violence prevention policy.

Oral or written complaint

(1.2) The complaint may be made orally or in writing.

Resolve complaint

(2) The employee and the supervisor or designated person, as the case may be, shall try to resolve the complaint between themselves as soon as possible.

Investigation of complaint

(3) The employee or the supervisor may refer an unresolved complaint, other than a complaint relating to an occurrence of harassment and violence, to a chairperson of the work place committee or to the health and safety representative to be investigated jointly

(a) by an employee member and an employer member of the work place committee; or

(b) by the health and safety representative and a person designated by the employer.

Notice

(4) The persons who investigate the complaint shall inform the employee and the employer in writing, in the form and manner prescribed if any is prescribed, of the results of the investigation.

Recommendations

(5) The persons who investigate a complaint may make recommendations to the employer with respect to the situation that gave rise to the complaint, whether or not they conclude that the complaint is justified.

Employer's duty

(6) If the persons who investigate the complaint conclude that the complaint is justified, the employer, on being informed of the results of the investigation, shall in writing and without delay inform the persons who investigated the complaint of how and when the employer will resolve the matter, and the employer shall resolve the matter accordingly.

(7) [Repealed, 2013, c. 40, s. 180]

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:

(a) where the employer does not agree with the results of the investigation;

(b) where the employer has failed to inform the persons who investigated the complaint of how and when the employer intends to resolve the matter or has failed to take action to resolve the matter;

- (c) where the persons who investigated the complaint do not agree between themselves as to whether the complaint is justified; or
- (d) in the case of a complaint relating to an occurrence of harassment and violence, the employee and the supervisor or designated person, as the case may be, failed to resolve the complaint between themselves.

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
- (a) the complaint has been adequately dealt with according to a procedure provided for under this Act, any other Act of Parliament or a collective agreement; or
 - (b) the matter is otherwise an abuse of process.

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.

Duty and power of Head

- (10)** On completion of the investigation, the Head

- (a) may issue directions to an employer or employee under subsection 145(1);
- (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\(2\)](#).

Interpretation

- (11)** For greater certainty, nothing in this section limits the Head's authority under [section 145](#).

Former employees

(12) A former employee may, within the prescribed time, make a complaint under subsection (1) relating to an occurrence of harassment and violence in the work place, in which case this Part applies to the former employee and to the employer as if the former employee were an employee, to the extent necessary to finally dispose of the complaint.

Extension

(13) On application by a former employee, the Head may, in the prescribed circumstances, extend the time period referred to in subsection (12).

2000, c. 20, s. 10; [2013, c. 40, s. 180](#); [2018, c. 22, s. 5](#); [2018, c. 27, s. 540](#); [2018, c. 27, s. 623](#).

Refusal to work if danger

128 (1) Subject to this section, an employee may refuse to use or operate a machine or thing, to work in a place or to perform an activity, if the employee while at work has reasonable cause to believe that

- (a)** the use or operation of the machine or thing constitutes a danger to the employee or to another employee;
- (b)** a condition exists in the place that constitutes a danger to the employee; or
- (c)** the performance of the activity constitutes a danger to the employee or to another employee.

No refusal permitted in certain dangerous circumstances

(2) An employee may not, under this section, refuse to use or operate a machine or thing, to work in a place or to perform an activity if

- (a)** the refusal puts the life, health or safety of another person directly in danger; or
- (b)** the danger referred to in subsection (1) is a normal condition of employment.

Employees on ships and aircraft

(3) If an employee on a ship or an aircraft that is in operation has reasonable cause to believe that

- (a)** the use or operation of a machine or thing on the ship or aircraft constitutes a danger to the employee or to another employee,
- (b)** a condition exists in a place on the ship or aircraft that constitutes a danger to the employee, or

(c) the performance of an activity on the ship or aircraft by the employee constitutes a danger to the employee or to another employee,

the employee shall immediately notify the person in charge of the ship or aircraft of the circumstances of the danger and the person in charge shall, as soon as is practicable after having been so notified, having regard to the safe operation of the ship or aircraft, decide whether the employee may discontinue the use or operation of the machine or thing or cease working in that place or performing that activity and shall inform the employee accordingly.

No refusal permitted in certain cases

(4) An employee who, under subsection (3), is informed that the employee may not discontinue the use or operation of a machine or thing or cease to work in a place or perform an activity shall not, while the ship or aircraft on which the employee is employed is in operation, refuse under this section to use or operate the machine or thing, work in that place or perform that activity.

When ship or aircraft in operation

(5) For the purposes of subsections (3) and (4),

(a) a ship is in operation from the time it casts off from a wharf in a Canadian or foreign port until it is next secured alongside a wharf in Canada; and

(b) an aircraft is in operation from the time it first moves under its own power for the purpose of taking off from a Canadian or foreign place of departure until it comes to rest at the end of its flight to its first destination in Canada.

Report to employer

(6) An employee who refuses to use or operate a machine or thing, work in a place or perform an activity under subsection (1), or who is prevented from acting in accordance with that subsection by subsection (4), shall report the circumstances of the matter to the employer without delay.

Select a remedy

(7) Where an employee makes a report under subsection (6), the employee, if there is a collective agreement in place that provides for a redress mechanism in circumstances described in this section, shall inform the employer, in the prescribed manner and time if any is prescribed, whether the employee intends to exercise recourse under the agreement or this section. The selection of recourse is irrevocable unless the employer and employee agree otherwise.

Investigation by employer

(7.1) The employer shall, immediately after being informed of a refusal under subsection (6), investigate the matter in the presence of the employee who reported it. Immediately after concluding the investigation, the employer shall prepare a written report setting out the results of the investigation.

Employer to take immediate action

(8) If, following its investigation, the employer agrees that a danger exists, the employer shall take immediate action to protect employees from the danger. The employer shall inform the work place committee or the health and safety representative of the matter and the action taken to resolve it.

Continued refusal

(9) If the matter is not resolved under subsection (8), the employee may, if otherwise entitled to under this section, continue the refusal and the employee shall without delay report the circumstances of the matter to the employer and to the work place committee or the health and safety representative.

Investigation of continued refusal

(10) If the work place committee receives a report under subsection (9), it shall designate, to investigate the matter immediately in the presence of the employee who reported it, two members of the committee, namely, one employee member from those chosen under paragraph 135.1(1)(b) and one employer member who is not from those chosen under that paragraph. If the health and safety representative receives a report under subsection (9), they shall immediately investigate the matter in the presence of the employee who reported it and a person who is designated by the employer.

Report

(10.1) Immediately after concluding the investigation, the members of the work place committee designated under subsection (10) or the health and safety representative shall provide a written report to the employer that sets out the results of the investigation and their recommendations, if any.

Additional information

(10.2) After receiving a report under subsection (10.1) or under this subsection, the employer may provide the members of the work place committee or the health and safety representative with additional information and request that they reconsider their report taking into consideration that additional information. If the work place committee members or the health and safety representative considers it appropriate, they may provide a revised report to the employer.

If more than one report

(11) If more than one employee has made a report of a similar nature, those employees may designate one employee from among themselves to be present at the investigation.

Absence of employee

(12) The employer, the members of a work place committee or the health and safety representative may proceed with their investigation in the absence of the employee who reported the matter if that employee or a person designated under subsection (11) chooses not to be present.

Decision of employer

(13) After receiving a report under subsection (10.1) or (10.2) and taking into account any recommendations in it, the employer, if it does not intend to provide additional information under subsection (10.2), shall make one of the following decisions:

- (a)** agree that a danger exists;
- (b)** agree that a danger exists but consider that the circumstances provided for in paragraph (2)(a) or (b) apply;
- (c)** determine that a danger does not exist.

Decision — paragraph (13)(a)

(14) If the employer agrees that a danger exists under paragraph (13)(a), the employer shall take immediate action to protect employees from the danger. The employer shall inform the work place committee or the health and safety representative of the matter and the action taken to resolve it.

Decision — paragraph (13)(b) or (c)

(15) If the employer makes a decision under paragraph (13)(b) or (c), the employer shall notify the employee in writing. If the employee disagrees with the employer's decision, the employee is entitled to continue the refusal, subject to [subsections 129\(1.2\), \(1.3\), \(6\) and \(7\)](#).

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).

R.S., 1985, c. L-2, s. 128; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10; [2013](#), c. 40, s. [181](#); [2018](#), c. 27, s. [541](#).

Employees on shift during work stoppage

128.1 (1) Unless otherwise provided in a collective agreement or other agreement, employees who are affected by a stoppage of work arising from the application of [section 127.1](#), [128](#) or [129](#) or [subsection 145\(2\)](#) are deemed, for the purpose of calculating wages and benefits, to be at work during the stoppage until work resumes or until the end of the scheduled work period or shift, whichever period is shorter.

Employees on next shift

(2) Unless otherwise provided in a collective agreement or other agreement, employees who are due to work on a scheduled work period or shift after a shift during which there has been a stoppage of work arising from the application of [section 127.1](#), [128](#) or [129](#) or [subsection 145\(2\)](#) are deemed, for the purpose of calculating wages and benefits, to be at work during their work period or shift, unless they have been given at least one hour's notice not to attend work.

Alternative work

(3) An employer may assign reasonable alternative work to employees who are deemed under subsection (1) or (2) to be at work.

Repayment

(4) Unless otherwise provided in a collective agreement or other agreement, employees who are paid wages or benefits under subsection (1) or (2) may be required by the employer to repay those wages and benefits if it is determined, after all avenues of redress have been exhausted by the employee who exercised rights under [section 128](#) or [129](#), that the employee exercised those rights knowing that no circumstances existed that would warrant it.

2000, c. 20, s. 10.

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

(a) the matter is one that could more appropriately be dealt with, initially or completely, by means of a procedure provided for under Part I or III or under another Act of Parliament;

- (b) the matter is trivial, frivolous or vexatious; or
- (c) the continued refusal by the employee under 128(15) is in bad faith.

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.

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

- (a) an employee member of the work place committee;
- (b) the health and safety representative; or
- (c) if a person mentioned in paragraph (a) or (b) is not available, another employee from the work place who is designated by the employee.

Employees' representative if more than one employee

(2) If the investigation involves more than one employee, those employees may designate one employee from among themselves to be present at the investigation.

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.

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

- (a)** if there was a previous investigation, rely on the findings of that investigation to decide whether a danger exists; or
- (b)** if there is an ongoing investigation, combine that investigation with the investigation the Head is conducting and issue a single decision.

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.

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

- (a)** the other employee is qualified for the work;
- (b)** the other employee has been advised of the refusal of the employee concerned and of the reasons for the refusal; and
- (c)** the employer is satisfied on reasonable grounds that the other employee will not be put in danger.

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. R.S., 1985, c. L-2, s. 129; R.S., 1985, c. 9 (1st Supp.), s. 4; 1993, c. 42, s. 7(F); 2000, c. 20, s. 10; [2013, c. 40, s. 182](#); [2017, c. 20, s. 341](#); [2018, c. 27, s. 542](#).

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.

R.S., 1985, c. L-2, s. 130; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10; [2018, c. 27, s. 543](#).

Compensation under other laws not precluded

131 The fact that an employer or employee has complied with or failed to comply with any of the provisions of this Part may not be construed as affecting any right of an employee to compensation under any statute relating to compensation for employment injury or illness, or as affecting any liability or obligation of any employer or employee under any such statute.

R.S., 1985, c. L-2, s. 131; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10.

Pregnant and Nursing Employees

Cease to perform job

132 (1) In addition to the rights conferred by [section 128](#) and subject to this section, an employee who is pregnant or nursing may cease to perform her job if she believes that, by reason of the pregnancy or nursing, continuing any of her current job functions may pose a risk to her health or to that of the foetus or child. On being informed of the cessation, the employer, with the consent of the employee, shall notify the work place committee or the health and safety representative.

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).

Employer may reassign

(4) For the period during which the employee does not perform her job under subsection (1), the employer may, in consultation with the employee, reassign her to another job that would not pose a risk to her health or to that of the foetus or child.

Status of employee

(5) The employee, whether or not she has been reassigned to another job, is deemed to continue to hold the job that she held at the time she ceased to perform her job functions and shall continue to receive the wages and benefits that are attached to that job for the period during which she does not perform the job.

R.S., 1985, c. L-2, s. 132; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10; [2018, c. 27, s. 441](#).

Complaints when Action against Employees

Complaint to Board

133 (1) An employee, or a person designated by the employee for the purpose, who alleges that an employer has taken action against the employee in contravention of [section 147](#) may, subject to subsection (3), make a complaint in writing to the Board of the alleged contravention.

Time for making complaint

(2) The complaint shall be made to the Board not later than ninety days after the date on which the complainant knew, or in the Board's opinion ought to have known, of the action or circumstances giving rise to the complaint.

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.

Exclusion of arbitration

(4) Notwithstanding any law or agreement to the contrary, a complaint made under this section may not be referred by an employee to arbitration or adjudication.

Duty and power of Board

(5) On receipt of a complaint made under this section, the Board may assist the parties to the complaint to settle the complaint and shall, if it decides not to so assist the parties or the complaint is not settled within a period considered by the Board to be reasonable in the circumstances, hear and determine the complaint.

Burden of proof

(6) A complaint made under this section in respect of the exercise of a right under [section 128](#) or [129](#) is itself evidence that the contravention actually occurred and, if a party to the complaint proceedings alleges that the contravention did not occur, the burden of proof is on that party.

R.S., 1985, c. L-2, s. 133; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10; [2013, c. 40, s. 183](#); [2018, c. 27, s. 544](#).

Board orders

134 (1) If, under [subsection 133\(5\)](#), the Board determines that an employer has contravened [section 147](#), the Board may, by order, require the employer to cease contravening that section and may, if applicable, by order, require the employer to

- (a)** permit any employee who has been affected by the contravention to return to the duties of their employment;
- (b)** reinstate any former employee affected by the contravention;
- (c)** pay to any employee or former employee affected by the contravention 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; and
- (d)** rescind any disciplinary action taken in respect of, and pay compensation to any employee affected by, the contravention, 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.

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.

Registration

(3) On filing in the Federal Court under subsection (2), 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.

R.S., 1985, c. L-2, s. 134; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10; [2017, c. 20, s. 342](#); [2018, c. 27, s. 545](#).

Policy Health and Safety Committees

Establishment mandatory

134.1 (1) For the purposes of addressing health and safety matters that apply to the work, undertaking or business of an employer, every employer who normally employs directly three hundred or more employees shall establish a policy health and safety committee and, subject to [section 135.1](#), select and appoint its members.

Exception

(2) An employer who normally employs directly more than twenty but fewer than three hundred employees may also establish a policy committee.

More than one committee

(3) An employer may establish more than one policy committee with the agreement of

- (a)** the trade union, if any, representing the employees; and
- (b)** the employees, in the case of employees not represented by a trade union.

Duties of policy committee

(4) A policy committee

- (a)** shall participate in the development of health and safety policies and programs;
- (b)** shall consider and expeditiously dispose of matters concerning health and safety raised by members of the committee or referred to it by a work place committee or a health and safety representative;
- (c)** shall participate in the development and monitoring of a program for the prevention of hazards in the work place that also provides for the education of employees in health and safety matters;
- (d)** shall participate to the extent that it considers necessary in inquiries, investigations, studies and inspections pertaining to occupational health and safety;

- (e) shall participate in the development and monitoring of a program for the provision of personal protective equipment, clothing, devices or materials;
- (f) shall cooperate with the Head;
- (g) shall monitor data on work accidents, injuries and health hazards; and
- (h) shall participate in the planning of the implementation and in the implementation of changes that might affect occupational health and safety, including work processes and procedures.

Investigation — harassment and violence

(4.1) Despite paragraph (4)(d), a policy committee shall not participate in an investigation, other than an investigation under [section 128](#) or [129](#), relating to an occurrence of harassment and violence in the work place.

Information

(5) A policy committee may request from an employer any information that the committee considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities in any of the employer's work places.

Access

(6) A policy committee shall have full access to all of the government and employer reports, studies and tests relating to the health and safety of employees in the work place, or to the parts of those reports, studies and tests that relate to the health and safety of employees, but shall not have access to the medical records of any person except with the person's consent.

Meetings of committee

(7) A policy committee shall meet during regular working hours at least quarterly and, if other meetings are required as a result of an emergency or other special circumstances, the committee shall meet as required during regular working hours or outside those hours.

2000, c. 20, s. 10; [2013, c. 40, s. 184](#); [2018, c. 22, s. 6](#); [2018, c. 27, s. 546](#).

Work Place Health and Safety Committees

Establishment mandatory

135 (1) For the purposes of addressing health and safety matters that apply to individual work places, and subject to this section, every employer shall, for each work place controlled by the employer at which twenty or more employees are normally

employed, establish a work place health and safety committee and, subject to [section 135.1](#), select and appoint its members.

Exception

(2) An employer is not required to establish a committee under subsection (1) for a work place that is on board a ship in respect of employees whose base is the ship.

(3) [Repealed, 2018, c. 22, s. 7]

(4) [Repealed, 2018, c. 22, s. 7]

(5) [Repealed, 2018, c. 22, s. 7]

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) 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;

(b) the committee of persons that has been appointed for the work place has, in addition to any rights, functions, powers, privileges and obligations under the agreement, the same rights, functions, powers, privileges and obligations as a work place committee under this Part; and

(c) the committee of persons so appointed is, for the purposes of this Part, deemed to be a work place committee established under subsection (1) and all rights and obligations of employers and employees under this Part and the provisions of this Part respecting a work place committee apply, with any modifications that the circumstances require, to the committee of persons so appointed.

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.

Duties of committee

(7) A work place committee, in respect of the work place for which it is established,

- (a)** shall consider and expeditiously dispose of complaints relating to the health and safety of employees;
- (b)** shall participate in the implementation and monitoring of the program referred to in [paragraph 134.1\(4\)\(c\)](#);
- (c)** where the program referred to in [paragraph 134.1\(4\)\(c\)](#) does not cover certain hazards unique to the work place, shall participate in the development, implementation and monitoring of a program for the prevention of those hazards that also provides for the education of employees in health and safety matters related to those hazards;
- (d)** where there is no policy committee, shall participate in the development, implementation and monitoring of a program for the prevention of hazards in the work place that also provides for the education of employees in health and safety matters related to those hazards;
- (e)** shall participate in all of the inquiries, investigations, studies and inspections pertaining to the health and safety of employees, including any consultations that may be necessary with persons who are professionally or technically qualified to advise the committee on those matters;
- (f)** shall participate in the implementation and monitoring of a program for the provision of personal protective equipment, clothing, devices or materials and, where there is no policy committee, shall participate in the development of the program;
- (g)** shall ensure that adequate records are maintained on work accidents, injuries and health hazards relating to the health and safety of employees and regularly monitor data relating to those accidents, injuries and hazards;
- (h)** shall cooperate with the Head;
- (i)** shall participate in the implementation of changes that might affect occupational health and safety, including work processes and procedures and, where there is no policy committee, shall participate in the planning of the implementation of those changes;
- (j)** shall assist the employer in investigating and assessing the exposure of employees to hazardous substances;
- (k)** shall inspect each month all or part of the work place, so that every part of the work place is inspected at least once each year; and
- (l)** where there is no policy committee, shall participate in the development of health and safety policies and programs.

Investigation — harassment and violence

(7.1) Despite paragraph (7)(e), a work place committee shall not participate in an investigation, other than an investigation under section 128 or 129, relating to an occurrence of harassment and violence in the work place.

Information

(8) A work place committee, in respect of the work place for which it is established, may request from an employer any information that the committee considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities.

Access

(9) A work place committee, in respect of the work place for which it is established, shall have full access to all of the government and employer reports, studies and tests relating to the health and safety of the employees, or to the parts of those reports, studies and tests that relate to the health and safety of employees, but shall not have access to the medical records of any person except with the person's consent.

Meetings of committee

(10) A work place committee shall meet during regular working hours at least nine times a year at regular intervals and, if other meetings are required as a result of an emergency or other special circumstances, the committee shall meet as required during regular working hours or outside those hours.

R.S., 1985, c. L-2, s. 135; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 26 (4th Supp.), s. 2; 1993, c. 42, s. 8(F); 2000, c. 20, s. 10; [2013, c. 40, s. 185](#); [2018, c. 22, s. 7](#); [2018, c. 27, s. 547](#); [2018, c. 27, s. 623](#).

Provisions Common to Policy Committees and Work Place Committees

Appointment of members

135.1 (1) Subject to this section, a policy committee or a work place committee shall consist of at least two persons and at least half of the members shall be employees who

- (a)** do not exercise managerial functions; and
- (b)** subject to any regulations made under subsection 135.2(1), have been selected by
 - (i)** the employees, if the employees are not represented by a trade union, or

(ii) the trade union representing employees, in consultation with any employees who are not so represented.

Exception — policy committee

(2) Despite subsection (1) and if provided in a collective agreement or other agreement, the members of a policy committee may include persons who are not employees.

Exception — work place committee

(3) If there is no policy committee, a work place committee may, when dealing with an issue that would have come within the responsibilities of a policy committee, select two additional members. Unless otherwise provided in a collective agreement or other agreement, one of the additional members shall be an employee who meets the criteria set out in paragraphs (1)(a) and (b).

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.

Failure to select

(5) If no person is selected under paragraph (1)(b), the employer shall perform the functions of the committee until a person is selected and the committee is established.

Alternate members

(6) The employer and employees may select alternate members to serve as replacements for members selected by them who are unable to perform their functions. Alternate members for employee members shall meet the criteria set out in paragraphs (1)(a) and (b).

Chairpersons

(7) A committee shall have two chairpersons selected from among the committee members. One of the chairpersons shall be selected by the employee members and the other shall be selected by the employer members.

Chairpersons to assign functions

(8) The chairpersons of a committee shall jointly designate members of the committee to perform the functions of the committee under this Part as follows:

- (a)** if two or more members are designated, at least half of the members shall be employee members; or
- (b)** if one member is designated, the member shall be an employee member.

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.

Time required for duties

(10) The members of a committee are entitled to take the time required, during their regular working hours,

- (a)** to attend meetings or to perform any of their other functions; and
- (b)** for the purposes of preparation and travel, as authorized by both chairpersons of the committee.

Payment of wages

(11) A committee member shall be compensated by the employer for the functions described in paragraphs (10)(a) and (b), whether performed during or outside the member's regular working hours, at the member's regular rate of pay or premium rate of pay, as specified in the collective agreement or, if there is no collective agreement, in accordance with the employer's policy.

Wages for alternate members

(12) Subsections (10) and (11) apply to alternate members only while they are actually performing the functions of the committee member they are replacing.

Limitation of liability

(13) No person serving as a member of a committee is personally liable for anything done or omitted to be done by the person in good faith under the authority or purported authority of this Part.

Committee may establish rules

(14) Subject to subsections 134.1(7) and 135(10) and any regulations made under subsection 135.2(1), a committee shall establish its own rules of procedure in respect

of the terms of office, not exceeding two years, of its members and the time, place and frequency of regular meetings of the committee and may establish any rules of procedure for its operation that it considers advisable.

2000, c. 20, s. 10; [2013, c. 40, s. 186](#); [2018, c. 27, s. 548](#).

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.

Exception

(2) Subsection (1) does not apply with respect to

- (a)** information provided under [section 128](#) or [129](#) or a direction or report relating to the application of those sections; or
- (b)** a decision, reasons or a direction referred to in [subsection 146.1\(2\)](#).

[2018, c. 22, s. 8](#); [2018, c. 27, s. 623](#).

Regulations

135.2 (1) The Governor in Council may make regulations

- (a)** specifying the qualifications and terms of office of members of a committee;
- (b)** specifying the time and place of regular meetings of a committee;
- (c)** specifying the method of selecting employee members of a committee if employees are not represented by a trade union;
- (d)** specifying the method of selecting the chairpersons of a committee and their terms of office;
- (e)** establishing any rules of procedure for the operation of a committee that the Governor in Council considers advisable;
- (f)** requiring copies of minutes of committee meetings to be provided by and to any persons that the Governor in Council may prescribe;
- (g)** requiring a committee to submit an annual report of its activities, containing the prescribed information, to a specified person in the prescribed manner and within the prescribed time; and

(h) specifying the manner in which a committee may exercise its powers and perform its functions.

Regulation may be general or specific

(2) A regulation made under subsection (1) may be made applicable generally to all committees or particularly to one or more committees or classes of committees.
2000, c. 20, s. 10; [2018, c. 22, s. 9.](#)

Health and Safety Representatives

Appointment of health and safety representative

136 (1) Every employer shall, for each work place controlled by the employer at which fewer than twenty employees are normally employed or for which an employer is not required to establish a work place committee, appoint the person selected in accordance with subsection (2) as the health and safety representative for that work place.

Selection of person to be appointed

(2) The health and safety representative for a work place shall be selected as follows:

(a) the employees at the work place who do not exercise managerial functions shall select from among those employees the person to be appointed; or

(b) if those employees are represented by a trade union, the trade union shall select the person to be appointed, in consultation with any employees who are not so represented, and subject to any regulations made under subsection (11).

The employees or the trade union shall advise the employer in writing of the name of the person so selected.

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.

Failure to select a representative

(4) The employer shall perform the functions of the health and safety representative until a person is selected under subsection (2).

Duties of representative

(5) A health and safety representative, in respect of the work place for which the representative is appointed,

(a) shall consider and expeditiously dispose of complaints relating to the health and safety of employees;

(b) shall ensure that adequate records are maintained pertaining to work accidents, injuries, health hazards and the disposition of complaints related to the health and safety of employees and regularly monitor data relating to those accidents, injuries, hazards and complaints;

(c) shall meet with the employer as necessary to address health and safety matters;

(d) shall participate in the implementation and monitoring of the program referred to in paragraph 134.1(4)(c);

(e) where the program referred to in paragraph 134.1(4)(c) does not cover certain hazards unique to that work place, shall participate in the development, implementation and monitoring of a program for the prevention of those hazards that also provides for the education of employees in health and safety matters related to those hazards;

(f) where there is no policy committee, shall participate in the development, implementation and monitoring of a program for the prevention of hazards in the work place that also provides for the education of employees in health and safety matters;

(g) shall participate in all of the inquiries, investigations, studies and inspections pertaining to the health and safety of employees, including any consultations that may be necessary with persons who are professionally or technically qualified to advise the representative on those matters;

(h) shall cooperate with the Head;

(i) shall participate in the implementation of changes that may affect occupational health and safety, including work processes and procedures and, where there is no policy committee, shall participate in the planning of the implementation of those changes;

(j) shall inspect each month all or part of the work place, so that every part of the work place is inspected at least once each year;

(k) shall participate in the development of health and safety policies and programs;

(l) shall assist the employer in investigating and assessing the exposure of employees to hazardous substances; and

(m) shall participate in the implementation and monitoring of a program for the provision of personal protective equipment, clothing, devices or materials and, where there is no policy committee, shall participate in the development of the program.

Investigation — harassment and violence

(5.1) Despite paragraph (5)(g), a health and safety representative shall not participate in an investigation, other than an investigation under [section 128](#) or [129](#), relating to an occurrence of harassment and violence in the work place.

Information

(6) A health and safety representative, in respect of the work place for which the representative is appointed, may request from an employer any information that the representative considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities.

Access

(7) A health and safety representative, in respect of the work place for which the representative is appointed, shall have full access to all of the government and employer reports, studies and tests relating to the health and safety of employees, or to the parts of those reports, studies and tests that relate to the health and safety of employees, but shall not have access to the medical records of any person except with the person's consent.

Time required for duties

(8) A health and safety representative is entitled to take the time required, during their regular working hours,

(a) to perform any of the representative's functions; and

(b) for the purposes of preparation and travel, as authorized by both chairpersons of the policy committee or, if there is no policy committee, as authorized by the employer.

Payment of wages

(9) A health and safety representative shall be compensated by the employer for the functions described in paragraphs (8)(a) and (b), whether performed during or outside the representative's regular working hours, at the representative's regular rate of pay or premium rate of pay, as specified in the collective agreement or, if there is no collective agreement, in accordance with the employer's policy.

Limitation of liability

(10) No health and safety representative is personally liable for anything done or omitted to be done by the representative in good faith under the authority or purported authority of this section.

Regulations

(11) The Governor in Council may make regulations specifying

- (a)** the qualifications and term of office of a health and safety representative;
- (b)** the method of selecting a health and safety representative if employees are not represented by a trade union; and
- (c)** the manner in which a health and safety representative may exercise their powers and perform their functions.

R.S., 1985, c. L-2, s. 136; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10; [2013, c. 40, s. 187](#); [2018, c. 22, s. 10](#); [2018, c. 27, s. 549](#).

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.

Exception

(2) Subsection (1) does not apply with respect to

- (a)** information provided under [section 128](#) or [129](#) or a direction or report relating to the application of those sections; or
- (b)** a decision, reasons or a direction referred to in [subsection 146.1\(2\)](#).

[2018, c. 22, s. 11](#); [2018, c. 27, s. 623](#).

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.

R.S., 1985, c. L-2, s. 137; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 10; [2013, c. 40, s. 188](#); [2018, c. 27, s. 550](#).

Coal Mining Safety Commission

Establishment of Commission

137.1 (1) There is hereby established a Coal Mining Safety Commission, in this section referred to as the “Commission” consisting of, subject to subsection (2.1), not more than five members to be appointed by the Minister to hold office during pleasure.

Members of Commission

(2) One member of the Commission shall be designated chairperson of the Commission by the Minister and the others shall be equally representative of the non-supervisory employees employed in coal mines and of the employers of those employees.

Alternate chairperson

(2.1) The Minister may appoint, by order, and under the terms and conditions specified in the order, any person as an alternate chairperson to act in the absence or incapacity of the chairperson. An alternate chairperson, while acting as chairperson, has all of the powers, duties and immunity of the chairperson.

Selection and tenure

(3) The manner of selection of the members of the Commission, other than the chairperson and an alternate chairperson, and the term of office of the members of the Commission shall be such as may be prescribed.

Quorum

(4) A quorum of the Commission consists of the chairperson or alternate chairperson, one member representative of non-supervisory employees and one member representative of employers.

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).

Remuneration

(6) The members of the Commission, including an alternate chairperson, shall be paid the remuneration that may be fixed by the Governor in Council and, subject to the approval of the Treasury Board, any reasonable travel and living expenses that are incurred by them while performing their functions away from their ordinary place of residence.

By-laws

(7) The Commission may, subject to the approval of the Minister, make by-laws for the conduct of its activities.

Staff and other assistance

(8) The Minister may, at the request of the Commission, make available to the Commission such staff and other assistance as are necessary for the proper conduct of its activities.

Annual report

(9) The Commission shall, within sixty days following the end of each calendar year, submit a report to the Minister of its activities during the year.

Immunity

(10) No member of the Commission and no person designated by the Commission pursuant to subsection 137.2(1) or (2) is personally liable for anything done or omitted to be done in good faith under [section 137.2](#).

R.S., 1985, c. 26 (4th Supp.), s. 3; 1998, c. 26, s. 59(E); 2000, c. 20, s. 11; [2013, c. 40, s. 189](#); [2018, c. 27, s. 551](#).

Approval of plans, procedures

137.2 (1) The Commission or persons designated by the Commission for the purposes of this subsection may approve in writing, with or without modification, plans or procedures submitted in accordance with paragraph 125.3(1)(d).

Approval of methods, machinery, equipment

(2) On the application of an employer, the Commission or persons designated by the Commission for the purposes of this subsection may, if, in the opinion of the Commission or those persons, protection of the health and safety of employees would not thereby be diminished,

- (a) approve in writing the use by the employer in coal mines of mining methods, machinery or equipment in respect of which no prescribed safety standards are applicable; or
- (b) approve in writing, notwithstanding anything in this Part, the use by the employer in coal mines, for a specified time and subject to specified conditions, of any mining method, machinery or equipment that does not meet prescribed safety standards applicable in respect of it.

Exemptions and substitutions

(3) On the application of an employer, the Commission may, if in its opinion protection of the health and safety of employees would not thereby be diminished, by order,

- (a) exempt the employer from compliance with any provision of the regulations in the operation of coal mines controlled by the employer, subject to any conditions contained in the order; or
- (b) substitute for any provision of the regulations, so far as it applies to coal mines controlled by the employer, another provision having substantially the same purpose and effect.

Recommendations for amendments

(4) The Commission may make recommendations to the Minister for amending or revoking any provision of the regulations applicable to coal mines or for adding any provision thereto.

R.S., 1985, c. 26 (4th Supp.), s. 3; 2000, c. 20, s. 12.

Administration

Special committees

138 (1) The Minister may appoint committees of persons to assist or advise the Minister on any matter that the Minister considers advisable concerning occupational health and safety related to employment to which this Part applies.

Remuneration and expenses

(1.1) At the discretion of the Minister, persons appointed to those committees may be paid the remuneration that may be fixed by the Minister and, in accordance with any applicable Treasury Board directives, any reasonable travel and living expenses that are incurred by them while performing their functions away from their ordinary place of residence.

Inquiries

(2) The Minister may cause an inquiry to be made into and concerning occupational health and safety in any employment to which this Part applies and may appoint one or more persons to hold the inquiry.

Powers on an inquiry

(3) A person appointed pursuant to subsection (2) has all the powers of a person appointed as a commissioner under Part I of the *Inquiries Act*.

Research

(4) The Minister may undertake research into the cause of and the means of preventing employment injury and occupational illness and may, where the Minister deems it appropriate, undertake such research in cooperation with any department or agency of the Government of Canada or with any or all provinces or with any organization undertaking similar research.

Publication of information

(5) The Minister may publish the results of any research undertaken under subsection (4) and compile, prepare and disseminate data or information bearing on health or safety of employees obtained from that research or otherwise.

Occupational safety and health programs

(6) The Minister may undertake programs to reduce or prevent employment injury and occupational illness and may, where the Minister deems it appropriate, undertake those programs in cooperation with any department or agency of the Government of Canada or with any or all provinces or any organization undertaking similar programs.

R.S., 1985, c. L-2, s. 138; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 13.

Medical surveillance and examination programs

139 (1) The Minister may undertake medical surveillance and examination programs with respect to occupational health and safety and may, if the Minister considers it appropriate, undertake those programs in cooperation with any department or agency of the Government of Canada or with any or all of the provinces or any organization undertaking similar programs.

Appointment of medical officers

(2) The Minister may appoint any medical practitioner qualified in occupational medicine to undertake the medical surveillance and examination programs.

R.S., 1985, c. L-2, s. 139; R.S., 1985, c. 9 (1st Supp.), s. 4; 1998, c. 26, ss. 59(E), 60(E); 2000, c. 20, s. 14.

Annual report

139.1 (1) The Minister shall prepare and publish an annual report that contains statistical data relating to harassment and violence in work places to which this Part applies. The report shall not contain any information that is likely to reveal the identity of a person who was involved in an occurrence of harassment and violence.

Statistical data

(2) The statistical data contained in the report shall include information that is categorized according to prohibited grounds of discrimination under the *Canadian Human Rights Act*.

2018, c. 22, s. 11.1.

Five-year review

139.2 (1) Five years after the day on which this section comes into force and every five years after that, the Minister shall commence a review of the provisions of this Part relating to harassment and violence. At the conclusion of the review, the Minister shall prepare a report on the review.

Report to be tabled

(2) The Minister shall cause the report to be tabled in each House of Parliament on any of the first 15 days on which that House is sitting after the day on which the report is completed.

2018, c. 22, s. 11.1.

Exercise of Powers in Relation to Health and Safety

Delegation

140 (1) Subject to any terms and conditions specified by the Minister, the Minister may delegate to any qualified person or class of persons any of the powers, duties or functions the Minister is authorized to exercise or perform for the purposes of this Part.

Delegation — Head

(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.

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 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).

Certificate of authority

(4) The Minister may provide any person to whom powers, duties or functions have been delegated under subsection (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.

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.

Duty of Her Majesty

(6) Despite subsection (5), and for greater certainty, Her Majesty in right of Canada is not relieved of any civil liability to which Her Majesty in right of Canada may otherwise be subject.

R.S., 1985, c. L-2, s. 140; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 14; [2013, c. 40, s. 190](#); [2018, c. 22, s. 12](#); [2018, c. 27, s. 553](#); [2018, c. 27, s. 623](#).

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

- (a)** conduct examinations, tests, inquiries, investigations and inspections or direct the employer to conduct them;
- (b)** take or remove for analysis, samples of any material or substance or any biological, chemical or physical agent;
- (c)** be accompanied or assisted by any person and bring any equipment that the Head deems necessary to carry out the Head's duties;
- (d)** take or remove, for testing, material or equipment if there is no reasonable alternative to doing so;
- (e)** take photographs and make sketches;
- (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
- (k)** meet with any person in private or, at the request of the person, in the presence of the person's legal counsel or union representative.

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.

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.

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.

(7) to (9) [Repealed, 2013, c. 40, s. 191]

R.S., 1985, c. L-2, s. 141; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 14; 2013, c. 40, s. 191; 2018, c. 27, s. 554.

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

- (a)** an employee member and an employer member of the work place committee; or
- (b)** the health and safety representative and a person designated by the employer.

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.

2000, c. 20, s. 14; 2013, c. 40, s. 192; 2018, c. 27, s. 555.

General Matters

Duty to assist

142 The person in charge of a work place and every person employed at, or in connection with, a work place shall give all reasonable assistance to

(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;

(a.1) an external adjudicator and a member of the Board to enable them to, in accordance with subsection 12.001(2) or 14(5), exercise or perform the powers, duties or functions conferred on the Board by this Part; and

(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.

R.S., 1985, c. L-2, s. 142; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 14; 2013, c. 40, s. 193; 2017, c. 20, s. 343; 2018, c. 27, s. 556.

Obstruction and false statements

143 No person shall obstruct or hinder, or make a false or misleading statement either orally or in writing to

(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;

(a.1) an external adjudicator or a member of the Board in the exercise or performance, in accordance with subsection 12.001(2) or 14(5), of the powers, duties or functions conferred on the Board by this Part; or

(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.

R.S., 1985, c. L-2, s. 143; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 14; 2013, c. 40, s. 193; 2017, c. 20, s. 344; 2018, c. 27, s. 557.

Provision of information

143.1 No person shall prevent an employee from providing information to

(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;

(a.1) an external adjudicator or a member of the Board in the exercise or performance, in accordance with subsection 12.001(2) or 14(5), of the powers, duties or functions conferred on the Board by this Part; or

(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.

2000, c. 20, s. 14; [2013, c. 40, s. 193](#); [2017, c. 20, s. 345](#); [2018, c. 27, s. 558](#).

Permission required for access to residence

143.2 No person who carries out a duty under this Part shall enter a work place that is situated in an employee's residence without the employee's permission.

2000, c. 20, s. 14.

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\(2\)](#).

Member of the Board

(2) No person who has accompanied or assisted an external adjudicator or a member of the Board in the exercise, in accordance with [subsection 12.001\(2\)](#) or [14\(5\)](#), of the powers, or in the performance of the duties or functions, conferred on the Board by this Part shall be required to give testimony in any proceeding with regard to information obtained in accompanying or assisting the external adjudicator or member.

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.

Privileged information

(4) All information that, under the *Hazardous Materials Information Review Act*, an employer is exempt from disclosing under this Act or the *Hazardous Products Act* and that is obtained in a work place under [section 141](#) is privileged and, notwithstanding the *Access to Information Act* or any other Act or law, shall not be disclosed to any other person except for the purposes of this Part.

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.

Personal information

(5.1) If the information referred to in subsection (5) is information within the meaning of Part 4 of the *Department of Employment and Social Development Act*, the disclosure of that information is governed by Part 4 of that Act.

Confidential communication

(6) No person to whom information obtained under [section 141](#) is communicated in confidence shall divulge the name of the informant to any person except for the purposes of this Part, and no such person is competent or compellable to divulge the name of the informant before any court or other tribunal.

R.S., 1985, c. L-2, s. 144; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 24 (3rd Supp.), s. 6; 2000, c. 20, s. 14; [2005, c. 34, s. 62](#); [2013, c. 40, ss. 194, 236](#); [2014, c. 13, ss. 94, 120](#), c. 20, ss. 142, 160; [2017, c. 20, s. 346](#); [2018, c. 27, s. 559](#).

Special Safety Measures

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

- (a) terminate the contravention within the time that the officer may specify; and
- (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.

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
- (b) as soon as possible by mail, or by facsimile or other electronic means, in any other case.

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,

(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

- (i) correct the hazard or condition or alter the activity that constitutes the danger, or
- (ii) protect any person from the danger; and

(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.

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.

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

- (a)** cause a copy or copies of the direction or report to be posted in a conspicuous place accessible to every employee;
- (b)** give a copy of the direction or report to the policy committee and a copy to the work place committee or the health and safety representative.

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.

R.S., 1985, c. L-2, s. 145; R.S., 1985, c. 9 (1st Supp.), s. 4; 1993, c. 42, s. 9(F); 2000, c. 20, s. 14; [2013, c. 40, s. 195](#); [2018, c. 27, s. 560](#).

Appeals of Decisions and Directions

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\(2\)](#).

2000, c. 20, s. 14; [2013, c. 40, s. 196](#); [2017, c. 20, s. 347](#); [2018, c. 22, ss. 13, 19](#); [2018, c. 27, s. 561](#); [2018, c. 27, s. 623](#).

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.

Direction not stayed

(2) Unless otherwise ordered by the Board on application by the employer, employee or trade union, an appeal of a direction does not operate as a stay of the direction.

R.S., 1985, c. L-2, s. 146; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 14; [2013, c. 40, s. 197](#); [2017, c. 20, s. 347](#); [2018, c. 27, s. 562](#).

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.

[2017, c. 20, s. 347](#); [2018, c. 27, s. 563](#).

Inquiry

146.1 (1) If an appeal is brought under [subsection 129\(7\)](#) or [section 146](#), the Board shall, in a summary way and without delay, inquire into the circumstances of the decision or direction, as the case may be, and the reasons for it and may

- (a)** vary, rescind or confirm the decision or direction; and
- (b)** issue any direction that the Board considers appropriate under [subsection 145\(2\)](#) or [\(2.1\)](#).

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.

Posting of notice

(3) If the Board issues a direction under paragraph (1)(b), the employer shall, without delay, affix or cause to be affixed to or near the machine, thing or place in respect of which the direction is issued a notice of the direction, in the form and containing the information that the Board may specify, and no person may remove the notice unless authorized to do so by the Board.

Cessation of use

(4) If the Board directs, under paragraph (1)(b), that a machine or thing not be used, a place not be worked in or an activity not be performed until the direction is complied with, no person shall use the machine or thing, or work in the place or perform the activity until the direction is complied with, but nothing in this subsection prevents the doing of anything necessary for the proper compliance with the direction.

2000, c. 20, s. 14; [2017, c. 20, s. 348](#); [2018, c. 27, s. 564](#).

146.2 [Repealed, [2017, c. 20, s. 349](#)]

146.3 [Repealed, [2017, c. 20, s. 349](#)]

146.4 [Repealed, [2017, c. 20, s. 349](#)]

Wages

146.5 An employee who is a party to a proceeding under subsection 146.1(1) and who attends at the proceeding, or any employee who has been summoned by the Board to attend at such a proceeding and who attends, is entitled to be paid by the employer at the employee's regular rate of wages for the time spent at the proceeding that would otherwise have been time at work.

2000, c. 20, s. 14; [2017, c. 20, s. 349](#).

Disciplinary Action

General prohibition re employer

147 No employer shall dismiss, suspend, lay off or demote an employee, impose a financial or other penalty on an employee, or refuse to pay an employee remuneration in respect of any period that the employee would, but for the exercise of the employee's rights under this Part, have worked, or take any disciplinary action against or threaten to take any such action against an employee because the employee

(a) has testified or is about to testify in a proceeding taken or an inquiry held under this Part;

(b) has provided information to a person engaged in the performance of duties under this Part regarding the conditions of work affecting the health or safety of the employee or of any other employee of the employer; or

(c) has acted in accordance with this Part or has sought the enforcement of any of the provisions of this Part.

R.S., 1985, c. L-2, s. 147; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 14.

Abuse of rights

147.1 (1) An employer may, after all the investigations and appeals have been exhausted by the employee who has exercised rights under sections 128 and 129, take disciplinary action against the employee who the employer can demonstrate has wilfully abused those rights.

Written reasons

(2) The employer must provide the employee with written reasons for any disciplinary action within fifteen working days after receiving a request from the employee to do so. 2000, c. 20, s. 14.

Offences and Punishment

General offence

148 (1) Subject to this section, every person who contravenes a provision of this Part is guilty of an offence and liable

- (a)** on conviction on indictment, to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both; or
- (b)** on summary conviction, to a fine of not more than \$100,000.

If death or injury

(2) Every person who contravenes a provision of this Part the direct result of which is the death of, serious illness of or serious injury to an employee is guilty of an offence and liable

- (a)** on conviction on indictment, to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both; or
- (b)** on summary conviction, to a fine of not more than \$1,000,000.

Risk of death or injury

(3) Every person who wilfully contravenes a provision of this Part knowing that the contravention is likely to cause the death of, serious illness of or serious injury to an employee is guilty of an offence and liable

- (a)** on conviction on indictment, to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both; or
- (b)** on summary conviction, to a fine of not more than \$1,000,000.

Defence

(4) On a prosecution of a person for a contravention of any provision of this Part, except paragraphs 125(1)(c), (z.10) and (z.11), it is a defence for the person to prove that the person exercised due care and diligence to avoid the contravention. However, no person is liable to imprisonment on conviction for an offence under any of paragraphs 125(1)(c), (z.10) and (z.11).

Presumption

(5) For the purposes of this section, if regulations are made under subsection 157(1.1) in relation to health or safety matters referred to in a paragraph of any of sections 125 to 126 by which a standard or other thing is to be prescribed, that standard or other thing is deemed to be prescribed within the meaning of that paragraph.

R.S., 1985, c. L-2, s. 148; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 24 (3rd Supp.), s. 7, c. 26 (4th Supp.), s. 4; 1993, c. 42, s. 10; 2000, c. 20, s. 14.

Minister's consent required

149 (1) No proceeding in respect of an offence under this Part may be instituted except with the consent of the Minister or a person designated by the Minister.

Officers and senior officials, etc.

(2) If a corporation or a department in, or other portion of, the federal public administration to which this Part applies commits an offence under this Part, any of the following persons who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and liable on conviction to the punishment provided for the offence, whether or not the corporation or department in, or portion of, the federal public administration has been prosecuted or convicted:

- (a)** any officer, director, agent or mandatary of the corporation;
- (b)** any senior official in the department in, or portion of, the federal public administration; or
- (c)** any other person exercising managerial or supervisory functions in the corporation or department in, or portion of, the federal public administration.

Evidence of direction

(3) On any prosecution for an offence under this Part, a copy of a direction purporting to have been made under this Part and purporting to have been signed by the person authorized under this Part to make the direction is evidence of the direction without proof of the signature or authority of the person by whom it purports to be signed.

Limitation period

(4) Proceedings in respect of an offence under this Part may be instituted at any time within but not later than two years after the day on which the subject-matter of the proceedings arose.

R.S., 1985, c. L-2, s. 149; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 15; [2003, c. 22, s. 111\(E\)](#); [2014, c. 13, s. 95](#).

Venue

150 A complaint or information in respect of an offence under this Part may be heard, tried and determined by a provincial court judge or justice if the accused is resident or carrying on business within the territorial jurisdiction of the provincial court judge or justice, notwithstanding that the matter of the complaint or information did not arise in that territorial jurisdiction.

R.S., 1985, c. L-2, s. 150; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 27 (1st Supp.), s. 203.

Information

151 In any proceedings in respect of an offence under this Part, an information may include more than one offence committed by the same person and all those offences may be tried concurrently and one conviction for any or all such offences may be made.

R.S., 1985, c. L-2, s. 151; R.S., 1985, c. 9 (1st Supp.), s. 4.

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.

R.S., 1985, c. L-2, s. 152; R.S., 1985, c. 9 (1st Supp.), s. 4; [2002, c. 8, s. 120](#); [2018, c. 27, s. 565](#).

Injunction

153 The judge of a court to whom an application under [section 152](#) is made may, in the judge's discretion, make the order applied for under that section and the order may be entered and enforced in the same manner as any other order or judgment of that court.

R.S., 1985, c. L-2, s. 153; R.S., 1985, c. 9 (1st Supp.), s. 4; 2000, c. 20, s. 16(E).

Imprisonment precluded in certain cases

154 (1) If a person is convicted of an offence under this Part on proceedings by way of summary conviction, no imprisonment may be imposed in default of payment of any fine imposed as punishment.

Recovery of fines

(2) Where a person is convicted of an offence under this Part and the fine that is imposed is not paid when required, the prosecutor may, by filing the conviction, enter as a judgment the amount of the fine and costs, if any, in a superior court of the province in which the trial was held, and the judgment is enforceable against the person in the same manner as if it were a judgment rendered against the person in that court in civil proceedings.

R.S., 1985, c. L-2, s. 154; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 24 (3rd Supp.), s. 8; 2000, c. 20, s. 17.

Providing of Information

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.

Proof of failure to provide information

(2) A certificate purporting to be signed by the Head or by a person authorized by the Head,

(a) certifying that a notice was sent by registered mail to the person to whom it was addressed, accompanied by an identified post office certificate of the registration and a true copy of the notice, and

(b) certifying that the information has not been provided as requested in the notice sent by the Head,

is evidence of the facts set out therein without proof of the signature or official character of the person by whom the certificate purports to be signed.

R.S., 1985, c. L-2, s. 155; R.S., 1985, c. 9 (1st Supp.), s. 4; [2018, c. 27, s. 567](#).

Orders, Decisions and Directions of Board

Decision final

156 (1) Every order or decision made or direction issued by the Board under this Part 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 this Part.

R.S., 1985, c. L-2, s. 156; R.S., 1985, c. 9 (1st Supp.), s. 4; 1998, c. 26, s. 57; 2000, c. 20, s. 18; [2017, c. 20, s. 351](#).

Fees

Fees for services, etc.

156.1 (1) The Governor in Council may, on the recommendation of the Treasury Board, fix the fees to be paid for services, facilities and products provided by the Minister under this Part or within the purpose of this Part.

Amount not to exceed cost

(2) Fees fixed under subsection (1) may not exceed the costs to Her Majesty in right of Canada in respect of those items or matters.

2000, c. 20, s. 19.

Regulations

Regulations

157 (1) Subject to this section, the Governor in Council may make regulations

(a) prescribing anything that by this Part is to be prescribed;

(a.01) defining the expressions “harassment” and “violence” for the purposes of this Part;

(a.1) restricting or prohibiting any activity or thing that any provision of this Part contemplates being the subject of regulations;

(a.2) prescribing the method for calculating and determining the regular rate of wages for the purpose of [section 146.5](#); and

(b) respecting such other matters or things as are necessary to carry out the provisions of this Part.

Idem

(1.1) Where the Governor in Council is of the opinion that a regulation cannot appropriately be made by prescribing a standard or other thing that by a paragraph of sections 125 to 126 is to be prescribed, the Governor in Council may make regulations in relation to the safety and health matters referred to in that paragraph in such manner as the Governor in Council considers appropriate in the circumstances, whether or not the opinion of the Governor in Council is indicated at the time the regulations are made.

(2) and (2.1) [Repealed, 1993, c. 42, s. 11]

Ministerial recommendations

(3) Regulations of the Governor in Council under subsection (1) or (1.1) in respect of occupational safety and health of employees employed

- (a)** on ships, trains or aircraft, while in operation, shall be made on the recommendation of the Minister and the Minister of Transport; or
- (b)** on or in connection with exploration or drilling for or the production, conservation, processing or transportation of oil or gas in frontier lands, as defined in the *Canada Petroleum Resources Act*, shall be made on the recommendation of
 - (i)** the Minister and the Minister of Indigenous Services, and
 - (ii)** the Minister of Natural Resources, taking into consideration any recommendations made by the Canadian Energy Regulator in relation to the regulations.

Regulations general or specific

(4) Regulations made under this section may be made applicable to all employment to which this Part applies, to one or more classes of employment to which this Part applies or to such employment in one or more work places.

Incorporation of standards

(5) Regulations made under this section incorporating a standard by reference may incorporate the standard as enacted or adopted at a certain date, as amended to a certain date or as amended from time to time.

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.

R.S., 1985, c. L-2, s. 157; R.S., 1985, c. 9 (1st Supp.), s. 4, c. 26 (4th Supp.), s. 5; 1992, c. 1, s. 93; 1993, c. 42, s. 11; 1994, c. 10, s. 29, c. 41, s. 37; 2000, c. 20, s. 20; [2013, c. 40, s. 198](#); [2017, c. 20, s. 352](#); [2018, c. 22, s. 14](#); [2018, c. 27, s. 568](#); [2019, c. 28, s. 115](#); [2019, c. 29, s. 375](#).

Provincial Crown corporations

158 The Governor in Council may, by regulation, direct that this Part applies in respect of any employment, or any class or classes of employment, on or in connection with a federal work, undertaking or business set out in the regulation that is, or is part of, a corporation that is an agent of Her Majesty in right of a province, including a corporation whose activities are regulated, in whole or in part, under the *Nuclear Safety and Control Act*.

R.S., 1985, c. L-2, s. 158; R.S., 1985, c. 9 (1st Supp.), s. 4; 1996, c. 12, s. 3; 1997, c. 9, s. 125; 2000, c. 20, ss. 21, 30.

Exclusion from application

159 (1) The Governor in Council may by regulation exclude, in whole or in part, from the application of any of the provisions of this Part any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

Regulations

(2) On the recommendation of the Minister after consultation with the Canadian Nuclear Safety Commission, the Governor in Council may make regulations relating to occupational safety and health in relation to employment that is subject to a regulation made pursuant to subsection (1).

R.S., 1985, c. L-2, s. 159; R.S., 1985, c. 9 (1st Supp.), s. 4; 1996, c. 12, s. 3; 1997, c. 9, s. 125.

Application of certain provisions

160 Subsections 121.2(3) to (8) apply, with such modifications as the circumstances require, in respect of a regulation made pursuant to subsection 159(2) except that the references to "subsection (2)" in subsections 121.2(3) to (6) shall be read as references to subsection 159(2).

R.S., 1985, c. L-2, s. 160; R.S., 1985, c. 9 (1st Supp.), s. 4; 1996, c. 12, s. 3.

Pilot projects

161 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 the prevention of accidents, injuries and illnesses arising out of, linked with or occurring in the course of employment to which this Part applies, 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.

R.S., 1985, c. L-2, s. 161; R.S., 1985, c. 9 (1st Supp.), s. 4; [2018, c. 22, s. 15](#).

Repeal of regulations

162 Unless they are repealed earlier, regulations made under [section 161](#) are repealed on the fifth anniversary of the day on which they come into force.

R.S., 1985, c. L-2, s. 162; R.S., 1985, c. 9 (1st Supp.), s. 4; [2018, c. 22, s. 15](#).

163 to 165 [Repealed, R.S., 1985, c. 9 (1st Supp.), s. 4]

PART III

Standard Hours, Wages, Vacations and Holidays

Interpretation

Definitions

166 In this Part,

collective agreement means an agreement in writing containing terms or conditions of employment of employees, including provisions with reference to rates of pay, hours of work and settlement by a third party of disagreements arising in the application of the agreement, between

- (a) an employer or an employers' organization acting on behalf of an employer, and
- (b) a trade union acting on behalf of the employees in collective bargaining or as a party to an agreement with the employer or employers' organization; (*convention collective*)

day means any period of twenty-four consecutive hours; (*jour*)

employer means any person who employs one or more employees; (*employeur*)

general holiday means New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, National Day for Truth and Reconciliation, which is observed on September 30, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day and includes any day substituted for any such holiday under [section 195](#); (*jours fériés*)

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*)

industrial establishment means any federal work, undertaking or business and includes any branch, section or other division of a federal work, undertaking or business that is designated as an industrial establishment by regulations made under paragraph 264(1)(b); (*établissement*)

inspector [Repealed, [2018, c. 27, s. 569](#)]

order means any order of the Minister made pursuant to this Part or the regulations; (*arrêté*)

overtime means hours of work in excess of standard hours of work; (*heures supplémentaires*)

qualified medical practitioner [Repealed, [2018, c. 27, s. 442](#)]

regional director [Repealed, [2018, c. 27, s. 569](#)]

standard hours of work means the hours of work established pursuant to [section 169](#) or [170](#) or in any regulations made pursuant to [section 175](#); (*durée normale du travail*)

trade union means any organization of employees formed for purposes that include the regulation of relations between employers and employees; (*syndicat*)

wages includes every form of remuneration for work performed but does not include tips and other gratuities; (*salaire*)

week means, in relation to Division I, the period between midnight on Saturday and midnight on the immediately following Saturday. (*semaine*)

R.S., 1985, c. L-2, s. 166; 1993, c. 42, s. 12; 1996, c. 11, s. 66; [2005, c. 34, s. 79](#); [2013, c. 40, s. 237](#); [2015, c. 36, s. 88](#); [2018, c. 27, s. 442](#); [2018, c. 27, s. 569](#); [2021, c. 11, s. 4](#).

Application

Application of Part

167 (1) This Part applies

- (a)** to employment in or in connection with the operation of any federal work, undertaking or business other than a work, undertaking or business of a local or private nature in Yukon, the Northwest Territories or Nunavut;
- (b)** to and in respect of employees who are employed in or in connection with any federal work, undertaking or business described in paragraph (a);
- (c)** to and in respect of any employers of the employees described in paragraph (b);
- (d)** to and in respect of any corporation established to perform any function or duty on behalf of the Government of Canada other than a department as defined in the *Financial Administration Act*; and
- (e)** to or in respect of any Canadian carrier, as defined in section 2 of the *Telecommunications Act*, that is an agent of Her Majesty in right of a province.

Application to other persons

(1.1) Subject to subsection (1.2), this Part applies to any person who is not an employee but who performs for an employer to which this Part applies activities whose primary purpose is to enable the person to acquire knowledge or experience, and to the employer, as if that person were an employee of the employer, and every provision of this Part must be read accordingly.

Exception

(1.2) Except to the extent provided for in the regulations, this Part does not apply to a person referred to in subsection (1.1) or, in relation to the person, the employer, if the person performs the activities to fulfil the requirements of a program that is offered by a secondary or post-secondary educational institution, vocational school, or equivalent educational institution outside Canada, specified or described in the regulations.

Non-application of Division I to certain employees

(2) Division I does not apply to or in respect of employees who

- (a)** are managers or superintendents or exercise management functions; or
- (b)** are members of such professions as may be designated by regulation as professions to which Division I does not apply.

Non-application of Division XIV to managers

(3) Division XIV does not apply to or in respect of employees who are managers.

R.S., 1985, c. L-2, s. 167; R.S., 1985, c. 9 (1st Supp.), s. 5; 1993, c. 28, s. 78, c. 38, s. 90; 2002, c. 7, s. 98(E); 2015, c. 36, s. 89; 2017, c. 33, s. 217.

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.

2018, c. 27, s. 443.

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.

2018, c. 27, s. 443.

Saving more favourable benefits

168 (1) This Part and all regulations made under this Part apply notwithstanding any other law or any custom, contract or arrangement, but nothing in this Part shall be construed as affecting any rights or benefits of an employee under any law, custom, contract or arrangement that are more favourable to the employee than his rights or benefits under this Part.

Where collective agreement applies exclusively

(1.1) Divisions II, IV, V and VIII do not apply to an employer and employees who are parties to a collective agreement that confers on employees rights and benefits at least as favourable as those conferred by those respective Divisions in respect of length of leave, rates of pay and qualifying periods for benefits, and, in respect of employees to whom the third party settlement provisions of such a collective agreement apply, the settlement of disagreements relating to those matters is governed exclusively by the collective agreement.

Sunday

(2) Nothing in this Part authorizes the doing of any work on Sunday that is prohibited by law.

R.S., 1985, c. L-2, s. 168; 1993, c. 42, s. 13.

168.1 [Repealed, L-2, s. 168.1]

DIVISION I

Hours of Work

Standard hours of work

169 (1) Except as otherwise provided by or under this Division

- (a) the standard hours of work of an employee shall not exceed eight hours in a day and forty hours in a week; and
- (b) no employer shall cause or permit an employee to work longer hours than eight hours in any day or forty hours in any week.

Averaging

(2) Where the nature of the work in an industrial establishment necessitates irregular distribution of the hours of work of an employee, the hours of work in a day and the hours of work in a week may be calculated, in such manner and in such circumstances as may be prescribed by the regulations, as an average for a period of two or more weeks.

Duration of averaging

(2.1) The averaged hours of work calculated pursuant to subsection (2) remain in effect

- (a) where the averaging of hours of work is agreed to in writing by an employer and a trade union, for the duration of that agreement or for such shorter period as is agreed to by the parties; or
- (b) where the averaging of hours of work is not agreed to in writing by an employer and a trade union, for no longer than three years.

General holidays in week

(3) In a week in which one or more general holidays occur that under Division V entitle an employee to holidays with pay in that week, the hours of work of the employee in that week shall be reduced by the standard hours of work for each general holiday in that week and, for the purposes of this subsection, in calculating the time worked by an employee in any such week, no account shall be taken of any time worked by the employee on the holidays or of any time during which the employee was at the disposal of his employer during the holidays.

R.S., 1985, c. L-2, s. 169; 1993, c. 42, s. 14.

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.

[2018, c. 27, s. 444.](#)

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.

[2018, c. 27, s. 444.](#)

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

- (a) the average hours of work for a period of two or more weeks does not exceed forty hours a week; and
- (b) the schedule, or its modification or cancellation, is agreed to in writing by the employer and the trade union.

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

- (a) the average hours of work for a period of two or more weeks does not exceed forty hours a week; and
- (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.

Posting of notice

(3) Where a work schedule is to be established, modified or cancelled pursuant to subsection (2), the employer shall post a notice of the new schedule, or of its modification or cancellation, in readily accessible places where it is likely to be seen by the affected employees, for at least thirty days before the new schedule or its modification or cancellation takes effect.

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).

R.S., 1985, c. L-2, s. 170; 1993, c. 42, s. 15; [2017, c. 33, s. 195](#).

Maximum hours of work

171 (1) An employee may be employed in excess of the standard hours of work but, subject to [sections 172, 176 and 177](#), and to any regulations made pursuant to [section 175](#), the total hours that may be worked by any employee in any week shall not exceed forty-eight hours in a week or such fewer total number of hours as may be prescribed

by the regulations as maximum working hours in the industrial establishment in or in connection with the operation of which the employee is employed.

Averaging

(2) Subsection 169(2) applies in the computation of the maximum hours of work in a week prescribed under this section.

R.S., c. L-1, s. 30; R.S., c. 17(2nd Supp.), s. 4; 1977-78, c. 27, s. 6.

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

- (a)** the average hours of work for a period of two or more weeks does not exceed forty-eight hours a week; and
- (b)** the schedule, or its modification or cancellation, is agreed to in writing by the employer and the trade union.

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

- (a)** the average hours of work for a period of two or more weeks does not exceed forty-eight hours a week; and
- (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.

Posting of notice

(3) Where a work schedule is to be established, modified or cancelled pursuant to subsection (2), the employer shall post a notice of the new schedule, or of its modification or cancellation, in readily accessible places where it is likely to be seen by the affected employees, for at least thirty days before the new schedule or its modification or cancellation takes effect.

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).
R.S., 1985, c. L-2, s. 172; 1993, c. 42, s. 16; [2017, c. 33, s. 196](#).

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.

Confidentiality

(3) A request made under subsection (1), the ballots and any other documents relating to the vote are confidential and shall not be given to the employer.

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.

Regulations

(7) The Governor in Council may make regulations respecting the conduct of votes under this section.

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).

1993, c. 42, s. 16; [2018, c. 27, s. 570.](#)

Duration

172.2 (1) A work schedule that is established or modified under subsection 170(1) or 172(1) remains in effect for the duration of the written agreement between the employer and the trade union.

Idem

(2) A work schedule that is established or modified under [subsection 170\(2\)](#) or [172\(2\)](#) remains in effect for three years or for such shorter period as is agreed to by the parties.

1993, c. 42, s. 16.

Scheduling hours of work

173 Except as may be otherwise prescribed by the regulations, hours of work in a week shall be so scheduled and actually worked that each employee has at least one full day of rest in the week, and, wherever practicable, Sunday shall be the normal day of rest in the week.

R.S., c. L-1, s. 31.

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.

2018, c. 27, s. 445.

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).

2017, c. 33, s. 197.

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.

R.S., 1985, c. L-2, s. 174; [2017, c. 33, s. 197](#).

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).

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.

2017, c. 33, s. 197; 2018, c. 27, s. 511.

Regulations for the purpose of this Division

175 (1) The Governor in Council may make regulations

(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

(i) would be or is unduly prejudicial to the interests of the employees in those classes, or

(ii) would be or is seriously detrimental to the operation of the industrial establishment;

(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;

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

(c) providing that [section 174](#) does not apply in circumstances where work practices specified in the regulations are followed that in the opinion of the Governor in Council make the application of that section either unreasonable or inequitable; and

(d) providing for the calculation of hours worked by employees of any class who are employed in any industrial establishment or in any class of industrial establishment.

(2) [Repealed, *2017, c. 33, s. 198*]

R.S., 1985, c. L-2, s. 175; *2017, c. 33, s. 198; 2018, c. 27, s. 446.*

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.

Duration of permit

(3) A permit under subsection (1) shall be issued for the period specified therein, which shall not be longer than the period during which it is anticipated that the exceptional circumstances that justified the permit will continue.

Additional hours may be specified

- (4)** A permit under subsection (1) may specify either
- (a)** the total of the number of additional hours in excess of the maximum hours specified in or prescribed under [section 171](#) or by regulations made under [section 175](#), or
 - (b)** the additional hours that may be worked in any day and in any week during the period of the permit.

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.

R.S., 1985, c. L-2, s. 176; 1993, c. 42, s. 17; [2018, c. 27, s. 571](#).

Emergency work

177 (1) The maximum hours of work in a week specified in or prescribed under section 171, established pursuant to section 172 or prescribed by regulations made under section 175 may be exceeded, but only to the extent necessary to prevent serious interference with the ordinary working of the industrial establishment affected, in cases of

- (a) accident to machinery, equipment, plant or persons;
- (b) urgent and essential work to be done to machinery, equipment or plant; or
- (c) other unforeseen or unpreventable circumstances.

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.

R.S., 1985, c. L-2, s. 177; 1993, c. 42, s. 18; [2018, c. 27, s. 572](#).

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.

Application of section 189

(10) [Section 189](#) applies for the purposes of this Division.

[2017, c. 33, s. 199; 2018, c. 27, s. 512.](#)

DIVISION II

Minimum Wage and Age of Employment

Minimum wage

178 (1) Subject to subsections (2) to (5), an employer shall pay to each employee a wage at a minimum hourly rate that is not less than the rate that is determined in accordance with [section 178.1](#).

Province of employment

(2) If the minimum hourly rate that is fixed, from time to time, by or under an Act of the legislature of the province where the employee is usually employed and that is generally applicable regardless of occupation, status or work experience is higher than the minimum hourly rate fixed under subsection (1), an employer shall pay to each employee a wage at a rate that is

- (a)** if the wages of the employee are paid on an hourly basis, not less than that higher minimum hourly rate; or
- (b)** if the wages of the employee are paid on any basis of time other than hourly, not less than the equivalent of the rate under paragraph (a) for the time worked by the employee.

Wage rate based on age

(3) For the purposes of paragraph (2)(a), if minimum hourly rates for a province are fixed on the basis of age, the minimum hourly rate for that province is the highest of those rates.

Minimum on other basis than time

(4) Where the wages of an employee are computed and paid on a basis other than time or on a combined basis of time and some other basis, the Minister may, by order,

- (a)** fix a standard basis of work to which a minimum wage on a basis other than time may be applied; and
- (b)** fix a minimum rate of wage that in the opinion of the Minister is the equivalent of
 - (i)** the minimum rate determined in accordance with subsection (2), if that minimum rate is higher than or equal to the minimum rate determined in accordance with [section 178.1](#), or
 - (ii)** the minimum rate determined in accordance with [section 178.1](#), if that minimum rate is higher than the minimum rate determined in accordance with subsection (2).

Minimum rate fixed by order to be paid

(5) Except as otherwise provided by or under this Division, the employer shall pay to each employee who is paid on a basis other than time or on a combined basis of time and some other basis a wage at a rate not less than the minimum rate fixed by order under subsection (4).

R.S., 1985, c. L-2, s. 178; 1996, c. 32, s. 1; [2021, c. 23, s. 246](#).

Minimum wage — rate

178.1 (1) Subject to subsection (2), the minimum hourly rate referred to in subsection 178(1) is \$15.

Annual adjustment

(2) On April 1 of each year after the year in which this section comes into force, the minimum hourly rate is to be adjusted to the rate, rounded up to the nearest \$0.05, that is equal to the product of

(a) as the case may be,

(i) in respect of April 1 of the year after the year in which this section comes into force, \$15, or

(ii) in respect of April 1 of each subsequent year, the rate that is determined in accordance with this section on April 1 of the preceding year, and

(b) the ratio that the Consumer Price Index for the preceding calendar year bears to the Consumer Price Index for the calendar year before that preceding calendar year.

Consumer Price Index

(3) For the purposes of subsection (2), a reference to the Consumer Price Index for any calendar year means the average of the all-items Consumer Price Index for Canada, not seasonally adjusted, as published by Statistics Canada under the authority of the *Statistics Act*, for each month in that year.

No adjustment

(4) Despite subsection (2), the minimum hourly rate is not to be adjusted on April 1 of a given year if on that day the rate determined in accordance with that subsection is less than, as the case may be,

(a) in respect of April 1 of the year after the year in which this section comes into force, \$15; or

(b) in respect of April 1 of each subsequent year, the rate that is determined in accordance with this section on April 1 of the preceding year.

2021, c. 23, s. 247.

Employees under 18 years of age

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

(a) in an occupation specified by the regulations; and

(b) subject to the conditions fixed by the regulations for employment in that occupation.

R.S., 1985, c. L-2, s. 179; 1996, c. 32, s. 2; [2018, c. 27, s. 448](#).

180 [Repealed, R.S., 1985, c. 9 (1st Supp.), s. 6]

Regulations applicable to Division

181 The Governor in Council may make regulations for carrying out the purposes and provisions of this Division and, without restricting the generality of the foregoing, may make regulations

- (a)** requiring employers to pay employees who report for work at the call of the employer wages for such minimum number of hours as may be prescribed, whether or not the employee is called on to perform any work after so reporting for work;
- (b)** fixing the maximum price to be charged for board, whether full or partial, furnished by or on behalf of an employer to an employee, or the maximum deduction to be made therefor from the wages of the employee by the employer;
- (c)** fixing the maximum price to be charged for living quarters, either permanent or temporary, furnished by or on behalf of an employer to an employee, whether or not those quarters are self-contained and whether or not the employer retains general possession and custody thereof, or the maximum deduction to be made therefor from the wages of the employee by the employer;
- (d)** governing the charges or deductions for furnishing uniforms or other articles of wearing apparel that an employer may require an employee to wear or requiring an employer in any specified circumstances to provide, maintain or launder uniforms or other articles of wearing apparel that the employer may require an employee to wear;
- (e)** governing the charges or deductions for furnishing any tools or equipment that an employer may require an employee to use and for the maintenance and repair of any such tools or equipment;
- (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
- (g)** exempting, on such terms and conditions and for such periods as are considered advisable, any employer from the application of [section 178](#) in respect of any class of employees who are being trained on the job, if the training facilities provided and used by the employer are adequate to provide a training program that will increase the skill or proficiency of an employee.

R.S., 1985, c. L-2, s. 181; 1996, c. 32, s. 3; [2018, c. 27, s. 449.](#)

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.

[2018, c. 27, s. 450.](#)

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.

[2018, c. 27, s. 450.](#)

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\(2\)](#).

[2018, c. 27, s. 450.](#)

DIVISION III

Equal Wages

Application of sections

182 (1) For the purposes of ascertaining whether a discriminatory practice under section 11 of the *Canadian Human Rights Act* is being or has been engaged in, sections 249, 250, 252, 253, 254, 255 and 264 apply, with such modifications as the circumstances require, as if this Part expressly required an employer to refrain from that discriminatory practice.

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*.

R.S., 1985, c. L-2, s. 182; 2018, c. 27, s. 573.

DIVISION IV

Annual Vacations

Definitions

183 In this Division,

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

year of employment means continuous employment of an employee by one employer

(a) for a period of twelve consecutive months beginning with the date the employment began or any subsequent anniversary date thereafter, or

(b) for a calendar year or other year determined by the employer, in accordance with the regulations, in relation to an industrial establishment. (*année de service*)

R.S., 1985, c. L-2, s. 183; 1993, c. 42, s. 19; 2018, c. 27, s. 453.

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.

R.S., 1985, c. L-2, s. 184; [2018, c. 27, s. 454](#).

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.

[2018, c. 27, s. 454](#).

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.

[2017, c. 33, s. 200](#).

Granting vacation with pay

185 The employer of an employee who under this Division has become entitled to a vacation with vacation pay

- (a) shall grant to the employee the vacation to which the employee is entitled, which shall begin not later than ten months immediately following the completion of the year of employment for which the employee became entitled to the vacation; and
- (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.

R.S., 1985, c. L-2, s. 185; [2017, c. 33, s. 201](#).

Vacation pay

186 Vacation pay shall for all purposes be deemed to be wages.

R.S., c. L-1, s. 42.

General holiday during vacation

187 Where one or more general holidays occur during a vacation granted to an employee pursuant to this Division, the vacation to which the employee is entitled under this Division may be extended by one day for each such holiday, and the employer shall pay to the employee in addition to the vacation pay the wages to which the employee is entitled for those general holidays.

R.S., c. L-1, s. 43; 1977-78, c. 27, s. 12.

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 206.9](#) 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.

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.

(3.1) [Repealed, [2021, c. 26, s. 20](#)]

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.

2017, c. 33, s. 202; 2018, c. 27, s. 455; 2018, c. 27, s. 533; 2020, c. 5, s. 37; 2020, c. 12, s. 4.1; 2021, c. 23, s. 340; 2021, c. 23, s. 345; 2021, c. 26, s. 20; 2021, c. 26, s. 26.

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.

2017, c. 33, s. 202; 2020, c. 5, s. 38; 2020, c. 12, s. 4.2; 2021, c. 23, s. 341; 2021, c. 23, s. 345; 2021, c. 26, s. 21; 2021, c. 26, s. 26.

Termination of employment during year

188 When an employee ceases to be employed, the employer shall pay to the employee within 30 days after the day on which the employee ceases to be employed

(a) any vacation pay then owing by the employer to the employee under this Division in respect of any prior completed year of employment; and

(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.

R.S., 1985, c. L-2, s. 188; [2012, c. 31, s. 219](#); [2018, c. 27, s. 456](#).

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.

Inclusion

(2) For the purposes of subsection (1), a federal work, undertaking or business includes

(a) any portion of the federal public administration specified from time to time in Schedule I, IV or V to the [*Financial Administration Act*](#) that is deleted from one of those Schedules and that is established as or becomes a part of a corporation or any federal work, undertaking or business to which this Part applies; or

(b) a portion of the federal public administration included in a portion of the federal public administration so specified in one of those Schedules that is severed from the portion in which it was included and that is established as or becomes a part of such a corporation or federal work, undertaking or business.

R.S., 1985, c. L-2, s. 189; R.S., 1985, c. 9 (1st Supp.), s. 7; 1996, c. 18, s. 10; [2003, c. 22, s. 112](#); [2018, c. 27, s. 457](#).

Regulations in relation to annual vacations

190 The Governor in Council may make regulations for carrying out the purposes and provisions of this Division and, without restricting the generality of the foregoing, may make regulations

(a) defining the circumstances and conditions under which the rights of an employee under this Division may be waived or the enjoyment thereof postponed;

(b) prescribing the notices to be given to employees of the times when vacations may be taken;

- (c) prescribing the time when vacation pay shall be paid;
- (d) defining the absences from employment that shall be deemed not to have interrupted continuity of employment;
- (e) respecting the determination by the employer of a year of employment in relation to any industrial establishment;
- (f) for the calculation and determination of vacation and vacation pay in the case of seasonal or temporary employees or in other suitable cases;
- (g) providing for the granting of vacation or the payment of vacation pay in the event of temporary cessation of employment; and
- (h) providing for the application of this Division where, owing to illness or other unavoidable absence, an employee has been absent from his employment.

R.S., 1985, c. L-2, s. 190; 1993, c. 42, s. 20.

DIVISION V

General Holidays

Definitions

191 The following definitions apply in this Division.

employed in a continuous operation means, in respect of an employee, employment in

- (a) any industrial establishment in which, in each seven-day period, operations once begun normally continue without cessation until the completion of the regularly scheduled operations for that period;
- (b) any operations or services concerned with the running of trains, planes, ships, trucks or other vehicles, whether in scheduled or non-scheduled operations;
- (c) any telephone, radio, television, telegraph or other communication or broadcasting operations or services; or
- (d) any operation or service normally carried on without regard to Sundays or general holidays. (*occupé à un travail ininterrompu*)

holiday pay means pay calculated in accordance with section 196. (*indemnité de congé*)

holiday with pay means a holiday for which an employee is entitled to holiday pay. (*congé payé*)

R.S., 1985, c. L-2, s. 191; [2012, c. 31, s. 220.](#)

Entitlement to holidays

192 Except as otherwise provided by this Division, every employee is entitled to and shall be granted a holiday with pay on each of the general holidays falling within any period of his employment.

R.S., c. L-1, s. 48.

General holiday falling on day off

193 (1) Except as otherwise provided by this Division and subject to subsection (2), when a general holiday falls on a day that is a non-working day for an employee, the employee is entitled to and shall be granted a holiday with pay at some other time, which may be by way of addition to his annual vacation or granted as a holiday with pay at a time convenient to both the employee and the employer.

Alternative day for holiday falling on non-working Saturday or Sunday

(2) Except as otherwise provided by this Division, when New Year's Day, Canada Day, National Day for Truth and Reconciliation, Remembrance Day, Christmas Day or Boxing Day falls on a Sunday or Saturday that is a non-working day, the employee is entitled to and shall be granted a holiday with pay on the working day immediately preceding or following the general holiday.

R.S., 1985, c. L-2, s. 193; [2021, c. 11, s. 5.](#)

Exemption under collective agreement

194 Section 193 does not apply in respect of any employees who are employed under the terms of a collective agreement that entitles those employees to at least nine holidays with pay, exclusive of any annual vacation, in each year.

R.S., c. L-1, s. 50; 1977-78, c. 27, s. 15.

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.

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.

Exception

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

R.S., 1985, c. L-2, s. 195; 1993, c. 42, s. 21; [2017, c. 33, s. 203](#).

Voting, duration

195.1 Sections 172.1 and 172.2 apply, with such modifications as the circumstances require, in respect of the substitution of a general holiday pursuant to this Division.

1993, c. 42, s. 21.

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.

Employees on commission

(2) An employee whose wages are paid in whole or in part on a commission basis and who has completed at least 12 weeks of continuous employment with an employer shall, for each general holiday, be paid holiday pay equal to at least one sixtieth of the wages, excluding overtime pay, that they earned in the 12-week period immediately preceding the week in which the general holiday occurs.

(3) [Repealed, [2018, c. 27, s. 458](#)]

Continuous operation employee not reporting for work

(4) An employee who is employed in a continuous operation is not entitled to holiday pay for a general holiday

(a) on which they do not report for work after having been called to work on that day; or

(b) for which they make themselves unavailable to work when the conditions of employment in the industrial establishment in which they are employed

(i) require them to be available, or

(ii) allow them to make themselves unavailable.

(5) [Repealed, 2018, c. 27, s. 458]

R.S., 1985, c. L-2, s. 196; [2012, c. 31, s. 221](#); [2018, c. 27, s. 458](#).

Additional pay for holiday work

197 (1) An employee who is required to work on a day on which they are entitled to holiday pay shall be paid, in addition to the holiday pay for that day, wages at a rate equal to at least one and one-half times their regular rate of wages for the time that they work on that day.

Employment in continuous operation

(2) An employee employed in a continuous operation who is required to work on a day on which they are entitled to holiday pay shall

(a) be paid in accordance with subsection (1);

(b) be given a holiday with pay at some other time, either by adding it to their annual vacation or by granting it at a time convenient to both the employee and the employer; or

(c) be paid holiday pay for the first day on which they do not work after that day, if a collective agreement that is binding on the employer and the employee so provides.

(3) [Repealed, 2018, c. 27, s. 459]

R.S., 1985, c. L-2, s. 197; 1993, c. 42, s. 22(F); [2001, c. 34, s. 18\(F\)](#); [2012, c. 31, s. 221](#); [2018, c. 27, s. 459](#).

198 [Repealed, 2012, c. 31, s. 221]

Holiday work for managers, etc.

199 Despite section 197, an employee excluded from the application of Division I under subsection 167(2) who is required to work on a day on which they are entitled to holiday pay shall be given a holiday with pay at some other time, either by adding it to their annual vacation or by granting it at a time convenient to both the employee and the employer.

R.S., 1985, c. L-2, s. 199; [2012, c. 31, s. 222](#).

Holiday pay deemed to be wages

200 Holiday pay granted to an employee is for all purposes deemed to be wages.

R.S., 1985, c. L-2, s. 200; [2012, c. 31, s. 222](#).

Application of section 189

201 Section 189 applies for the purposes of this Division.

R.S., 1985, c. L-2, s. 201; R.S., 1985, c. 9 (1st Supp.), s. 8; 1993, c. 42, s. 24; [2012, c. 31, s. 222](#).

201.1 [Repealed, [2012, c. 31, s. 222](#)]

202 [Repealed, [2012, c. 31, s. 222](#)]

DIVISION VI

Multi-employer Employment

Definition of multi-employer employment

203 (1) In this Division, **multi-employer employment**, as more particularly defined by the regulations, means employment in any occupation or trade in which, by custom of that occupation or trade, any or all employees would in the usual course of a working month be ordinarily employed by more than one employer.

Regulations

(2) The Governor in Council may make regulations

- (a)** defining more particularly the expression “multi-employer employment”; and
- (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.

Idem, application

(3) Any regulation made pursuant to subsection (2) may be made applicable to all federal works, undertakings or businesses or particularly to one or more such works, undertakings or businesses or such classes thereof or classes of employees thereof as may be specified in the regulations.

R.S., 1985, c. L-2, s. 203; R.S., 1985, c. 9 (1st Supp.), s. 9; [2017, c. 33, s. 204](#).

DIVISION VII

Maternity-related Reassignment and Leave and Other Leaves

Maternity-related Reassignment and Leave

Reassignment and job modification

204 (1) An employee who is pregnant or nursing may, during the period from the beginning of the pregnancy to the end of the twenty-fourth week following the birth, request the employer to modify her job functions or reassign her to another job if, by reason of the pregnancy or nursing, continuing any of her current job functions may pose a risk to her health or to that of the foetus or child.

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.

R.S., 1985, c. L-2, s. 204; R.S., 1985, c. 9 (1st Supp.), s. 9; 1993, c. 42, s. 26; [2018, c. 27, s. 463](#).

Employer's obligations

205 (1) An employer to whom a request has been made under subsection 204(1) shall examine the request in consultation with the employee and, where reasonably practicable, shall modify the employee's job functions or reassign her.

Rights of employee

(2) An employee who has made a request under subsection 204(1) is entitled to continue in her current job while the employer examines her request, but, if the risk posed by continuing any of her job functions so requires, she is entitled to and shall be granted a leave of absence with pay at her regular rate of wages until the employer

(a) modifies her job functions or reassigns her, or

(b) informs her in writing that it is not reasonably practicable to modify her job functions or reassign her,

and that pay shall for all purposes be deemed to be wages.

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.

Status of employee

(5) An employee whose job functions are modified or who is reassigned shall be deemed to continue to hold the job that she held at the time of making the request under subsection 204(1), and shall continue to receive the wages and benefits that are attached to that job.

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.

R.S., 1985, c. L-2, s. 205; R.S., 1985, c. 9 (1st Supp.), s. 9; 1993, c. 42, s. 26; [2018, c. 27, s. 464](#).

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.

1993, c. 42, s. 26; [2018, c. 27, s. 465](#).

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.
1993, c. 42, s. 26; [2018, c. 27, s. 465](#).

Maternity Leave

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.

Extension of period

(1.1) If the confinement has not occurred during the 17 weeks of her leave of absence, the leave of absence is extended until the date of her confinement.

Extension of period – child in hospital

(2) If, during the period of 17 weeks following the date of confinement, the child who was born is hospitalized, the period is extended by the number of weeks during which the child is hospitalized.

Limitation

(3) An extension under subsection (2) must not result in the period being longer than 52 weeks.

R.S., 1985, c. L-2, s. 206; R.S., 1985, c. 9 (1st Supp.), s. 10; 1993, c. 42, s. 26; [2012, c. 27, s. 3](#); [2017, c. 20, s. 259](#); [2018, c. 27, s. 466](#).

Parental Leave

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.

Period when leave may be taken

(2) The leave of absence granted under this section may only be taken during the 78-week period beginning

(a) in the case of a new-born child of the employee, at the option of the employee, on the day the child is born or comes into the actual care of the employee; and

(b) in the case of an adoption, on the day the child comes into the actual care of the employee.

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).

Extension of period — child in hospital

(2.2) If the child referred to in subsection (1) is hospitalized during the period referred to in subsection (2), the period is extended by the number of weeks during which the child is hospitalized.

Limitation

(2.3) An extension under subsection (2.1) or (2.2) must not result in the period being longer than 104 weeks.

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).

Resumption

(2.5) The leave referred to in subsection (1) resumes immediately after the interruption ends.

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.

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).

(4.1) [Repealed, 2021, c. 26, s. 22]

Exception — work-related illness or injury

(5) Except to the extent that it is inconsistent with subsections 239.1(3) and (4), 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(1).

Exception — member of reserve force

(6) Despite section 209.1, sections 247.93 to 247.95 apply to an employee who interrupted the leave referred to in subsection (1) in order to take leave under any of paragraphs 247.5(1)(a), (b) and (d) to (g).

1993, c. 42, s. 26; 2000, c. 14, s. 42; 2002, c. 9, s. 17; 2012, c. 27, s. 4; 2017, c. 20, s. 260; 2018, c. 27, s. 310; 2018, c. 27, s. 467; 2020, c. 5, s. 39; 2020, c. 12, s. 4.3; 2021, c. 23, s. 342; 2021, c. 23, s. 345; 2021, c. 26, s. 22; 2021, c. 26, s. 26.

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.

2000, c. 14, s. 42; 2017, c. 20, s. 261; 2018, c. 27, s. 311.

Compassionate Care Leave

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.

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

- (a) the day the certificate is issued; or
- (b) if the leave was commenced before the certificate was issued, the day the leave was commenced.

(2.1) [Repealed, 2018, c. 27, s. 468]

Period when leave may be taken

(3) The leave of absence may only be taken during the period

- (a) that starts with
 - (i) the first day of the week in which the certificate is issued, or
 - (ii) if the leave was commenced before the certificate was issued, the first day of the week in which the leave was commenced if the certificate is valid from any day in that week; and
- (b) that ends with the last day of the week in which either of the following occurs, namely,
 - (i) the family member dies, or
 - (ii) the period of 52 weeks following the first day of the week referred to in paragraph (a) ends.

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).

Shorter period

(4) If a shorter period is prescribed by regulation for the purposes of subsection 23.1(5) or 152.06(4) of the *Employment Insurance Act*,

- (a) the certificate referred to in subsection (2) must state that the family member has a serious medical condition with a significant risk of death within that period; and
- (b) that shorter period applies for the purposes of subparagraph (3)(b)(ii).

Expiry of shorter period

(5) When a shorter period referred to in subsection (4) has expired in respect of a family member, no further leave may be taken under this section in respect of that family member until the minimum number of weeks prescribed for the purposes of subsection 12(4.3) or 152.14(7) of the *Employment Insurance Act* has elapsed.

(6) [Repealed, 2014, c. 20, s. 242]

Aggregate leave — more than one employee

(7) The aggregate amount of leave that may be taken by two or more employees under this section in respect of the care or support of the same family member shall not exceed 28 weeks in the period referred to in subsection (3).

Limitation — section 206.4

(7.1) No leave may be taken by one or more employees under subsection 206.4(2) or (2.1) before the end of the leave taken under subsection (2) in respect of the same person.

Copy of certificate

(8) If requested in writing by the employer within 15 days after an employee's return to work, the employee must provide the employer with a copy of the certificate referred to in subsection (2).

Application

(9) The references in this section to provisions that are in Part VII.1 of the *Employment Insurance Act* apply only in relation to employees who are self-employed persons referred to in paragraph (b) of the definition self-employed person in subsection 152.01(1) of that Act.

2003, c. 15, s. 27; 2009, c. 33, s. 30; 2014, c. 20, s. 242; 2015, c. 36, s. 73; 2017, c. 20, s. 262; 2018, c. 27, s. 468.

Leave Related to Critical Illness

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).

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

- (a)** states that the child is a critically ill child and requires the care or support of one or more of their family members; and
- (b)** sets out the period during which the child requires that care or support.

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

- (a)** states that the adult is a critically ill adult and requires the care or support of one or more of their family members; and
- (b)** sets out the period during which the adult requires that care or support.

(3) [Repealed, 2018, c. 27, s. 469]

Period when leave may be taken — child

(4) The period during which the employee may take a leave of absence

- (a)** begins on the first day of the week in which either of the following falls:

- (i)** the day on which the first certificate is issued in respect of the child or adult, as the case may be, that meets the requirements of subsection (2) or (2.1), or
- (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

- (b)** ends on the last day of the week in which either of the following occurs:

- (i)** the child or adult, as the case may be, dies, or
- (ii)** the expiry of 52 weeks following the first day of the week referred to in paragraph (a).

Aggregate leave — employees

(5) The aggregate amount of leave that may be taken by employees under this section during the period referred to in subsection (4) must not exceed

- (a)** in respect of the same critically ill child, 37 weeks; or
- (b)** in respect of the same critically ill adult, 17 weeks.

Limitation

(6) No leave may be taken by one or more employees under subsection (2.1) before the end of the period referred to in subsection (4) if leave was granted under subsection (2) in respect of the same person.

Limitation – section 206.3

(7) No leave may be taken by one or more employees under [section 206.3](#) before the end of the leave taken under subsection (2) or (2.1) in respect of the same person.
[2012, c. 27, s. 5; 2017, c. 20, s. 263; 2018, c. 27, s. 469.](#)

Leave Related to Death or Disappearance

Definitions

206.5 (1) The following definitions apply in this section.

child means a person who is under 25 years of age. (*enfant*)

crime means an offence under the [Criminal Code](#), other than one that is excluded by the regulations. (*crime*)

parent, with respect to a child, means

(a) a person who, in law, is a parent of the child;

(b) a person, other than a person referred to in paragraph (a), who, in law

(i) has custody of the child or, in Quebec, parental authority over the child,

(ii) is the guardian of the child or, in Quebec, the tutor or curator to the person of the child, or

(iii) has decision-making responsibility, as defined in [subsection 2\(1\)](#) of the [Divorce Act](#), in respect of the child;

(c) a person with whom the child is placed for the purposes of adoption under the laws governing adoption in the province in which the person resides; or

(d) a person prescribed to be a parent by regulations made under [paragraph 209.4\(f\)](#). (*parent*)

Leave – death of child

(2) Every employee is entitled to and shall be granted a leave of absence from employment of up to 156 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 — child who has disappeared

(3) Every employee is entitled to and shall be granted a leave of absence from employment of up to 156 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.

Exception

(4) An employee is not entitled to a leave of absence if they are charged with the crime.

Period when leave may be taken

(5) The period during which the employee may take a leave of absence

(a) begins on the day on which the death or disappearance, as the case may be, occurs; and

(b) ends 156 weeks after the day on which the death or disappearance, as the case may be, occurs.

Disappearance of child

(6) Despite paragraph (5)(b), in the case of a child who disappears and who is subsequently found, the period referred to in subsection (5) ends

(a) on the 14th day after the day on which the child is found, if the child is found during the 156-week period, but no later than the end of the 156-week period; or

(b) 156 weeks after the day on which the disappearance occurs if subsection (2) applies to the child.

Clarification

(7) For greater certainty, a leave under this section ends on the day on which the circumstances are such that it is no longer probable that the death or disappearance was the result of a crime.

Aggregate leave — employees

(8) The aggregate amount of leave that may be taken by employees under this section in respect of the same death or disappearance of a child — or the same children who die or disappear as a result of the same event — must not exceed 156 weeks.

2012, c. 27, s. 6; 2018, c. 27, s. 470; 2021, c. 23, s. 249; 2023, c. 26, s. 282.

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) [Repealed, 2021, c. 27, s. 6]
- (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.

[2017, c. 33, s. 206; 2018, c. 27, s. 514; 2021, c. 27, s. 6.](#)

Leave for Victims of Family Violence

Definitions

206.7 (1) The following definitions apply in subsection (2).

child means a person who is under 18 years of age. (*enfant*)

parent has the same meaning as in subsection 206.5(1) but does not include a curator to the person. (*parent*)

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.

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.

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.

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).

[2017, c. 33, s. 206](#); [2018, c. 27, s. 514](#); [2021, c. 23, s. 250](#).

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 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 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.
[2017, c. 33, s. 206.](#)

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.

[2018, c. 27, s. 471.](#)

General

Notification to employer

207 (1) Every employee who intends to take a leave of absence from employment under [section 206](#) or [206.1](#) shall

- (a)** unless there is a valid reason for not doing so, give at least four weeks notice in writing to the employer before the day on which the leave is to begin; and
- (b)** inform the employer in writing of the length of leave intended to be taken.

Exception — valid reason

(1.1) If there is a valid reason for not providing notice in accordance with paragraph (1)(a), the employee shall notify the employer in writing as soon as possible that the employee intends to take a leave of absence.

Change in length of leave

(2) Every employee who intends to take or who is on a leave of absence from employment under [section 206](#) or [206.1](#) shall provide the employer with notice in writing of at least four weeks of any change in the length of leave intended to be taken, unless there is a valid reason why that notice cannot be given, in which case the employee shall provide the employer with notice in writing as soon as possible.

R.S., 1985, c. L-2, s. 207; R.S., 1985, c. 9 (1st Supp.), s. 10; 1993, c. 42, s. 28; [2017, c. 20, s. 264.](#)

Minimum periods of leave

207.01 Subject to the regulations, a leave of absence under any of sections 206.3 to 206.5 may only be taken in one or more periods of not less than one week's duration.

2014, c. 20, s. 243.

Interruption

207.02 (1) An employee may interrupt a leave of absence referred to in any of sections 206.3 to 206.5 in order to be absent due to a reason referred to in subsection 239(1) or 239.1(1).

Resumption

(2) The interrupted leave resumes immediately after the interruption ends.

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).

(3.1) [Repealed, 2021, c. 26, s. 23]

Exception – work-related illness or injury

(4) Except to the extent that it is inconsistent with subsections 239.1(3) and (4), 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(1).

2014, c. 20, s. 243; 2018, c. 27, s. 472; 2020, c. 5, s. 40; 2020, c. 12, s. 4.4; 2021, c. 23, s. 343; 2021, c. 23, s. 345; 2021, c. 26, s. 23; 2021, c. 26, s. 26.

Notice to employer – interruption of leave

207.1 (1) An employee who intends to interrupt their leave under subsection 206.1(2.4) or 207.02(1) shall provide the employer with a notice in writing of the interruption before or as soon as possible after it begins.

Notice to employer – resumption of leave

(2) The employee shall provide the employer with a notice in writing of the day on which they resume their leave before or as soon as possible after that day.

2012, c. 27, s. 7; 2014, c. 20, s. 244.

Notification to employer – interruption for child's hospitalization

207.2 (1) An employee who intends to interrupt their maternity or parental leave in order to return to work as a result of the hospitalization of his or her child shall provide the employer with a notice in writing of the interruption as soon as possible.

Employer's decision

(2) The employer shall, within one week after receiving the notice, advise the employee in writing of the employer's decision to accept or refuse the employee's return to work.

Refusal

(3) If the employer refuses the interruption or does not advise the employee within the week referred to in subsection (2), the leave under [section 206](#) or [206.1](#) is extended by the number of weeks during which the child is hospitalized. The aggregate amounts of leave referred to in [subsection 206.1\(3\)](#) and [section 206.2](#) are extended by the same number of weeks.

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.

End of interruption

(5) An employee who intends to return to their maternity or parental leave after an interruption shall, as soon as possible, advise the employer in writing of the date on which the maternity or parental leave is to resume.

Limitation

(6) The extension referred to in subsection (3) applies only once in respect of the same child.

[2012, c. 27, s. 7](#); [2017, c. 20, s. 265](#); [2018, c. 27, s. 473](#).

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.

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.

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.

Return to work postponed

(5) If an employee who takes a leave of more than four weeks under any of sections 206.3 to 206.5 wishes to shorten the length of the leave but does not provide the employer with four weeks' notice, the employer may postpone the employee's return to work for a period of up to four weeks after the day on which the employee informs the employer of the new end date of the leave. If the employer informs the employee that their return to work is postponed, the employee is not entitled to return to work until the day that is indicated by the employer.

Deemed part of leave

(6) The period of the postponement is deemed to be part of the leave.
2012, c. 27, s. 8; 2014, c. 20, s. 245; 2017, c. 20, s. 266; 2017, c. 33, s. 207; 2018, c. 27, s. 474.

Prohibition

208 (1) Subject to subsection (2), no employer shall require an employee to take a leave of absence from employment because the employee is pregnant.

Exception

(2) An employer may require a pregnant employee to take a leave of absence from employment if the employee is unable to perform an essential function of her job and no appropriate alternative job is available for that employee.

Length of leave

(3) A pregnant employee who is unable to perform an essential function of her job and for whom no appropriate alternative job is available may be required to take a leave of absence from employment only for such time as she is unable to perform that essential function.

Burden of proof

(4) The burden of proving that a pregnant employee is unable to perform an essential function of her job rests with the employer.

R.S., 1985, c. L-2, s. 208; R.S., 1985, c. 9 (1st Supp.), s. 10.

Application

208.1 Regardless of the time at which an employee makes a request under section 204, the rights and obligations provided under sections 204 and 205 take precedence over the application of subsection 208(2).

1993, c. 42, s. 29.

Right to notice of employment opportunities

209 Every employee who intends to or is required to take a leave of absence from employment under this Division is entitled, on written request therefor, to be informed in writing of every employment, promotion or training opportunity that arises during the period when the employee is on leave of absence from employment and for which the employee is qualified, and on receiving such a request every employer of such an employee shall so inform the employee.

R.S., 1985, c. L-2, s. 209; R.S., 1985, c. 9 (1st Supp.), s. 10.

Resumption of employment in same position

209.1 (1) Every employee who takes or is required to take a leave of absence from employment under this Division is entitled to be reinstated in the position that the employee occupied when the leave of absence from employment commenced, and every employer of such an employee shall, on the expiration of any such leave, reinstate the employee in that position.

Comparable position

(2) Where for any valid reason an employer cannot reinstate an employee in the position referred to in subsection (1), the employer shall reinstate the employee in a comparable position with the same wages and benefits and in the same location.

Wages and benefits affected by reorganization

(3) Where an employee takes leave under this Division and, during the period of that leave, the wages and benefits of the group of employees of which that employee is a member are changed as part of a plan to reorganize the industrial establishment in which that group is employed, that employee is entitled, on being reinstated in employment under this section, to receive the wages and benefits in respect of that employment that that employee would have been entitled to receive had that employee been working when the reorganization took place.

Notice of changes in wages and benefits

(4) The employer of every employee who is on a leave of absence from employment under this Division and whose wages and benefits would be changed as a result of a reorganization referred to in subsection (3) shall notify the employee in writing of that change as soon as possible.

R.S., 1985, c. 9 (1st Supp.), s. 10.

Right to benefits

209.2 (1) The pension, health and disability benefits and the seniority of any employee who takes or is required to take a leave of absence from employment under this Division shall accumulate during the entire period of the leave.

Contributions by employee

(2) Where contributions are required from an employee in order for the employee to be entitled to a benefit referred to in subsection (1), the employee is responsible for and must, within a reasonable time, pay those contributions for the period of any leave of absence under this Division unless, before taking leave or within a reasonable time thereafter, the employee notifies the employer of the employee's intention to discontinue contributions during that period.

Contributions by employer

(2.1) An employer who pays contributions in respect of a benefit referred to in subsection (1) shall continue to pay those contributions during an employee's leave of absence under this Division in at least the same proportion as if the employee were not on leave unless the employee does not pay the employee's contributions, if any, within a reasonable time.

Failure to pay contributions

(3) 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 (2) and (2.1), the benefits shall not accumulate during the leave of

absence and employment on the employee's return to work shall be deemed to be continuous with employment before the employee's absence.

Deemed continuous employment

(4) For the purposes of calculating benefits of an employee who takes or is required to take a leave of absence from employment under this Division, other than benefits referred to in subsection (1), employment on the employee's return to work shall be deemed to be continuous with employment before the employee's absence.

R.S., 1985, c. 9 (1st Supp.), s. 10, c. 43 (3rd Supp.), s. 1; [2001, c. 34, s. 21\(F\)](#).

Effect of leave

209.21 Notwithstanding the provisions of any income-replacement scheme or any insurance plan in force at the workplace, an employee who takes a leave of absence under this Division is entitled to benefits under the scheme or plan on the same terms as any employee who is absent from work for health-related reasons and is entitled to benefits under the scheme or plan.

1993, c. 42, s. 30.

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.

1993, c. 42, s. 30; [2018, c. 27, s. 475](#).

Prohibition

209.3 (1) No employer shall dismiss, suspend, lay off, demote or discipline an employee because the employee is pregnant or has applied for leave of absence in accordance with this Division or take into account the pregnancy of an employee or the intention of an employee to take leave of absence from employment under this Division in any decision to promote or train the employee.

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](#).

R.S., 1985, c. 9 (1st Supp.), s. 10; [2003, c. 15, s. 28](#); [2012, c. 27, s. 9](#); [2017, c. 33, s. 208](#); [2018, c. 27, s. 476](#).

Regulations

209.4 The Governor in Council may make regulations

(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](#);

(a.1) [Repealed, 2017, c. 20, s. 267]

(a.2) prescribing the maximum number of periods of leave of absence that an employee may take under any of [sections 206.3 to 206.5](#);

(b) specifying what does, or does not, constitute an essential function of a job referred to in [section 208](#);

(c) specifying what does not constitute a valid reason for not reinstating an employee in the position referred to in [subsection 209.1\(2\)](#);

(d) enlarging the meaning of care and support in subsections 206.3(1) and 206.4(1), and of critically ill adult and critically ill child in subsection 206.4(1);

(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;

(f) prescribing offences to be excluded from the definition of crime in subsection 206.5(1) and prescribing other persons to be included in the definition of parent in that subsection;

(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);

(h) prescribing cases, other than the one set out in [subsection 206.5\(4\)](#), in which an employee is not entitled to a leave of absence and cases in which an employee is entitled to a leave of absence even if they are charged with the crime;

(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\(4\), 206.7\(5\) and 206.8\(3\)](#);

(i) prescribing documentation that the employer may require under [subsection 207.3\(4\)](#);

(j) specifying the circumstances in which a leave under this Division may be interrupted; and

(k) extending the period within which a leave under this Division may be taken.

R.S., 1985, c. 9 (1st Supp.), s. 10; 1993, c. 42, s. 31; [2003, c. 15, s. 29](#); [2012, c. 27, s. 10](#); [2014, c. 20, s. 246](#); [2017, c. 20, s. 267](#); [2017, c. 33, s. 209](#); [2018, c. 27, s. 477](#); [2018, c. 27, s. 515](#); [2023, c. 26, s. 283](#).

Application of section 189

209.5 Section 189 applies for the purposes of this Division.

R.S., 1985, c. 9 (1st Supp.), s. 10.

DIVISION VIII

Bereavement Leave

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 or a family member in respect of whom the employee is, at the time of the death, on leave under [section 206.3](#) or [206.4](#), a leave of absence from employment of up to 10 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 the deceased person 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.

Regulations

(3) The Governor in Council may make regulations

- (a)** defining the expression "immediate family" for the purposes of subsection (1);
- (b)** defining the expressions "regular rate of wages" and "normal hours of work" for the purposes of subsection (2); and
- (c)** for the purposes of this Division, defining the absences from employment that shall be deemed not to have interrupted continuity of employment.

Application of section 189

(4) [Section 189](#) applies for the purposes of this Division.

R.S., 1985, c. L-2, s. 210; [2017, c. 33, s. 210](#); [2021, c. 17, s. 1](#).

DIVISION IX

Group Termination of Employment

Definitions

211 In this Division,

joint planning committee means a committee established pursuant to [section 214](#); (*comité mixte*)

redundant employee means an employee whose employment is to be terminated pursuant to a notice under [section 212](#); (*surnuméraire*)

trade union means a trade union that is certified under Part I to represent any redundant employee or that is recognized by an employer of any redundant employee as the bargaining agent for that employee. (*syndicat*)

1980-81-82-83, c. 89, s. 31.

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.

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.

Contents of notice

(3) A notice referred to in subsection (1) shall set out

- (a)** the date or dates on which the employer intends to terminate the employment of any one or more employees;
- (b)** the estimated number of employees in each occupational classification whose employment will be terminated; and
- (c)** such other information as is prescribed by the regulations.

Where employer deemed to terminate employment

(4) Except where otherwise prescribed by regulation, an employer shall, for the purposes of this Division, be deemed to have terminated the employment of an employee where the employer lays off that employee.

R.S., 1985, c. L-2, s. 212; 1996, c. 11, s. 67; [2005, c. 34, s. 80](#); [2013, c. 40, s. 238](#); [2018, c. 27, s. 574](#).

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.

R.S., 1985, c. L-2, s. 213; 1996, c. 11, s. 99; [2018, c. 27, s. 575](#).

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](#).

Minimum number of members

(2) A joint planning committee established under subsection (1) shall consist of at least four members.

Appointment of members

(3) At least half of the members of a joint planning committee shall be appointed, in accordance with subsections 215(1), (2) and (3), as representatives of the redundant employees and the rest of the members shall be appointed, in accordance with [subsection 215\(5\)](#), as representatives of the employer.

R.S., 1985, c. L-2, s. 214; [2018, c. 27, s. 576](#).

Employee representatives

215 (1) Where all redundant employees are represented by a trade union or trade unions, each trade union is entitled to appoint at least one member of the joint planning committee as a representative of the redundant employees it represents.

Idem

(2) Where no redundant employees are represented by a trade union, the employees are entitled to appoint all the members of a joint planning committee who are to be their representatives.

Idem

(3) Where some but not all redundant employees are represented by a trade union or trade unions,

(a) each trade union is entitled to appoint at least one member of a joint planning committee as a representative of the redundant employees it represents; and

(b) the employees that are not represented by a trade union are entitled to appoint at least one member of a joint planning committee as their representative.

Election

(4) Each person appointed as a member of a joint planning committee pursuant to subsection (2) or paragraph (3)(b) shall be elected by the redundant employees entitled to appoint the member.

Employer representatives

(5) An employer is entitled to appoint, as his representatives on a joint planning committee, a number of members not exceeding the number of members to be appointed to the committee pursuant to subsections (1), (2) and (3).

1980-81-82-83, c. 89, s. 32.

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](#).

R.S., 1985, c. L-2, s. 216; [2018, c. 27, s. 577](#).

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.

R.S., 1985, c. L-2, s. 217; [2018, c. 27, s. 577](#).

Notice of membership

218 On completion of the appointment of the members of a joint planning committee, the employer shall post the names of those members in a conspicuous place within the industrial establishment in which the redundant employees are employed.

1980-81-82-83, c. 89, s. 32.

Procedure

219 (1) Subject to this Division, a joint planning committee may determine its own procedure.

Co-chairpersons

(2) The members of a joint planning committee shall elect from among themselves two co-chairpersons, one being a representative of the redundant employees selected by their representatives and the other being a representative of the employer selected by his representatives.

Sittings

(3) The co-chairpersons of a joint planning committee may, after consultation with the other members of the committee, fix the time and place of its sittings and shall notify the members of the time and place so fixed.

Quorum

(4) A majority of the members of a joint planning committee in office, at least half of which majority are representatives of the redundant employees, constitutes a quorum, but the members shall not proceed in the absence of any member of the committee at any sitting unless the absent member has been given reasonable notice of the sitting.

Vacancy

(5) Where any vacancy occurs in the membership of a joint planning committee before the committee has completed its work, the vacancy shall be filled forthwith in the manner provided in this Division for the selection of the person who vacated that membership.

Idem

(6) A vacancy in the membership of a joint planning committee does not invalidate the constitution of the committee or impair the right of the members of the committee in office to act, if the number of those members is not less than a quorum.

Decision

(7) A decision or other act or thing taken or done by a majority of the members of a joint planning committee present at a sitting of the committee, if the members present constitute a quorum, shall be deemed to have been taken or done by the committee.
R.S., 1985, c. L-2, s. 219; 1998, c. 26, s. 61(E).

Wages

220 A member of a joint planning committee is entitled to such time from work as is necessary to attend sittings of the committee or to carry out any other functions as such a member, and any time spent by the member in carrying out any functions as a

member shall, for the purpose of calculating wages owing to the member, be deemed to have been spent at his work.

1980-81-82-83, c. 89, s. 32.

Object of joint planning committee

221 (1) It is the object of a joint planning committee to develop an adjustment program to

- (a)** eliminate the necessity for the termination of employment; or
- (b)** minimize the impact of the termination of employment on the redundant employees and to assist those employees in obtaining other employment.

Scope of matters considered

(2) In attaining its object under subsection (1), a joint planning committee may, unless the members of the committee agree otherwise, deal only with such matters as are normally the subject-matter of collective agreement in relation to the termination of employment.

Reasonable effort

(3) The members of a joint planning committee shall cooperate and make every reasonable effort to develop an adjustment program as expeditiously as possible.

Cooperation with committee

(4) The employer and any trade union or redundant employees who appointed the members of a joint planning committee shall cooperate with and assist the committee in developing an adjustment program.

1980-81-82-83, c. 89, s. 32.

Supplying of information

222 (1) The employer and any trade union or redundant employees who appointed the members of a joint planning committee shall, on request of any member of the committee, forthwith provide the committee with such personal information relating to any redundant employee as the committee may reasonably require for its work.

Head

(2) The Head may

- (a)** monitor and, on request, assist in the establishment and operation of a joint planning committee; and

(b) attend any sittings of a joint planning committee as an observer.

R.S., 1985, c. L-2, s. 222; [2018, c. 27, s. 578](#).

Application to Minister for arbitrator

223 (1) Where all members of a joint planning committee who are representatives of the redundant employees agree to do so or where all members of a joint planning committee who are representatives of the employer agree to do so, those members may, after six weeks from the date of the notice to the Minister under [section 212](#), apply jointly to the Minister for the appointment of an arbitrator if

(a) the committee has not then completed developing an adjustment program; or

(b) the committee has completed developing an adjustment program, but those members are not satisfied with the program or any part of the program.

Form and contents of application

(2) An application under subsection (1) shall be in writing and signed by the members making the application and shall set out the matters, if any, in dispute respecting the adjustment program.

1980-81-82-83, c. 89, s. 32.

Appointment of arbitrator

224 (1) The Minister may, on application under subsection 223(1), appoint an arbitrator to assist the joint planning committee in the development of an adjustment program and to resolve any matters in dispute respecting the adjustment program.

The Minister shall notify and send a statement of matters in dispute

(2) Where an arbitrator is appointed under subsection (1), the Minister shall forthwith

(a) notify, in writing, the joint planning committee of the decision to appoint an arbitrator and of the name of the arbitrator; and

(b) if the application under subsection 223(1) sets out matters in dispute respecting an adjustment program, send to the arbitrator and to the joint planning committee a statement setting out any matters in dispute respecting the adjustment program that the arbitrator is to resolve.

Restriction on matters included in statement

(3) A statement referred to in subsection (2) shall be restricted to such of those matters set out in the application under subsection 223(1) as the Minister deems

appropriate and as are normally the subject-matter of collective agreement in relation to termination of employment.

Duty of arbitrator

(4) An arbitrator shall assist the joint planning committee in the development of an adjustment program and the arbitrator, if sent a statement pursuant to subsection (2), shall, within four weeks after receiving the statement or such longer period as the Minister may specify,

- (a)** consider the matters set out in the statement;
- (b)** render a decision thereon; and
- (c)** send a copy of the decision with the reasons therefor to the joint planning committee and to the Minister.

Restriction

(5) An arbitrator may not

- (a)** review the decision of the employer to terminate the employment of the redundant employees; or
- (b)** delay the termination of employment of the redundant employees.

Powers of arbitrator

(6) In relation to any proceeding before an arbitrator under this section, the arbitrator may

- (a)** determine the procedure to be followed;
- (b)** administer oaths and solemn affirmations;
- (c)** receive and accept such evidence and information on oath, affidavit or otherwise as the arbitrator sees fit, whether or not the evidence is admissible in a court of law;
- (d)** make such examination of documents containing personal information relating to any redundant employee and such inquiries relating to any redundant employee as the arbitrator deems necessary;
- (e)** require an employer to post and keep posted in appropriate places any notice that the arbitrator considers necessary to bring to the attention of any redundant employees any matter relating to the proceeding; and
- (f)** authorize any person to do anything described in paragraph (b) or (d) that the arbitrator may do and to report to the arbitrator thereon.

1980-81-82-83, c. 89, s. 32.

Applicable provisions

225 Sections 58 and 66 apply, with such modifications as the circumstances require, in respect of a decision of an arbitrator under section 224 as though it were a decision referred to in those sections.

1980-81-82-83, c. 89, s. 32.

Implementation of adjustment program

226 On completion of the development of an adjustment program, the employer shall implement the program and the joint planning committee and any trade union or redundant employees who appointed the members of the committee shall cooperate with and assist the employer in implementing the program.

1980-81-82-83, c. 89, s. 32.

Regulations

227 The Governor in Council may make regulations for carrying out the purposes and provisions of this Division and, without restricting the generality of the foregoing, may make regulations

- (a) exempting employers from the application of this Division in respect of the termination of employment of employees employed on a seasonal or irregular basis;
- (b) requiring employers employing employees in a particular occupational classification, in a particular industry or in an industrial establishment that is within an area or region described in the regulations, to comply with the provisions of this Division in respect of terminations of employment of groups of employees numbering less than fifty but greater than a number prescribed in the regulations;
- (c) prescribing information to be set out in a notice referred to in subsection 212(1); and
- (d) prescribing circumstances in which a lay-off of an employee shall not be deemed to be a termination of his employment by his employer.

R.S., c. 17(2nd Supp.), s. 16.

Waiver of application of Division

228 On the submission of any person, the Minister may, by order and subject to any terms or conditions specified in the order, waive the application of this Division, or any provision thereof, in respect of any industrial establishment or of any class of employees therein specified in the order if it is shown to the satisfaction of the Minister

that the application of this Division, or any provision thereof, as the case may be, in respect of any industrial establishment

- (a) would be or is unduly prejudicial to the interests of the employees therein or to any class of employees therein;
- (b) would be or is unduly prejudicial to the interests of the employer of those employees;
- (c) would be or is seriously detrimental to the operation of the industrial establishment; or
- (d) is not necessary, because measures for the assistance of redundant employees at that establishment that are substantially the same or to the same effect as the measures established by this Division or that provision, as the case may be, have been established by collective agreement or otherwise.

R.S., c. 17(2nd Supp.), s. 16; 1980-81-82-83, c. 89, s. 33.

Application of sections 214 to 226

229 (1) Sections 214 to 226 do not apply in respect of any redundant employees who are represented by a trade union if the trade union and the employer are bound by a collective agreement containing

- (a) provisions that
 - (i) specify procedures by which any matters relating to the termination of employment in the industrial establishment at which those employees are employed may be negotiated and finally settled, or
 - (ii) are intended to minimize the impact of termination of employment on the employees represented by the trade union and to assist those employees in obtaining other employment; and
- (b) provisions that specify that those sections do not apply in respect of the employees represented by the trade union.

Idem

(2) Sections 214 to 226 do not apply in respect of any redundant employees who are represented by a trade union if the termination of the employment of those employees is the result of technological change as defined in subsection 51(1) and sections 52, 54 and 55 apply or would, but for subsection 51(2), apply to the trade union and the employer.

1980-81-82-83, c. 89, s. 33.

DIVISION X

Individual Terminations of Employment

Notice or wages in lieu of notice

230 (1) Except where subsection (2) applies, an employer who terminates the employment of an employee who has completed three consecutive months of continuous employment by the employer shall, except where the termination is by way of dismissal for just cause, give the employee either

- (a) notice in writing, at least two weeks before a date specified in the notice, of the employer's intention to terminate his employment on that date, or
- (b) two weeks wages at his regular rate of wages for his regular hours of work, in lieu of the notice.

Notice to trade union in certain circumstances

(2) Where an employer is bound by a collective agreement that contains a provision authorizing an employee who is bound by the collective agreement and 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 shall

- (a) give at least two weeks notice in writing to the trade union that is a party to the collective agreement and to the employee that the position of the employee has become redundant and post a copy of the notice in a conspicuous place within the industrial establishment in which the employee is employed; or
- (b) pay to any employee whose employment is terminated as a result of the redundancy of the position two weeks wages at his regular rate of wages.

Where employer deemed to terminate employment

(3) Except where otherwise prescribed by regulation, an employer shall, for the purposes of this Division, be deemed to have terminated the employment of an employee when the employer lays off that employee.

R.S., c. 17(2nd Supp.), s. 16.

Conditions of employment

231 Where notice is given by an employer pursuant to subsection 230(1), the employer

- (a) shall not thereafter reduce the rate of wages or alter any other term or condition of employment of the employee to whom the notice was given except with the written consent of the employee; and

(b) shall, between the time when the notice is given and the date specified therein, pay to the employee his regular rate of wages for his regular hours of work.

R.S., c. 17(2nd Supp.), s. 16.

Expiration of notice

232 Where an employee to whom notice is given by his employer pursuant to subsection 230(1) continues to be employed by the employer for more than two weeks after the date specified in the notice, his employment shall not, except with the written consent of the employee, be terminated except by way of dismissal for just cause unless the employer again complies with subsection 230(1) in respect of the employee.

R.S., c. 17(2nd Supp.), s. 16.

Regulations

233 The Governor in Council may make regulations

(a) prescribing circumstances in which a lay-off of an employee shall not be deemed to be a termination of his employment by his employer; and

(b) [Repealed, R.S., 1985, c. 9 (1st Supp.), s. 11]

(c) defining for the purposes of this Division the absences from employment that shall be deemed not to have interrupted continuity of employment and the expression "regular hours of work".

R.S., 1985, c. L-2, s. 233; R.S., 1985, c. 9 (1st Supp.), s. 11.

Application of section 189

234 Section 189 applies for the purposes of this Division.

R.S., c. 17(2nd Supp.), s. 16.

DIVISION XI

Severance Pay

Minimum rate

235 (1) An employer who terminates the employment of an employee who has completed twelve consecutive months of continuous employment by the employer shall, except where the termination is by way of dismissal for just cause, pay to the employee the greater of

(a) two days wages at the employee's regular rate of wages for his regular hours of work in respect of each completed year of employment that is within the term of the

employee's continuous employment by the employer, and

(b) five days wages at the employee's regular rate of wages for his regular hours of work.

Circumstances deemed to be termination and deemed not to be termination

(2) For the purposes of this Division,

(a) except where otherwise provided by regulation, an employer shall be deemed to have terminated the employment of an employee when the employer lays off that employee.

(b) [Repealed, 2011, c. 24, s. 167]

R.S., 1985, c. L-2, s. 235; R.S., 1985, c. 32 (2nd Supp.), s. 41; 2011, c. 24, s. 167.

Regulations

236 The Governor in Council may make regulations for the purposes of this Division

(a) prescribing circumstances in which a lay-off of an employee shall not be deemed to be a termination of the employee's employment by his employer;

(b) [Repealed, R.S., 1985, c. 9 (1st Supp.), s. 12]

(c) establishing methods for determining whether severance benefits provided to an employee under a plan established by an employer are equivalent to any benefits required to be paid to the employee under this Division; and

(d) defining the absences from employment that shall be deemed not to have interrupted continuity of employment and the expression "regular hours of work".

R.S., 1985, c. L-2, s. 236; R.S., 1985, c. 9 (1st Supp.), s. 12.

Application of section 189

237 Section 189 applies for the purposes of this Division.

R.S., c. 17(2nd Supp.), s. 16.

DIVISION XII

Garnishment

Prohibition

238 No employer shall dismiss, suspend, lay off, demote or discipline an employee on the ground that garnishment proceedings may be or have been taken with respect to the employee.

R.S., 1985, c. L-2, s. 238; R.S., 1985, c. 9 (1st Supp.), s. 13.

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.

2018, c. 27, s. 486.

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.

2018, c. 27, s. 486.

DIVISION XIII

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 27 weeks as a result of

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

(1.1) [Repealed, 2021, c. 23, s. 344]

Leave with pay

(1.2) Subject to subsection (1.21) and the regulations, an employee earns, as of the first day on which this subsection applies to the employee,

- (a) after completing 30 days of continuous employment with an employer, three days of medical leave of absence with pay; and
- (b) following the period of 30 days referred to in paragraph (a), at the beginning of each month after completing one month of continuous employment with the employer, one day of medical leave of absence with pay.

Maximum of 10 days

(1.21) Subject to the regulations, an employee is entitled to earn up to 10 days of medical leave of absence with pay in a calendar year.

Rate of wages

(1.3) Each day of medical leave of absence with pay that an employee takes must be paid at their regular rate of wages for their normal hours of work, and that pay is for all purposes considered to be wages.

Annual carry forward

(1.4) Subject to the regulations, each day of medical leave of absence with pay that an employee does not take in a calendar year is to be carried forward to January 1 of

the following calendar year and decreases, by one, the maximum number of days that can be earned in that calendar year under subsection (1.21).

Division of leave with pay

(1.5) The medical leave of absence with pay 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.

Certificate

(2) The employer may, in writing and no later than 15 days after the return to work of an employee who has taken a medical leave of absence of at least five consecutive days, require the employee to provide a certificate issued by a health care practitioner certifying that the employee was incapable of working for the period of their medical leave of absence.

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

- (a) defining terms for the purposes of this Division, including "regular rate of wages" and "normal hours of work";
- (b) modifying subsection (1.2), (1.21) or (1.4) if, in the opinion of the Governor in Council, employees or classes of employees will, despite the modification, earn periods of medical leave of absence with pay that are substantially equivalent to the period provided for in subsection (1.21); and
- (c) providing for employees or classes of employees to earn periods of medical leave of absence with pay other than in accordance with subsection (1.2) if, in the opinion of the Governor in Council, the periods of medical leave of absence with pay are substantially equivalent to the period provided for in subsection (1.21).

Application of section 189

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

R.S., 1985, c. L-2, s. 239; R.S., 1985, c. 9 (1st Supp.), s. 14, c. 43 (3rd Supp.), s. 2; 1993, c. 42, s. 32; [2001, c. 34, s. 22\(F\)](#); [2012, c. 27, s. 11](#); [2018, c. 27, s. 487](#); [2020, c. 5, s. 41](#); [2021, c. 23, s. 344](#); [2021, c. 27, s. 7](#); [2022, c. 10, s. 423](#).

239.01 [Repealed, 2021, c. 26, s. 24]

DIVISION XIII.1

Work-related Illness and Injury

Prohibition

239.1 (1) Subject to subsection (4) and to the regulations made under this Division, no employer shall dismiss, suspend, lay off, demote or discipline an employee because of absence from work due to work-related illness or injury.

Employer's obligation

(2) Every employer shall subscribe to a plan that provides an employee who is absent from work due to work-related illness or injury with wage replacement, payable at an equivalent rate to that provided for under the applicable workers' compensation legislation in the employee's province of permanent residence.

Return to work

(3) Subject to the regulations, the employer shall, where reasonably practicable, return an employee to work after the employee's absence due to work-related illness or injury.

Exception

(4) An employer may assign to a different position, with different terms and conditions of employment, any employee who, after an absence due to work-related illness or injury, is unable to perform the work performed by the employee prior to the absence.

Benefits continue

(5) The pension, health and disability benefits and the seniority of an employee who is absent from work due to work-related illness or injury shall accumulate during the entire period of the absence.

Contributions by employee

(6) Where contributions are required from an employee in order for the employee to be entitled to a benefit referred to in subsection (5), the employee is responsible for and must, within a reasonable time, pay those contributions for the period of any absence due to work-related illness or injury unless, at the beginning of the absence or within a reasonable time thereafter, the employee notifies the employer of the employee's intention to discontinue contributions during that period.

Contributions by employer

(7) An employer who pays contributions in respect of a benefit referred to in subsection (5) shall continue to pay those contributions during an employee's absence due to work-related illness or injury 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

(8) 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 (6) and (7), the benefits shall not accumulate during the absence, and employment on the employee's return to work shall be deemed to be continuous with employment before the employee's absence.

Deemed continuous employment

(9) For the purposes of calculating benefits, other than benefits referred to in subsection (5), of an employee who is absent from work due to work-related illness or injury, employment on the employee's return to work shall be deemed to be continuous with employment before the employee's absence.

Regulations

(10) The Governor in Council may make regulations for carrying out the purposes of this Division and, without restricting the generality of the foregoing, may make regulations

- (a)** for determining the duration of the employer's obligation under subsection (3);
- (b)** providing terms and conditions applicable to the employer under subsections (1) and (3) in the event of any termination of employment, lay-off or discontinuance of a function in an industrial establishment; and
- (c)** providing for any other terms and conditions respecting the application of subsection (3).

Application of section 189

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

1993, c. 42, s. 33; 2001, c. 34, s. 23(F).

DIVISION XIII.2

Long-term Disability Plans

Employer's obligation

239.2 (1) Every employer that provides benefits to its employees under a long-term disability plan must insure the plan with an entity that is licensed to provide insurance under the laws of a province.

Exception

(2) However, an employer may provide those benefits under a long-term disability plan that is not insured, in the circumstances and subject to the conditions provided for in the regulations.

2012, c. 19, s. 434.

Regulations

239.3 The Governor in Council may make regulations respecting long-term disability plans, including regulations

- (a)** specifying what constitutes a long-term disability plan; and
- (b)** specifying the circumstances and conditions referred to in subsection 239.2(2).

2012, c. 19, s. 434.

DIVISION XIV

Unjust Dismissal

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.

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.

Time for making complaint

(2) Subject to subsection (3), a complaint under subsection (1) shall be made within ninety days from the date on which the person making the complaint was dismissed.

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

R.S., 1985, c. L-2, s. 240; R.S., 1985, c. 9 (1st Supp.), s. 15; [2018, c. 27, s. 488](#); [2018, c. 27, s. 579](#).

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.

R.S., 1985, c. L-2, s. 241; [2017, c. 20, s. 353](#); [2018, c. 27, s. 489](#); [2018, c. 27, s. 580](#).

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.

[2018, c. 27, s. 490.](#)

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.

[2018, c. 27, s. 490.](#)

242 (1) [Repealed, [2017, c. 20, s. 354](#)]

(2) [Repealed, [2017, c. 20, s. 354](#)]

Decision of the Board

(3) Subject to subsection (3.1), the Board, after a complaint has been referred to it, shall

(a) consider whether the dismissal of the person who made the complaint was unjust and render a decision thereon; and

(b) send a copy of the decision with the reasons therefor to each party to the complaint and to the Minister.

Limitation on complaints

(3.1) No complaint shall be considered by the Board under subsection (3) in respect of a person if

(a) that person has been laid off because of lack of work or because of the discontinuance of a function; or

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

Unjust dismissal

(4) If the Board decides under subsection (3) that a person has been unjustly dismissed, the Board may, by order, require the employer who dismissed the person to

(a) pay the person compensation not exceeding the amount of money that is equivalent to the remuneration that would, but for the dismissal, have been paid by the employer to the person;

(b) reinstate the person in his employ; and

(c) do any other like thing that it is equitable to require the employer to do in order to remedy or counteract any consequence of the dismissal.

R.S., 1985, c. L-2, s. 242; R.S., 1985, c. 9 (1st Supp.), s. 16; 1998, c. 26, s. 58; [2017, c. 20, s. 354](#); [2018, c. 27, s. 491](#).

Order final

243 (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 242](#).

R.S., 1985, c. L-2, s. 243; [2017, c. 20, s. 355](#).

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.

Registration

(2) On filing in the Federal Court under subsection (1), 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.

R.S., 1985, c. L-2, s. 244; 1993, c. 42, s. 34(F); [2017, c. 20, s. 355](#); [2018, c. 27, s. 581](#).

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\(5\)](#).

R.S., 1985, c. L-2, s. 245; [2018, c. 27, s. 492](#).

Civil remedy

246 (1) No civil remedy of an employee against his employer is suspended or affected by [sections 240 to 245](#).

Application of section 189

(2) [Section 189](#) applies for the purposes of this Division.

1977-78, c. 27, s. 21.

DIVISION XIV.1

Complaints Relating to Reprisals

Complaint to Board

246.1 (1) Any employee may make a complaint in writing to the Board if they believe that their employer has taken any of the following reprisals against them:

(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;

(a.1) [Repealed, 2021, c. 26, s. 25]

(b) dismissing, suspending, laying off, or demoting the employee, imposing a financial or other penalty on the employee, or otherwise taking any disciplinary action against the employee, because the employee

(i) has made a complaint under this Part, other than a complaint under section 240,

(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

(ii.1) has provided information regarding the wages, hours of work, annual vacation or conditions of work of any employee or provided any other assistance to an external adjudicator or a member of the Board in the exercise or performance, in accordance with subsections 12.001(2) or 14(5), of the powers, duties or functions conferred on the Board by this Part,

(iii) has testified or is about to testify in a proceeding taken or an inquiry held under this Part, or

(iv) has exercised, or sought to exercise, any right conferred on the employee by this Part;

(c) taking into account the fact that the employee has taken any of the actions referred to in subparagraphs (b)(i) to (iv) in any decision with respect to the promotion or training of the employee; or

(d) threatening to take any of the reprisals referred to in paragraph (b) or (c).

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.

Time for making complaint

(3) A complaint referred to in subsection (1) shall be made to the Board not later than 90 days after the day on which the employee knew or, in the Board's opinion, ought to have known of the action or circumstances giving rise to the complaint.

Burden of proof

(4) A complaint made under subsection (1) is itself evidence that the reprisal was actually taken and, if a party to the complaint proceedings alleges that the reprisal was not taken, the burden of proof is on that party.

[2017, c. 20, s. 356](#); [2017, c. 33, s. 215](#); [2018, c. 27, s. 506](#); [2018, c. 27, s. 516](#); [2018, c. 27, s. 582](#); [2020, c. 5, s. 43](#); [2020, c. 12, s. 4.6](#); [2021, c. 26, s. 25](#).

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.

Notice

(2) If the Board suspends a complaint, the Board shall notify the employee in writing and specify in the notice

- (a)** the measures that the employee must take; and
- (b)** the period of time within which the employee 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.

[2017, c. 20, s. 356](#); [2018, c. 27, s. 506](#).

Rejection of complaint

246.3 (1) The Board may reject a complaint made under subsection 246.1(1), 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 246.2(1) and if, in the Board's opinion, the measures specified in the notice under subsection 246.2(2) were not taken within the specified time period.

Notice of rejection of complaint

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

[2017, c. 20, s. 356](#); [2018, c. 27, s. 506](#).

Board orders

246.4 If the Board determines that a complaint under subsection 246.1(1) is justified, the Board may, by order, require the employer to cease engaging in or to rescind the reprisal and, if applicable, to

- (a) permit the employee who has made the complaint to return to the duties of their employment;
- (b) reinstate the employee;
- (c) pay to the employee compensation not exceeding the sum that, in the Board's opinion, is equivalent to the remuneration that would, but for the reprisal, have been paid by the employer to the employee;
- (d) pay to the employee compensation 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
- (e) do any other thing that the Board considers equitable for the employer to do to remedy or counteract any consequence of the reprisal.

[2017, c. 20, s. 356](#).

Decisions final

246.5 (1) Every decision of the Board made under this Division 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 this Division.

[2017, c. 20, s. 356.](#)

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.

Registration

(2) On filing in the Federal Court under subsection (1), 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.

[2017, c. 20, s. 356; 2018, c. 27, s. 583.](#)

246.7 [Repealed, 2017, c. 20, s. 356]

DIVISION XV

Payment of Wages

Payment of wages

247 Except as otherwise provided by or under this Part, an employer shall

- (a)** pay to any employee any wages to which the employee is entitled on the regular pay-day of the employee as established by the practice of the employer; and
- (b)** pay any wages or other amounts to which the employee is entitled under this Part within thirty days from the time when the entitlement to the wages or other amounts arose.

[1977-78, c. 27, s. 21.](#)

DIVISION XV.1

[Repealed, 2018, c. 22, s. 16]

247.1 [Repealed, 2018, c. 22, s. 16]

247.2 [Repealed, 2018, c. 22, s. 16]

247.3 [Repealed, 2018, c. 22, s. 16]

247.4 [Repealed, 2018, c. 22, s. 16]

DIVISION XV.2

Leave of Absence for Members of the Reserve Force

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:

- (a)** an operation in Canada or abroad — including preparation, training, rest or travel from or to the employee's residence — that is designated by the Minister of National Defence;
- (b)** an activity set out in the regulations;
- (c)** Canadian Armed Forces military skills training;
- (d)** training that they are ordered to take under paragraph 33(2)(a) of the *National Defence Act*;
- (e)** duties that they are called out on service to perform under paragraph 33(2)(b) of the *National Defence Act*;
- (f)** service in aid of a civil power for which they are called out under section 275 of the *National Defence Act*; or
- (g)** treatment, recovery or rehabilitation in respect of a physical or mental health problem that results from service in an operation or activity referred to in this subsection.

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*.

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.

Effect

(3) A designation takes effect on the day on which it is made or on an earlier or later day that is fixed by the Minister of National Defence or the other person. The Minister of National Defence or the other person may fix the day on which the designation ceases to be in effect.

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.

[2008, c. 15, s. 1](#); [2018, c. 27, s. 494](#); [2018, c. 27, s. 584](#).

Notice to employer

247.6 (1) An employee who takes a leave of absence under this Division shall

- (a)** unless there is a valid reason for not doing so, give at least four weeks' notice to the employer before the day on which the leave is to begin; and
- (b)** inform the employer of the length of the leave.

If there is a valid reason

(2) If there is a valid reason for not providing notice in accordance with paragraph (1)(a), the employee shall notify the employer as soon as practicable that the employee is taking a leave of absence.

Change in length of leave

(3) Unless there is a valid reason for not doing so, an employee who takes a leave of absence under this Division shall notify the employer of any change in the length of the leave at least four weeks before

- (a)** the new day on which the leave is to end, if the employee is taking a shorter leave; or
- (b)** the day that was most recently indicated for the leave to end, if the employee is taking a longer leave.

In writing

(4) Unless there is a valid reason for not doing so, any notice or other information to be provided by the employee to the employer under this section is to be in writing.
2008, c. 15, s. 1.

Request for proof

247.7 (1) Subject to subsection (2), if the employer requests proof that a leave of absence is taken under this Division, the employee shall provide the employer with the prescribed document, if any, or with a document that is approved by the Chief of the Defence Staff who was appointed under subsection 18(1) of the *National Defence Act*.

No prescribed or approved document

(2) If no document is prescribed, or approved by the Chief of the Defence Staff, the employee shall, on request, provide the employer with a document from the employee's commanding officer specifying that the employee is taking part in an operation or activity referred to in paragraphs 247.5(1)(a) to (g).

Timing

(3) Unless there is a valid reason for not doing so, the employee shall provide the document referred to in subsection (1) or (2) within three weeks after the day on which the leave begins.

2008, c. 15, s. 1.

Return to work postponed

247.8 (1) If the employee does not notify the employer at least four weeks before the day on which the leave that is taken under this Division is to end, the employer may postpone the employee's return to work for a period of up to four weeks after the day on which the employee informs the employer of the end date of the leave. If the employer informs the employee that their return to work is postponed, the employee is not entitled to return to work until the day that is indicated by the employer.

Subsection (1) does not apply

(2) Subsection (1) does not apply if the employee notifies the employer in accordance with paragraph 247.6(1)(b) before the leave begins and if the length of the leave is not changed after the leave begins.

Deemed part of leave

(3) The period of postponement referred to in subsection (1) is deemed to be part of the leave.

2008, c. 15, s. 1.

247.9 [Repealed, 2017, c. 33, s. 211]

Continuous employment — benefits

247.91 (1) For the purposes of calculating the benefits of an employee who takes a leave of absence under this Division, employment on the employee's return to work is deemed to be continuous with their employment before the leave.

Seniority

(2) The seniority of an employee who takes a leave of absence under this Division shall accumulate during the leave.

2008, c. 15, s. 1.

Application of section 189

247.92 Section 189 applies for the purposes of this Division.

2008, c. 15, s. 1.

Resumption of employment in same position

247.93 (1) At the end of a leave of absence that is taken under this Division, the employer shall reinstate the employee in the position that the employee occupied on the day before the day on which the leave begins.

Comparable position

(2) If for a valid reason an employer is not able to reinstate the employee in that position, they shall reinstate the employee in a comparable position with the same wages and benefits and in the same location.

2008, c. 15, s. 1.

Not able to perform work

247.94 Subject to the regulations, if an employee is not able to perform the functions of the position that they occupy before the leave begins — or those of a comparable position, with the same wages and benefits and in the same location — the employer may assign them to a position with different terms or conditions of employment.

2008, c. 15, s. 1.

Wages or benefits affected by reorganization

247.95 (1) If, during a leave of absence that is taken under this Division, the wages or benefits of the group of employees of which an employee is a member are changed as part of a plan to reorganize the industrial establishment in which that group is employed, the employee is entitled, on reinstatement under this section, to receive the wages and benefits in respect of that employment that that employee would have been entitled to receive had that employee been working when the reorganization took place.

Notice of change in wages or benefits

(2) The employer of an employee who is on leave and whose wages or benefits would be changed as a result of the reorganization shall, as soon as practicable, send a notice to the employee at their last known address.

2008, c. 15, s. 1.

Prohibition — employee

247.96 (1) No employer may dismiss, suspend, lay off, demote or discipline an employee because they are a member of the reserve force or intend to take or have taken a leave of absence under this Division or take into account the fact that an employee is a member of the reserve force or intends to take or has taken a leave of absence under this Division in a decision to promote or train them.

Prohibition — future employee

(2) No person may refuse to employ a person because they are a member of the reserve force.

2008, c. 15, s. 1.

Regulations

247.97 The Governor in Council may make regulations for carrying out the purposes of this Division and, without restricting the generality of the foregoing, may make regulations

- (a)** specifying the absences that are deemed not to interrupt continuity of employment for the purpose of subsection 247.5(1);
- (b)** specifying what constitutes or does not constitute an operation for the purposes of paragraph 247.5(1)(a);
- (c)** setting out the activities for the purposes of paragraph 247.5(1)(b);
- (d)** defining “military skills training” for the purposes of paragraph 247.5(1)(c);

- (e) limiting the duration of the treatment, recovery or rehabilitation referred to in paragraph 247.5(1)(g) or setting out the terms or conditions for the application of that paragraph;
- (f) specifying what constitutes or does not constitute undue hardship for the purposes of subsection 247.5(4);
- (g) specifying what constitutes or does not constitute a valid reason for the purposes of subsection 247.6(1), (2), (3) or (4), 247.7(3) or 247.93(2);
- (h) specifying the circumstances in which section 247.7, subsection 247.8(1) or subsection 247.91(2) does not apply;
- (i) specifying the circumstances in which an employer may not assign an employee to a position with different terms or conditions of employment for the purposes of section 247.94;
- (j) [Repealed, 2018, c. 27, s. 495]
- (k) [Repealed, 2018, c. 27, s. 495]
- (l) prescribing the classes of employees that are not entitled to a leave of absence under this Division if the Governor in Council is satisfied that the fact of taking leave would cause unreasonable consequences; and
- (m) prescribing the circumstances in which classes of employees are not entitled to a leave of absence under this Division.

2008, c. 15, s. 1; 2017, c. 33, s. 212; 2018, c. 27, s. 495.

DIVISION XV.3

Genetic Testing

Definitions

247.98 (1) The following definitions apply in this Division.

disclose includes to authorize disclosure. (*communiquer*)

genetic test, in relation to an employee, means a test that analyzes the employee's DNA, RNA or chromosomes for purposes such as the prediction of disease or vertical transmission risks, or monitoring, diagnosis or prognosis. (*test génétique*)

Genetic test

(2) Every employee is entitled not to undergo or be required to undergo a genetic test.

Disclosure of results

(3) Every employee is entitled not to disclose or be required to disclose the results of a genetic test.

Disciplinary action

(4) No employer shall dismiss, suspend, lay off or demote an employee, impose a financial or other penalty on an employee, or refuse to pay an employee remuneration in respect of any period that the employee would, but for the exercise of the employee's rights under this Division, have worked, or take any disciplinary action against or threaten to take any such action against an employee

- (a)** because the employee refused a request by the employer to undergo a genetic test;
- (b)** because the employee refused to disclose the results of a genetic test; or
- (c)** on the basis of the results of a genetic test undergone by the employee.

Disclosure by third party

(5) No person shall disclose to an employer that an employee has undergone a genetic test, or disclose to an employer the results of a genetic test, without the written consent of the employee.

Collection or use

(6) No employer shall collect or use the results of a genetic test without the written consent of the employee who has undergone the test.

2017, c. 3, s. 8.

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.

(1.1) [Repealed, 2018, c. 27, s. 585]

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.

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.

Decision of Board

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

- (a) consider whether the employer has contravened subsection 247.98(4) and render a decision on it; and

(b) send a copy of the decision with the reasons for the decision to each party to the complaint and to the Head.

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

(a) permit the employee to return to the duties of their employment;

(b) reinstate the former employee;

(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

(e) do any other like thing that it is equitable to require the employer to do in order to remedy or counteract any consequences of the contravention.

(9) [Repealed, 2018, c. 27, s. 496]

2017, c. 3, s. 8; 2018, c. 27, s. 496; 2018, c. 27, s. 585.

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 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.

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.

[2018, c. 27, s. 497](#); [2018, c. 27, s. 586](#).

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\(6.1\)](#).

[2018, c. 27, s. 497](#).

DIVISION XVI

Administration and General

Inquiries

Inquiries

248 (1) The Minister may,

- (a)** for any of the purposes of this Part, cause an inquiry to be made into and concerning employment in any industrial establishment; and
- (b)** appoint one or more persons to hold the inquiry.

Powers on an inquiry

(2) A person appointed pursuant to subsection (1) has all of the powers of a person appointed as a commissioner under Part I of the [Inquiries Act](#).

R.S., c. L-1, s. 62.

Inspections

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.

Powers of Head

(2) For the purposes of this Part and the regulations, the Head may

(a) inspect and examine all books, payrolls and other records of an employer that relate to the wages, hours of work or conditions of employment affecting any employee;

(b) take extracts from or make copies of any entry in the books, payrolls and other records mentioned in paragraph (a);

(c) require any employer to make or furnish full and correct statements, either orally or in writing, in such form as may be required, respecting the wages paid to all or any of his employees, and the hours of work and conditions of their employment;

(c.1) require any employer that provides benefits to its employees under a long-term disability plan that must be insured in accordance with subsection 239.2(1) to furnish proof that the plan is insured in accordance with that subsection;

(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

(e) require any party to a complaint made under subsection 240(1) to make or furnish full and correct statements, either orally or in writing, in such form as may

be required, respecting the circumstances of the dismissal in respect of which the complaint was made.

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.
R.S., 1985, c. L-2, s. 249; 1993, c. 42, s. 35; [2012, c. 19, s. 435](#); [2018, c. 27, s. 587](#).

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.

R.S., 1985, c. L-2, s. 250; [2018, c. 27, s. 588](#).

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.

Minister's consent required for prosecution

(4) No prosecution for failure to pay an employee the wages or other amounts to which the employee was entitled under this Part shall, without the written consent of the Minister, be instituted against the employer when the employer has made payment of any amount of difference in wages or other amounts in accordance with subsection (2).

R.S., 1985, c. L-2, s. 251; 1993, c. 42, s. 36; [2017, c. 20, s. 357](#); [2018, c. 27, s. 507](#); [2018, c. 27, s. 589](#).

Internal Audit

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,

- (a)** conduct an internal audit of its practices and books, payrolls and other records to determine whether the employer is in compliance with any provision of this Part or the regulations; and
- (b)** provide a report of the results of the audit to the Head.

Contents of order

(2) The Head shall, in the internal audit order, specify

- (a)** any industrial establishment and class of employees to which it applies;
- (b)** the period of time to be covered by the internal audit;
- (c)** the provisions of this Part or the regulations with respect to which the internal audit was ordered;
- (d)** the date by which the employer is to provide the report; and
- (e)** the form of the report.

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.

Service

(4) Service of the order or of a copy of it shall be by personal service, by registered mail or by any other means prescribed by regulation and, in the case of registered

mail, the order or its copy shall be deemed to have been received by the addressee on the seventh day after the day on which it was mailed.

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.

Report – non-compliance

(6) If the employer determines that it had not complied with any provision referred to in the order, the employer shall set out in the report the nature of the employer's non-compliance and the steps that have been or will be taken by the employer to comply with the provision.

Report – wages and other amounts

(7) If the employer determines that any wages or other amounts to which an employee is entitled under this Part are owed, the employer shall also state in the report the name of the employee, the amount owed for the period of time covered by the internal audit, the method used to determine the amount owed and any payment subsequently made to the employee with respect to that amount owed.

Inspection and complaint not precluded

(8) For greater certainty, nothing in this section precludes an inspection from being made, or a complaint from being dealt with, under this Part.

False information

(9) No employer shall make a false or misleading statement in a report.
2017, c. 20, s. 358; 2018, c. 27, s. 590.

Complaints

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

(a) any provision of this Part or of the regulations made under this Part; or

(b) any order.

Time for making complaint

(2) A complaint under subsection (1) shall be made within the following period

(a) in the case of a complaint of non-payment of wages or other amounts to which the employee is entitled under this Part, six months from the last day on which the employer was required to pay those wages or other amounts under this Part; and

(b) in the case of any other complaint, six months from the day on which the subject-matter of the complaint arose.

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;

(b) in any circumstances prescribed by regulation; or

(c) in the conditions prescribed by regulation.

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.

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).

For greater certainty

(5) For greater certainty, a complaint is not permitted under this section if it relates to a disagreement whose settlement is governed exclusively by a collective agreement under subsection 168(1.1).

[2012, c. 31, s. 223; 2017, c. 33, s. 213; 2018, c. 27, s. 498; 2018, c. 27, s. 591.](#)

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.

Notice

(2) If the Head suspends consideration of a complaint, the Head must notify the employee in writing and specify in the notice

- (a)** the measures that the employee must take; and
- (b)** the period of time within which the employee must take those measures.

Extension of time

(3) The Head may, upon request, extend the time period specified in the notice.

End of suspension

(4) The suspension ends when, in the Head's opinion, the measures specified in the notice have been taken.

[2012, c. 31, s. 223; 2018, c. 27, s. 499; 2018, c. 27, s. 592.](#)

Assistance — Head

251.03 After receipt of a complaint, the Head may assist the parties to the complaint to settle the complaint.

[2012, c. 31, s. 223; 2018, c. 27, s. 593.](#)

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.

[2012, c. 31, s. 223; 2018, c. 27, s. 593.](#)

Rejection of complaint

251.05 (1) The Head may reject a complaint made under [section 251.01](#), in whole or in part,

(a) if the Head is satisfied

- (i)** that the complaint is not within their jurisdiction,
- (ii)** that the complaint is frivolous, vexatious or not made in good faith,
- (iii)** that the complaint has been settled in writing between the employer and the employee,
- (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,
- (v)** that the subject-matter of the complaint has been adequately dealt with through recourse obtained before a court, tribunal, arbitrator or adjudicator,
- (vi)** that in respect of a complaint other than a complaint of non-payment of wages or other amounts to which the employee is entitled under this Part, there is insufficient evidence to substantiate the complaint, or
- (vii)** that 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;

(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;

(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.

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.

2012, c. 31, s. 223; 2017, c. 26, s. 16; 2018, c. 27, s. 500; 2018, c. 27, s. 594.

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).

Service of order

(3) Service of an order or of a copy of it shall be by personal service, by registered mail or by any other means prescribed by regulation and, in the case of registered mail, the order or its copy shall be deemed to have been received by the addressee on the seventh day after the day on which it was mailed.

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.

[2017, c. 20, s. 360](#); [2018, c. 27, s. 509](#); [2018, c. 27, s. 596](#).

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.

Limitation

(1.1) A payment order must not relate to wages or other amounts to which the employee is entitled for the period preceding

(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;

(a.1) in the case where the payment order was issued to the employer on the basis of, in whole or in part, a report provided under subsection 251.001(1), the 24 months immediately before the day on which the order to provide the report was served; and

(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.

(1.2) [Repealed, 2017, c. 20, s. 361]

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.

Service of order or notice

(3) Service of a payment order or a copy of it, of a notice of unfounded complaint, or of a notice of voluntary compliance shall be by personal service, by registered mail or by any other means prescribed by regulation and, in the case of registered mail, the

order, copy or notice shall be deemed to have been received by the addressee on the seventh day after the day on which it was mailed.

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.

1993, c. 42, s. 37; [2012, c. 31, s. 224](#); [2017, c. 20, s. 361](#); [2018, c. 27, s. 597](#).

Orders — Review and Appeal

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

- (a)** subject to paragraph (b), within 15 days after the day on which the order or a copy of the order or the notice is served; or
- (b)** if a compliance order is served with a notice of violation issued under subsection 276(1) for the same contravention, within 30 days after the day on which they are served.

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.

Service of documents

(4) Service of a decision made under subsection (3) shall be by personal service, by registered mail or by any other means prescribed by regulation on 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, on the employer. If the decision is served by registered mail, it shall be deemed to have been received by the addressee on the seventh day after the day on which it was mailed.

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.

Review is final

(6) Subject to the right of appeal under [section 251.11](#), the decision made under subsection (3) is final and conclusive and is not subject to appeal to or review by any court.

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](#).

[2012, c. 31, s. 225; 2017, c. 20, s. 363; 2018, c. 27, s. 599.](#)

Appeal

251.11 (1) Subject to subsection (1.1), a person who is affected by a decision made under [subsection 251.101\(3\)](#), other than a decision to rescind a notice of unfounded complaint or a notice of voluntary compliance, may appeal the decision to the Board, in writing, within 15 days after the day on which the decision is served.

Exception – compliance order

(1.1) Only an employer to whom a compliance order has been issued may appeal a decision with respect to that order.

Scope of appeal

(1.2) Except in the case of a compliance order, the person may appeal the decision only on a question of law or jurisdiction.

Grounds of appeal

(2) The request for appeal shall contain a statement of the grounds of appeal.

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).

Limitation

(4) In the case of a director, subsection (3) applies subject to the maximum amount of the director's liability under [section 251.18](#).

1993, c. 42, s. 37; [2012, c. 31, s. 225](#); [2017, c. 20, s. 364](#); [2018, c. 27, s. 600](#).

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.

2017, c. 20, s. 365; 2018, c. 27, s. 601.

Board decision

251.12 (1) The Board may, in an appeal under this Part, make any order that is necessary to give effect to its decision, including an order to

- (a)** confirm, rescind or vary, in whole or in part, the decision being appealed;
- (b)** direct payment to any specified person of any wages or other amounts held in trust by the Receiver General that relate to the appeal;
- (c)** award costs in the proceedings; and
- (d)** order a party, whose conduct in the proceedings has, in the Board's opinion, unduly delayed the determination of the appeal, to pay to the Receiver General an amount that is equal to all or part of the expenses incurred in the proceedings by the Board.

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.

Order final

(3) The order of the Board is final and shall not be questioned or reviewed in any court.

No review by *certiorari*, etc.

(4) 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 this section.

Wages

(5) An employee who has been summoned by the Board to attend at an appeal proceeding under this Part and who attends is entitled to be paid by the employer at the employee's regular rate of wages for the time spent at the proceeding that would otherwise have been time at work.

Debt to Her Majesty

(6) The expenses to be paid in accordance with an order issued under paragraph (1) (d) constitute a debt due to Her Majesty in right of Canada and are recoverable as such in the Federal Court or any other court of competent jurisdiction or in any other manner provided under this Act.

1993, c. 42, s. 37; [2012, c. 31, s. 226](#); [2017, c. 20, s. 365](#); [2018, c. 27, s. 602](#).

General Provisions — Orders

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.

Banks, etc.

(2) For the purposes of this section, a bank or other financial institution that has money on deposit to the credit of an employer or a director of a corporation shall be deemed to be indebted to that employer or that director.

1993, c. 42, s. 37; [2017, c. 20, s. 366](#); [2018, c. 27, s. 603](#).

Administrative fee

251.131 (1) A payment order made to an employer under subsection 251.1(1), and any decision made under [subsection 251.101\(3\)](#) or [section 251.12](#) with respect to that payment order ordering the employer to pay wages or other amounts to an employee, shall specify the amount of the administrative fee — which is equal to the greater of \$200 and 15% of the amounts indicated in the payment order or decision — that the employer is to pay.

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.

Debt to Her Majesty

(3) An administrative fee constitutes a debt due to Her Majesty in right of Canada and is recoverable as such in the Federal Court or any other court of competent jurisdiction or in any other manner provided under this Act, including under subsection 251.13(1) and section 251.15.

[2017, c. 20, s. 366; 2018, c. 27, s. 604.](#)

Return of security

251.132 The Head, after a final decision has been made in respect of which security was given,

(a) may apply, in whole or in part, the security given under [subsection 251.101\(2.1\)](#) or [251.11\(3.1\)](#) toward any amounts — and, if the security was given by an employer, any administrative fee — owing under the final decision by the employer or a director of a corporation who gave the security; and

(b) shall return the security or, if it was applied under paragraph (a), any part that remains after the amounts and, in the case of an employer, the administrative fee have been paid.

[2017, c. 20, s. 366; 2018, c. 27, s. 605.](#)

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.

1993, c. 42, s. 37; [2012, c. 31, s. 227](#); [2017, c. 20, s. 367](#); [2018, c. 27, s. 606](#).

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.

Limitation

(1.1) However, a payment order is not to be filed while it is or may be the subject of a review under subsection 251.101(1) or an appeal under [subsection 251.101\(7\)](#) or [section 251.11](#) or if an order of the Board is made under paragraph 251.12(1)(a) relating to the payment order.

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.

Registration of orders

(3) On the filing of a copy of an order in the Federal Court under subsection (1) or (2), the order shall be registered in the Court and, when registered, has the same force and effect, and all proceedings may be taken thereon, as if the order were a judgment obtained in that Court.

1993, c. 42, s. 37; [2012, c. 31, s. 228](#); [2017, c. 20, s. 368](#); [2018, c. 27, s. 607](#).

Regulations

251.16 The Governor in Council may make regulations respecting the operation of sections [251.001](#), [251.1](#), [251.101](#) and [251.13](#) to [251.15](#).

1993, c. 42, s. 37; [2017, c. 20, s. 369](#); [2017, c. 20, s. 370](#).

Statutory Instruments Act

251.17 The *Statutory Instruments Act* does not apply in respect of internal audit orders, compliance orders, payment orders, notices of unfounded complaint, notices of voluntary compliance or orders to debtors.

1993, c. 42, s. 37; [2017, c. 20, s. 371](#); [2017, c. 20, s. 372](#); [2017, c. 20, s. 373](#).

Civil liability of directors

251.18 Directors of a corporation are jointly and severally liable for wages and other amounts to which an employee is entitled under this Part, to a maximum amount equivalent to six months' wages, to the extent that

- (a) the entitlement arose during the particular director's incumbency; and
- (b) recovery of the amount from the corporation is impossible or unlikely.

1993, c. 42, s. 37.

Cooperatives

251.19 For the purposes of [section 251.18](#) and [subsection 257\(3\)](#), cooperatives shall be deemed to be corporations.

1993, c. 42, s. 37.

Information and Returns

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

(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.

Exception

(3) Subsections (1) and (2) do not apply in respect of hours worked by employees who are

(a) excluded from the application of Division I under subsection 167(2); or

(b) exempt from the application of sections 169 and 171 pursuant to regulations made under paragraph 175(1)(b).

R.S., 1985, c. L-2, s. 252; R.S., 1985, c. 9 (1st Supp.), s. 18; 1993, c. 42, s. 38; 2015, c. 36, s. 90; 2018, c. 27, s. 608.

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.

Statutory Instruments Act

(6) The *Statutory Instruments Act* does not apply in respect of notices referred to in subsection (1).

R.S., 1985, c. L-2, s. 253; 1993, c. 42, s. 39; [2017, c. 20, s. 374](#); [2018, c. 27, s. 609](#).

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 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.

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.

[2018, c. 27, s. 502](#); [2018, c. 27, s. 622](#).

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.

2018, c. 27, s. 502.

Pay statement

254 (1) An employer shall, at the time of making any payment of wages to an employee, furnish the employee with a statement in writing setting out

- (a)** the period for which the payment is made;
- (b)** the number of hours for which the payment is made;
- (c)** the rate of wages;
- (d)** details of the deductions made from the wages; and
- (e)** the actual sum being received by the employee.

Exemption

(2) The Minister may, by order, exempt any employer from any or all of the requirements of subsection (1).

R.S., c. L-1, s. 68.

Deductions

General rule

254.1 (1) No employer shall make deductions from wages or other amounts due to an employee, except as permitted by or under this section.

Permitted deductions

(2) The permitted deductions are

- (a)** those required by a federal or provincial Act or regulations made thereunder;
- (b)** those authorized by a court order or a collective agreement or other document signed by a trade union on behalf of the employee;
- (c)** amounts authorized in writing by the employee;
- (d)** overpayments of wages by the employer; and
- (e)** other amounts prescribed by regulation.

Damage or loss

(3) Notwithstanding paragraph (2)(c), no employer shall, pursuant to that paragraph, make a deduction in respect of damage to property, or loss of money or property, if any person other than the employee had access to the property or money in question.

Regulations

(4) The Governor in Council may make regulations prescribing:

- (a)** deductions that an employer is permitted to make in addition to those permitted by this section; and
- (b)** the manner in which the deductions permitted by this section may be made by the employer.

1993, c. 42, s. 40.

Combining Federal Works, Undertakings and Businesses

Orders of Minister combining federal works, undertakings and businesses

255 (1) Where associated or related federal works, undertakings and businesses are operated by two or more employers having common control or direction, the Minister may, after affording to the employers a reasonable opportunity to make representations, by order, declare that for all purposes of this Part the employers and the federal works, undertakings and businesses operated by them that are specified in the order are, respectively, a single employer and a single federal work, undertaking or business.

Idem

(2) Where an order is made under subsection (1), the employers to which it applies are jointly and severally liable to the employees employed in the federal works, undertakings and businesses to which the order applies for overtime pay, vacation pay,

holiday pay and other wages or amounts to which the employees are entitled under this Part.

R.S., c. 17(2nd Supp.), s. 17; 1977-78, c. 27, s. 25.

Offences and Punishment

Offences and punishment

256 (1) Every person is guilty of an offence who

- (a) contravenes any provision of this Part or the regulations, other than a provision of Division IX, subsection 239.1(2), 239.2(1), 251.001(9) or 252(2) or any regulation made under section 227 or paragraph 264(1)(a) or (a.1);
- (b) contravenes any order made under this Part or the regulations; or
- (c) discharges, threatens to discharge or otherwise discriminates against a person because that person
 - (i) has testified or is about to testify in any proceedings or inquiry taken or had under this Part, or
 - (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.

Punishment

(1.1) Every person who is guilty of an offence under subsection (1) is liable on summary conviction

- (a) in the case of an employer that is a corporation,
 - (i) for a first offence, to a fine of not more than \$50,000,
 - (ii) for a second offence, to a fine of not more than \$100,000, and
 - (iii) for each subsequent offence, to a fine of not more than \$250,000; and
- (b) in all other cases,
 - (i) for a first offence, to a fine of not more than \$10,000,
 - (ii) for a second offence, to a fine of not more than \$20,000, and
 - (iii) for each subsequent offence, to a fine of not more than \$50,000.

Second or subsequent offence

(1.2) For the purposes of subsection (1.1), in determining whether a person convicted of an offence has committed a second or subsequent offence, an earlier offence may be

taken into account only if the person was convicted of the earlier offence within the five-year period immediately before the day on which the person is convicted of the offence for which sentence is being imposed.

Offences — employers

(2) Every employer that contravenes any provision of Division IX, subsection 239.1(2) or 239.2(1) or any regulation made under [section 227](#) is guilty of an offence punishable on summary conviction and liable to a fine of not more than \$250,000.

Idem

(3) Every employer who

(a) fails to keep any record that, by [subsection 252\(2\)](#) or any regulation made under paragraph 264(1)(a) or [\(a.1\)](#), the employer is required to keep, or

(b) refuses to make available for examination by the Head at any reasonable time any such record kept by the employer,

is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 for each day during which the refusal or failure continues.

R.S., 1985, c. L-2, s. 256; R.S., 1985, c. 9 (1st Supp.), s. 19; [2012, c. 19, s. 436](#); [2015, c. 36, s. 91](#); [2017, c. 20, s. 375](#); [2017, c. 20, s. 400](#); [2018, c. 27, s. 610](#).

Procedure

257 (1) A complaint or information under this Part may relate to one or more offences by one employer in respect of one or more of his employees.

Limitation period

(2) Proceedings in respect of an offence under this Part may be instituted at any time within but not later than three years after the time when the subject-matter of the proceedings arose.

Minister's consent required

(3) No proceeding against a director of a corporation in respect of an offence under this Part shall be instituted except with the consent of the Minister.

R.S., 1985, c. L-2, s. 257; 1993, c. 42, s. 41.

Order to pay arrears of wages

258 (1) Where an employer has been convicted of an offence under this Part in respect of any employee, the convicting court shall, in addition to any other

punishment, order the employer to pay to the employee any overtime pay, vacation pay, holiday pay or other wages or amounts to which the employee is entitled under this Part the non-payment or insufficient payment of which constituted the offence for which the employer was convicted.

Reinstatement of pay and position

(2) Where an employer has been convicted of an offence under this Part in respect of the discharge of an employee, the convicting court may, in addition to any other punishment, order the employer

(a) to pay compensation for loss of employment to the employee not exceeding such sum as in the opinion of the court is equivalent to the wages that would have accrued to the employee up to the date of conviction but for such discharge; and

(b) to reinstate the employee in his employ at such date as in the opinion of the court is just and proper in the circumstances and in the position that the employee would have held but for such discharge.

When inaccurate records kept

(3) In determining the amount of wages or overtime for the purposes of subsection (1), if the convicting court finds that the employer has not kept accurate records as required by this Part or the regulations, the employee affected shall be conclusively presumed to have been employed for the maximum number of hours a week allowed under this Part and to be entitled to the full weekly wage therefor.

R.S., c. L-1, s. 71; 1977-78, c. 27, s. 27.

Failure to comply with order

259 An employer that fails to comply with an order of a convicting court made under [section 258](#) is guilty of an offence punishable on summary conviction and liable to a fine of not more than \$1,000 for each day during which the failure continues.

R.S., 1985, c. L-2, s. 259; R.S., 1985, c. 9 (1st Supp.), s. 20; [2012, c. 19, s. 437](#).

Imprisonment precluded in certain cases

259.1 (1) Where a person is convicted of an offence under this Part punishable on summary conviction, no imprisonment may be imposed as punishment for the offence or in default of payment of any fine imposed as punishment.

Recovery of penalties

(2) Where a person is convicted of an offence under this Part and the fine that is imposed is not paid when required, the prosecutor may, by filing the conviction, enter

as a judgment the amount of the fine and costs, if any, in a superior court of the province in which the trial was held, and the judgment is enforceable against the person in the same manner as if it were a judgment rendered against the person in that court in civil proceedings.

R.S., 1985, c. 9 (1st Supp.), s. 20.

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 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.

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.

R.S., 1985, c. L-2, s. 260; [2018, c. 27, s. 503](#); [2018, c. 27, s. 612](#).

Civil remedy

261 No civil remedy of an employee against his employer for arrears of wages is suspended or affected by this Part.

R.S., c. L-1, s. 73.

Ministerial Orders

Orders

262 Where by this Part or the regulations the Minister is authorized to make any order in respect of any matter, the order may be made to apply generally or in particular cases or to apply to classes of employees or industrial establishments.

R.S., c. L-1, s. 74.

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.

R.S., 1985, c. L-2, s. 263; 1996, c. 11, s. 68; [2018, c. 27, s. 504](#).

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.

[2018, c. 27, s. 504](#).

Regulations

Regulations

264 (1) The Governor in Council may make regulations for carrying out the purposes of this Part and, without restricting the generality of the foregoing, may make regulations

(a) requiring employers to keep records of wages, vacations, holidays and overtime of employees and of other particulars relevant to the purposes of this Part or any Division thereof;

(a.1) requiring employers to keep records relevant to the purposes of this Part in respect of persons who are excluded under [subsection 167\(1.2\)](#) from the application of all or any of this Part;

(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;

(a.3) specifying the circumstances in which a person who performs activities referred to in [subsection 167\(1.2\)](#) must provide to an employer the information referred to in paragraph (a.2);

(a.4) for the purpose of [subsection 167\(1.2\)](#), specifying or describing secondary or post-secondary educational institutions, vocational schools, or equivalent educational institutions outside Canada;

(b) designating any branch, section or other division of any federal work, undertaking or business as an industrial establishment for the purposes of this Part or any Division thereof;

(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;

(c) governing the production and inspection of records required to be kept by employers;

(d) for calculating and determining wages received by an employee in respect of his employment, including the monetary value of remuneration other than money and, for the purposes of any provision or provisions of this Part specified in the regulations, the regular rate of wages of employees;

(e) for calculating and determining the regular rate of wages, on an hourly basis, of employees who are paid on any basis of time other than hourly or who are not paid solely on a basis of time;

(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;

(f) prescribing the maximum number of hours that may elapse between the commencement and termination of the working day of any employee;

(g) [Repealed, 2018, c. 27, s. 505]

(h) requiring an employer in any industrial establishment to notify employees, by the publication of such notices, in such manner as may be prescribed, of

(i) the provisions of this Part or any regulation or order made under this Part,

(ii) the particulars of hours of work, including the hours at which shifts change,

(iii) the particulars of rest periods and meal periods, and

(iv) other matters related to hours and conditions of work of employees;

(i.1) 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;

(i.1) providing for the application of any provisions of this Part or of the regulations made under this Part to persons and, in relation to those persons, employers who are otherwise excluded under subsection 167(1.2) from the application of this Part

and adapting those provisions for the purpose of applying them to those persons and those employers;

(j) providing for the establishment of consultative or advisory committees to advise the Minister on any matters arising in relation to the administration of this Part;

(j.1) prescribing the circumstances and conditions for the purposes of subsection 251.01(3);

(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

(j.5) [Repealed, 2020, c. 12, s. 4]

(k) for any other matter or purpose that under this Part is required or permitted to be prescribed by regulation.

Incorporation of documents

(2) A regulation made under paragraph (1)(a.4) that incorporates by reference, in whole or in part, a document may incorporate the document, regardless of its source, as it exists on a certain date, as amended to a certain date or as amended from time to time.

R.S., 1985, c. L-2, s. 264; R.S., 1985, c. 9 (1st Supp.), s. 21; 2012, c. 31, s. 229; 2015, c. 36, s. 92; 2017, c. 33, s. 218; 2018, c. 27, s. 505; 2018, c. 27, s. 613; 2020, c. 12, s. 4.

Application of Provincial Laws

Provincial Crown corporations

265 The Governor in Council may by regulation direct that this Part applies in respect of any employment, or any class or classes of employment, on or in connection with a work or undertaking set out in the regulation that is, or is part of, a corporation that is an agent of Her Majesty in right of a province and whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

1996, c. 12, s. 4; 1997, c. 9, s. 125.

Exclusion from application

266 (1) The Governor in Council may by regulation exclude, in whole or in part, from the application of any of the provisions of this Part any employment, or any class or

classes of employment, on or in connection with a work or undertaking set out in the regulation whose activities are regulated, in whole or in part, pursuant to the *Nuclear Safety and Control Act*.

Regulations

(2) On the recommendation of the Minister, the Governor in Council may make regulations relating to labour standards in relation to employment that is subject to a regulation made pursuant to subsection (1).

1996, c. 12, s. 4; 1997, c. 9, s. 125.

Application of certain provisions

267 Subsections 121.2(3) to (8) apply, with such modifications as the circumstances require, in respect of a regulation made pursuant to [subsection 266\(2\)](#) except that the references to "subsection (2)" in [subsections 121.2\(3\) to \(6\)](#) shall be read as references to [subsection 266\(2\)](#).

1996, c. 12, s. 4.

PART IV

Administrative Monetary Penalties

Interpretation and Application

Definitions

268 (1) The following definitions apply in this Part.

department means a department in, or other portion of, the federal public administration to which Part II applies, as provided under [subsection 123\(2\)](#).
(*ministère*)

employer has,

(a) in respect of a violation related to Part II, the same meaning as in subsection 122(1); and

(b) in respect of a violation related to Part III, the same meaning as in [section 166](#). (*employeur*)

penalty means an administrative monetary penalty imposed under this Part for a violation. (*pénalité*)

Application — department

(2) This Part applies to a department and to persons employed in a department only in respect of a violation that is related to Part II.

[2017, c. 20, s. 377.](#)

Purpose

Purpose of Part

269 The purpose of this Part is to establish, as an alternative to the existing penal system and as a supplement to existing enforcement measures, a fair and efficient penalty system to promote compliance with Parts II and III of this Act.

[2017, c. 20, s. 377.](#)

Regulations

Regulations

270 (1) The Governor in Council may make regulations

(a) designating as a violation that may be proceeded with in accordance with this Part

- (i)** the contravention of any specified provision of Part II or III or of any regulations made under those Parts,
- (ii)** the contravention of any direction, or of any direction of any specified class of directions, issued under any provision of Part II or of any regulations made under that Part,
- (iii)** the contravention of any order, or of any order of any specified class of orders, made or issued under any provision of Part II or III or of any regulations made under those Parts, or
- (iv)** the failure to comply with any condition, or with any condition of any specified class of conditions, of a permit issued under [section 176](#);

(b) respecting the determination of, or the method of determining, the amount payable as the penalty for each violation, penalties which may be different for individuals and for other persons and departments;

(c) respecting the circumstances under which, the criteria by which and the manner in which a penalty may be reduced;

(d) respecting the determination of a lesser amount than the penalty imposed that may be paid in complete satisfaction of the penalty if paid within the time and manner prescribed by regulation;

- (e) respecting the service of documents required or authorized under this Part, including the manner and proof of service and the circumstances under which documents are deemed to be served;
- (f) prescribing the method of calculating and determining the regular rate of wages for the purpose of [section 288](#);
- (g) prescribing anything that by this Part is to be prescribed; and
- (h) generally, for carrying out the purposes and provisions of this Part.

Restriction — amount of penalty

(2) The amount that may be determined under any regulations made under paragraph (1)(b) as the penalty for a violation may not exceed \$250,000.

[2017, c. 20, s. 377.](#)

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.

[2017, c. 20, s. 377; 2018, c. 27, s. 614.](#)

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.

[2017, c. 20, s. 377; 2018, c. 27, s. 614.](#)

Commission of Violations

Violations

273 Every person or department that contravenes or fails to comply with a provision, direction, order or condition designated by regulations made under paragraph 270(1)

(a) commits a violation and is liable to a penalty of an amount to be determined in accordance with the regulations.

[2017, c. 20, s. 377.](#)

Liability of parties to violation

274 If a corporation or a department commits a violation, any of the following persons who directed, authorized, assented to, acquiesced in or participated in the commission of the violation is a party to the violation and is liable to a penalty of an amount to be determined in accordance with the regulations, whether or not the corporation or department has been proceeded against in accordance with this Part:

- (a)** any officer, director, agent or mandatary of the corporation;
- (b)** any senior official in the department; or
- (c)** any other person exercising managerial or supervisory functions in the corporation or department.

[2017, c. 20, s. 377.](#)

Proof of violation – employees

275 In any proceedings under this Part against a person or a department in relation to a violation, it is sufficient proof of the violation to establish that it was committed by an employee or agent or mandatary of the person or of the department, whether or not the employee or agent or mandatary has been identified or proceeded against in accordance with this Part.

[2017, c. 20, s. 377.](#)

Notice of violation

276 (1) If a person designated under [paragraph 271\(b\)](#) has reasonable grounds to believe that a person or a department has committed a violation, the designated person may issue a notice of violation and shall cause it to be served on the person or on the department in accordance with the regulations.

Contents

(2) The notice of violation shall

- (a)** name the person or department that is believed to have committed the violation;
- (b)** set out the relevant facts surrounding the violation;
- (c)** set out the penalty for the violation;

- (d) inform the person or department of their right to contest the facts of the alleged violation or the penalty, by way of review and appeal, and of the procedure to be followed to exercise that right;
- (e) inform the person or department of the manner of paying the penalty set out in the notice; and
- (f) inform the person or department that, if they do not pay the penalty or exercise their right referred to in paragraph (d), they will be considered to have committed the violation and that they are liable for the penalty set out in the notice.

Copy given by employer

(3) If the notice of violation is issued to an employer who has committed a violation by contravening a provision of Part II or a direction issued under that Part, the employer shall, without delay, give a copy of the notice to the work place committee or health and safety representative, as those terms are defined in subsection 122(1).

2017, c. 20, s. 377.

Rules About Violations

Certain defences not available

277 (1) A person or department named in a notice of violation does not have a defence by reason that the person or the department

- (a) exercised due diligence to prevent the violation; or
- (b) reasonably and honestly believed in the existence of facts that, if true, would exonerate the person or the department.

Common law principles

(2) Every rule and principle of the common law that renders any circumstance a justification or excuse in relation to a charge for an offence under Part II or III applies in respect of a violation to the extent that it is not inconsistent with this Part.

2017, c. 20, s. 377.

Continuing violation

278 A violation that is committed or continued on more than one day constitutes a separate violation for each day on which it is committed or continued.

2017, c. 20, s. 377.

Violation or offence

279 (1) Proceeding with any act or omission as a violation under this Part precludes proceeding with it as an offence under Part II or III, and proceeding with it as an offence under Part II or III precludes proceeding with it as a violation under this Part.

For greater certainty

(2) For greater certainty, a violation is not an offence and, accordingly, [section 126](#) of the *Criminal Code* does not apply in respect of a violation.

[2017, c. 20, s. 377.](#)

Limitation period

280 No notice of violation in respect of a violation may be issued more than two years after the day on which the subject-matter of the violation arises.

[2017, c. 20, s. 377.](#)

Reviews

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.

[2017, c. 20, s. 377; 2018, c. 27, s. 615.](#)

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.

[2017, c. 20, s. 377; 2018, c. 27, s. 615.](#)

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.

[2017, c. 20, s. 377](#); [2018, c. 27, s. 615](#).

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.

Copy given by employer

(4) If a decision is made with respect to a notice of violation referred to in [subsection 276\(3\)](#), the employer shall, without delay, give a copy of the decision to the work place committee or health and safety representative, as those terms are defined in subsection 122(1).

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.

Decision final

(6) Subject to the right of appeal under [section 285](#), every decision made under this section is final and shall not be questioned or reviewed in any court.

[2017, c. 20, s. 377](#); [2018, c. 27, s. 616](#).

Appeal

Appeal

285 (1) A person or a department may appeal a decision referred to in section 284 to the Board, in writing, within 15 days after the day on which the decision is served.

Grounds of appeal

(2) The request for appeal shall contain a statement of the grounds of appeal.

[2017, c. 20, s. 377](#); [2018, c. 27, s. 617\(F\)](#).

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.

[2017, c. 20, s. 377](#); [2018, c. 27, s. 618](#).

Object of appeal

287 (1) In an appeal under this Part, the Board 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 appellant committed the violation, or both.

Correction of penalty

(2) If the Board determines that the amount of the penalty for the violation was not determined in accordance with the regulations, the Board shall correct the amount of the penalty.

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.

Copy given by employer

(4) If a decision is made with respect to a notice of violation referred to in subsection 276(3), the employer shall, without delay, give a copy of the decision to the work place committee or health and safety representative, as those terms are defined in subsection 122(1).

Obligation to pay

(5) If the Board determines that the appellant committed the violation, the appellant is liable for the penalty that is set out in the decision.

Decision final

(6) Every decision made under this section is final and shall not be questioned or reviewed in any court.

No review by *certiorari*, etc.

(7) 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 this section.

[2017, c. 20, s. 377](#); [2018, c. 27, s. 619](#).

Wages

288 An employee who has been summoned by the Board to attend at an appeal proceeding under this Part and who attends is entitled to be paid by the employer at the employee's regular rate of wages for the time spent at the proceeding that would otherwise have been time at work.

[2017, c. 20, s. 377](#).

Responsibility

Payment

289 If a person or a department pays the penalty set out in a notice of violation, the person or the department is considered to have committed the violation and proceedings in respect of it are ended.

[2017, c. 20, s. 377](#).

Failure to act

290 A person or a department that neither pays a penalty imposed under this Part nor requests a review or an appeal in the specified time is considered to have committed the violation and is liable for the penalty.

[2017, c. 20, s. 377.](#)

Recovery of Penalties

Debt to Her Majesty

291 (1) A penalty constitutes a debt due to Her Majesty in right of Canada and is recoverable as such in the Federal Court or any other court of competent jurisdiction.

Limitation period

(2) No proceedings to recover the debt may be instituted more than five years after the day on which the debt becomes payable.

[2017, c. 20, s. 377.](#)

Certificate

292 (1) The Head may issue a certificate certifying the unpaid amount of any debt referred to in subsection 291(1).

Registration

(2) Registration in the Federal Court or in any other court of competent jurisdiction of a certificate issued under subsection (1) has the same force and effect as a judgment of that court for a debt of the amount specified in the certificate and all related registration costs.

[2017, c. 20, s. 377; 2018, c. 27, s. 620.](#)

General

Admissibility of documents

293 In the absence of evidence to the contrary, a document that appears to be a notice of violation issued under subsection 276(1) is presumed to be authentic and is proof of its contents in any proceeding in respect of a violation.

[2017, c. 20, s. 377.](#)

Burden of proof

294 If the facts of a violation are reviewed or appealed, the person who issued the notice of violation shall establish, on a balance of probabilities, that the applicant or the appellant committed the violation.

[2017, c. 20, s. 377.](#)

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.

2017, c. 20, s. 377; 2018, c. 27, s. 621.

Pilot Projects

Regulations

296 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 compliance with Parts II and III of this Act, 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.

2018, c. 22, s. 17.

Repeal of regulations

297 Unless they are repealed earlier, regulations made under section 296 are repealed on the fifth anniversary of the day on which they come into force.

2018, c. 22, s. 17.