PLEASE NOTE

This document, prepared by the ***Legislative Counsel Office***, is an office consolidation of this Act, current to December 2, 2015. It is intended for information and reference purposes only.

This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*.**

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
E-mail: legislation@gov.pe.ca

CHAPTER E-6.2

EMPLOYMENT STANDARDS ACT

1. In this Act — Definitions

(a) "board" means the Employment Standards Board established under this Act; — board

(b) "contract of service" means a contract, whether or not in writing, in which an employer, either expressly or by implication, in return for the payment of pay to an employee, reserves the right of control and direction of the manner and method by which the employee carries out the duties to be performed under the contract; — contract of service

(c) "employee" means a person who performs any work for or supplies any services to an employer for pay, and includes — employee

(i) a person who is on leave from an employer,

(ii) a person who is being trained by an employer to perform work for or supply services to the employer, or

(iii) a person who was an employee;

(d) "employer" means a person, firm or corporation, agent, manager, representative, contractor or sub-contractor having control or direction of or being responsible, directly or indirectly, for the employment of an employee and includes a person who was an employer; — employer

(e) "establishment" means a place or places at or in which all or any part of a business or undertaking of an employer is or has been carried on; — establishment

(f) "extended family" means the grandparent, grandchild, aunt, uncle, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law or daughter-in-law of an employee; — extended family

(g) "immediate family" means the spouse, child, parent, brother or sister of an employee; — immediate family

(h) "inspector" means an inspector appointed under subsection 3(1); — inspector

(i) "layoff" means a temporary interruption of the employment relationship at the direction of the employer because of a lack of work; — layoff

(j) "minimum wage" means, in respect of an employee, the amount of wages fixed by order of the board pursuant to section 5 that applies to the employee; — minimum wage

Minister

(k) "Minister" means the Minister of Justice and Public Safety and Attorney General;

overtime hour

(l) "overtime hour" means, with respect to an employee of an employer, an hour of work performed by the employee for the employer during a work week in excess of,

(i) in the case where an order made under subsection 15(2) applies to the employer and employee, the number of hours of the prescribed standard work week set out in the order, or

(ii) in any other case, the number of hours of the standard work week established under subsection 15(1);

pay

(m) "pay" means, unless the context indicates otherwise, all compensation due or paid to an employee for work done for or services supplied to an employer and includes vacation pay, pay in lieu of vacation, gratuities and benefits;

pay in lieu of vacation

(n) "pay in lieu of vacation" means any pay due or paid to an employee under section 11.1;

pay period

(o) "pay period" means the period of time established by the employer for the payment of pay to employees in accordance with subsection 5.2(3);

place of employment

(p) "place of employment" means any building, structure, premises, water, land or other place or thing in or upon which one or more persons are or have been employed for wages;

regular rate of wages

(q) "regular rate of wages" means the regular wage rate of an employee for an hour of work;

regulations

(r) "regulations" means the regulations made pursuant to section 41;

termination

(s) "termination" means the unilateral severance of the employment relationship at the direction of the employer;

vacation pay

(t) "vacation pay" means any pay due or paid to an employee under section 11;

`wages

(u) "wages" includes salaries, commissions, and compensation in any form for work or service measured by time, piece or otherwise, but does not include vacation pay, pay in lieu of vacation, gratuities or benefits;

week

(v) "week" means a period of seven consecutive days;

work week

(w) "work week" means

(i) a recurring period of seven consecutive days selected by the employer for the purpose of scheduling work, or

(ii) if the employer has not selected such a period, a recurring period of seven consecutive days beginning on Sunday and ending on Saturday. 1992,c.18,s.1; 1993, c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2003,c.35,s.1; 2008,c.8,s.8(2); 2009,c.5,s.2; 2015,c.28,s.3.

PURPOSES

Purposes

1.1 The purposes of this Act are as follows:

(a) to ensure that employees receive at least basic conditions and benefits of employment;

(b) to promote positive relationships and open communications between employers and employees;

(c) to foster the development of a productive and efficient labour force that can contribute fully to the prosperity of Prince Edward Island;

(d) to contribute in assisting employees to meet work and family responsibilities;

(e) to provide fair and efficient procedures for resolving disputes over the application and interpretation of this Act. 2009,c.5,s.3.

APPLICATION

Application

2. (1) Except as otherwise expressly provided by this Act or the regulations, this Act and the regulations apply to all employers and employees.

Exception, farm labourers and salespersons

(2) Notwithstanding subsection (1), only those provisions of this Act relating to the payment and protection of pay apply to the following employees:

(a) salespersons whose income is derived primarily from commission on sales; and

(b) farm labourers.

Idem, home care workers

(3) Notwithstanding subsection (1), the provisions of sections 5 and 15 do not apply to

(a) persons employed for the sole purpose of protecting and caring for children, handicapped or aged persons in private homes; and

(b) employees of a non-profit organization who are required by the terms of their employment to live-in at a facility operated by the organization.

Employees with a collective agreement

(4) Notwithstanding subsection (1), only the following provisions of this Act apply to employees whose terms and conditions of work are established by a collective agreement pursuant to the *Labour Act* R.S.P.E.I. 1988, Cap. L-1:

(a) those provisions relating to maternity, parental, and adoption leave as contained in sections 18 to 22.02 and 23.3;
(b) those provisions relating to leave for reservists as contained in section 23.1;
(c) those provisions relating to sexual harassment as contained in sections 24 to 28;
(d) those provisions relating to pay, protection of pay and payroll records as contained in sections 5.1 to 5.3, 5.6, subsection 30(1) and sections 31, 32 and 39.1;
(e) those provisions relating to compassionate care leave as contained in sections 22.3 and 23.3;
(f) those provisions relating to paid holidays as contained in sections 6 to 10;
(g) those provisions relating to complaints as contained in sections 30, 35 and 36;
(h) those provisions respecting the administration and enforcement of this Act and the regulations as contained in sections 3, 38 and 39.

Farm labourers

(5) For the purposes of subsection (2), "farm labourers" does not include employees in an undertaking that, in the opinion of the board, is a commercial undertaking. 1992,c.18,s.2; 2003,c.4,s.2; 2008,c.42,s.1; 2009,c.5,s.4.

Application of Act cannot be waived

2.1 (1) Subject to subsection (3), this Act applies notwithstanding any contract of service to the contrary between an employer and an employee.

Provisions of contract void if provide less favourable conditions or benefits

(2) A provision of a contract of service that confers upon an employee conditions or benefits less favourable than the conditions or benefits conferred upon the employee under a provision of this Act or the regulations is void and of no effect.

Provision of contract prevails if provides more favourable conditions or benefits

(3) A provision of a contract of service that confers upon an employee conditions or benefits more favourable than the conditions or benefits conferred upon the employee under a provision of this Act or the regulations prevails over the provision of this Act or the regulations. 2009,c.5,s.4.

ADMINISTRATION

Minister

2.2 (1) The Minister is responsible for the administration of this Act.

Delegation

(2) The Minister may, in writing, delegate to any person any of the Minister's powers or duties under this Act, subject to the limitations or conditions set out in the delegation.

(3) The Minister may exercise a power or perform a duty under this Act even if the Minister has delegated it to a person under this section. 2009,c.5,s.5. Residual powers

3. (1) The Minister may appoint and prescribe the duties of one or more inspectors for the purposes of this Act who when acting under this Act shall have the powers of a commissioner under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31. Inspectors

(2) For the purpose of ensuring that the provisions of this Act and the regulations are complied with, an inspector may Powers of investigation and entry

(a) at any reasonable time, and without a warrant, enter into or upon lands or premises where a person is employed, may be employed, or has been employed for the purpose of conducting an inspection, investigation or examination of the conditions of employment;

(b) enter into any office or premises where an inspector has reason to believe employment records are kept or stored;

(c) inspect and examine all books, payrolls and other records of an employer that in any way relate to pay, hours of work or conditions of employment affecting any of the employer's employees;

(d) take extracts from, or make copies of, with the employer's consent, any entry in such books, payrolls and other records; and

(e) verify, in such manner as the inspector requires, the entries contained in such books, payrolls and other records.

(3) An inspector is not a competent or compellable witness in a civil proceeding respecting any information given or obtained, statements made or received, or books, payrolls, records or other things produced or received while exercising his or her powers or performing his or her duties under this Act. Inspector not compellable

(4) An inspector shall not be compelled in a civil proceeding to produce any statements, books, payrolls, records or other things he or she has obtained, made or received under this Act except for the purpose of carrying out his or her duties under this Act. 1992,c.18,s.3; 2009,c.5,s.6. Records

EMPLOYMENT STANDARDS BOARD

4. (1) The Lieutenant Governor in Council shall establish, and appoint the members of, a board that shall be known as the Employment Standards Board and that board shall consist of not less than six persons equally representative of employees and employers respectively, and one additional person who shall be chairperson. Employment Standards Board

(2) Members of the board shall be appointed for a term not to exceed three years and are eligible for re-appointment. Term of office

Vice-chairpersons

(3) The Lieutenant Governor in Council may appoint one or more vice-chairpersons and define the powers and duties of such vice-chairpersons.

Panels

(4) The chairperson may establish a panel of the board and the panel has the power and authority of the board to deal specifically with complaints under this Act.

Idem

(5) A panel of the board shall consist of a chairperson and two members designated by the chairperson.

Idem

(6) The chairperson may refer any matter that is before the board to a panel and may refer any matter that is before a panel to the board or another panel.

Functions

(7) The function of the board is to exercise the powers conferred upon it under this Act and to determine all questions of fact or law that arise in any matter before it including any question as to whether

(a) a person is an employer or an employee; or

(b) an employer or other person is doing or has done anything contrary to this Act or the regulations or has failed to do something required by this Act or the regulations.

Oath and affirmation of office

(8) Each member of the board shall, before acting as such, take an oath or affirmation of office, in the prescribed form, and file evidence in writing of the taking of the oath or affirmation with the Minister in accordance with the regulations.

Quorum

(9) A majority of the members of the board or panel constitute a quorum at any meeting.

Decisions of board

(10) A decision of the majority of the members of the board or panel present and constituting a quorum is the decision of the board or panel and if the votes are equal, the chairperson shall have the casting vote.

Powers

(11) The board and each member thereof shall have the power of a commissioner under the *Public Inquiries Act.*

Evidence

(12) The board may receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it may consider fit and proper, whether admissible as evidence in a court of law or not.

Procedure

(13) The board shall determine its own practice and procedure but shall give full opportunity to all interested persons to present evidence and to make representations and the board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable.

(14) The Minister may appoint a secretary who shall carry out the duties prescribed by the Minister and any other duties imposed by the board or otherwise under this Act. Secretary

(15) The members of the board shall be paid such remuneration as may be fixed by the Lieutenant Governor in Council and such actual and reasonable expenses as may be incurred by them in the discharge of their duties. Remuneration

(16) The board has exclusive jurisdiction to exercise the powers conferred upon it by or under this Act and to determine all questions of fact or law that arise in any matter before it, and the action or decision of the board thereon is final and conclusive for all purposes, but nevertheless the board may at any time, if it considers it advisable to do so, reconsider any decision, interim order, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, interim order, direction, declaration or ruling. Jurisdiction

(17) No decision, interim order, order, direction, declaration or ruling of the board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in any court, whether by way of application for judicial review or otherwise, to question, review, prohibit or restrain the board or any of its proceedings. Decisions, etc. not reviewable by court

(18) The board may of its own motion state a case in writing for the opinion of the Court of Appeal upon any question that, in the opinion of the board is a question of law and the court shall hear and determine the question of law arising thereon and remit the matter to the board, with the opinion of the court thereon; no costs shall be awarded in a case stated under this section. Stated case

(19) The Minister shall provide the board with such clerical and other staff as the Minister considers necessary for the performance of its duties, and shall fix their remuneration. Staff

(20) The production in a court of a document purporting to be or to contain a copy of a decision, determination, report, interim order, order, direction, declaration or ruling of the board and purporting to be signed by a member of the board or its secretary as the case may be, is *prima facie* proof of such document without proof of the appointment, authority or signature of the person who signed the document. Copy of document as evidence

(21) A certificate purporting to be signed by the Minister or the Deputy Minister or by an official in the Department of Community and Cultural Affairs stating that a report, request, or notice was or was not received or given by the Minister pursuant to this Act, and if so received or given, the date upon which it was so received or given is *prima facie* evidence Certificate of Minister or Deputy

of the facts stated therein without proof of the signature or of the official character of the person appearing to have signed the same. 1992,c.18,s.4; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2008,c.20,s.72(26); 2009,c.5,s.7.

WAGES

Powers of board to make orders

5. (1) The board, subject to the approval of the Lieutenant Governor in Council, shall by order

(a) fix one minimum wage for all employees;

(b) fix the minimum wage upon an hourly, daily, weekly, monthly or other basis;

(c) specify when and under what conditions deductions may be made from the wages of an employee, and what notification the employee should be given thereof prior to such deduction;

(d) fix the maximum amount, if any, that may be deducted from the wages of an employee where the employer furnishes to the employee, board, lodging, uniforms, laundry or other services, and prescribe the notification required to be given to the employee prior to such deduction,

and may exempt any employee or group of employees from the operation of any order made under clause (c) or (d).

Review

(2) The board shall meet at least once a year to review the Minimum Wage Order.

Criteria

(3) In advising the Lieutenant Governor in Council, the board shall take into account the social and economic effects of the minimum wage rates in the province and shall consider among other matters

(a) any cost of living increase since any previous order affecting the cost to an employee of purchasing the necessities of life, including housing, food, clothing, transportation and health care and supplies; and

(b) economic conditions within the province and the concept of reasonable return on private investment.

Posting orders

(4) An employer shall post and keep posted in a conspicuous place in the work establishment, a copy of all applicable minimum wage orders.

Other notices

(5) Additional notice of any order made under this section shall be given by employers to employees in such manner as the board may direct.

Publication

(6) Every order of the board shall be published in the Gazette and shall name a date, at least fourteen days subsequent to the date of publication, on which it comes into force.

(7) Every order of the board is binding upon the employer and employees effective from the date of its coming into force and no order is subject to variation through individual agreement except with the authorization of the board. Binding effect of orders

(8) Upon the petition of any employer or employee or upon its own motion, the board may review, suspend, vary or rescind any order. 1992,c.18,s.5. Amendment, etc

5.1 No employee, by collusion with the employer of the employee or otherwise, shall work for less than the minimum wage to which the employee is entitled under this Act, or directly or indirectly return to the employer any part of the employee's wage by reason of which action the wages actually received and retained by the employee are reduced to an amount less than the minimum wage to which the employee is entitled. 2009,c.5,s.9. Collusion

PAY AND PROTECTION OF PAY

5.2 (1) An employer shall pay to an employee the pay to which an employee is entitled Payment of pay

(a) in lawful currency of Canada;

(b) by cheque drawn upon a chartered bank, a credit union, trust company or other institution insured under the *Canada Deposit Insurance Corporation Act* R.S.C. 1985, c. C-3 and honoured and paid by such bank, credit union, trust company or other institution; or

(c) by direct deposit into an account of the employee in a chartered bank, credit union, trust company or other institution insured under the *Canada Deposit Insurance Corporation Act*.

(2) For the purpose of clause (1)(b), an employer who pays an employee by means of a cheque which, within six months from the date of issue, is determined to be valueless, shall be deemed to have failed to pay the employee. Bad cheque - deemed failure to pay

(3) An employer shall Time of payment

(a) pay the employee at such times that the interval between pays is not more than sixteen days; and

(b) when paying an employee, include all wages earned up to and including a day that is not more than five working days prior to the time fixed for payment.

(4) An employer is not required to comply with clause (3)(a) or (b) if the payments are otherwise made under the terms of a collective agreement or in accordance with an order of the board. Exception

Payment to absent employee

(5) An employee who is absent at the time fixed for payment of wages or who, for any other reason, is not paid at that time, is entitled to be paid on demand thereafter, during regular hours of work.

Payment on termination of employment

(6) Any pay to which an employee is entitled on the termination of his or her employment shall be paid by the employer to the employee not later than the last day of the next pay period after the termination of employment. 2009,c.5,s.9.

Pay statement

5.3 (1) Every employer shall give to every employee, at the time pay is being paid to the employee in accordance with subsection 5.2(3), a statement, in writing, showing

(a) the name and address of the employer and the name of the employee;

(b) the period of time or the work for which the wages are being paid;

(c) the regular rate of wages to which the employee is entitled and the number of hours worked;

(d) the gross amount of wages to which an employee is entitled;

(e) the gross amount of any vacation pay being paid to the employee;

(f) the gross amount of any pay in lieu of notice of termination being paid to the employee;

(g) the amount and purpose of each deduction;

(h) any bonus, gratuity, living allowance, or other payment to which the employee is entitled; and

(i) the net amount of money being paid to the employee.

Electronic pay statement

(2) An employer may provide a pay statement to an employee electronically if the employer provides to the employee, through the employee's place of employment,

(a) confidential access to the electronic pay statement; and

(b) a means of making a paper copy of the electronic pay statement. 2009,c.5,s.9.

Notice required before reducing wage rate

5.4 An employer shall give each employee of the employer notice of any reduction in the employee's regular rate of wages at least one pay period before the start of the employee's pay period in which the reduction is to take place. 2009,c.5,s.9.

Deductions from pay

5.5 (1) No employer shall, directly or indirectly, withhold or deduct all or part of an employee's pay, or require the employee to return all or part of his or her pay to the employer, unless the employer is authorized to do so under this section.

Authorizations

(2) An employer may withhold, deduct or require the return of all or part of an employee's pay if the employer is required or authorized to do so under

(a) any other Act of Prince Edward Island or Canada, or any regulations made under such an Act;

(b) a court order; or

(c) an order made under subsection 5(1).

Idem

(3) An employer may withhold, deduct or require the return of an amount of all or part of an employee's pay if the withholding, deduction or required return

(a) is related to a group benefit plan that the employee participates in;

(b) was requested by the employee as a contribution towards a savings plan; or

(c) is the result of a previous advance of pay to the employee.

Idem

(4) An employer may withhold, deduct or require the return of all or part of an employee's pay if the employer is authorized to do so in writing by the employee.

Faulty workmanship and damage

(5) Subsection (4) does not apply to authorize an employer to withhold, deduct or require the return of all or part of an employee's pay because of any faulty work done, or any damage to the property of the employer, caused by the employee.

Use of uniform and footwear of employer

(6) Subsection (4) does not apply to authorize an employer to withhold, deduct or require the return of all or part of an employee's pay for the use by the employee of any uniform or footwear that

(a) is supplied or required by the employer; and

(b) is unique to the employer's business.

Deposit for uniform or footwear

(7) For greater certainty, nothing in this section precludes an employer from requiring an employee to give the employer a deposit of up to 25 per cent of the cost of any uniform or footwear that the employer supplies for the use of the employee.

Return of deposit

(8) An employer shall reimburse any deposit given to the employer by an employee for the use of any uniform or footwear supplied by the employer where

(a) the employee's employment with the employer has ceased; and

(b) the employee has returned the uniform or footwear to the employer.

Deposit restriction

(9) No employer shall require an employee to give the employer a deposit in excess of 25 per cent of the cost of any uniform or footwear that is supplied by the employer to the employee.

Cash shortages

(10) Subsection (4) does not apply to authorize an employer to withhold, deduct or require the return of all or part of an employee's pay to cover a cash shortage of the employer if

(a) the cash shortage results from a customer of the employer leaving the place of employment of the employer without paying for any product or service provided there to the customer; or

(b) the employee

(i) does not have sole control of the cash, and

(ii) was required to leave the cash unattended.

Idem

(11) Notwithstanding subsection (10), an employer may, in accordance with subsection (4), withhold, deduct or require the return of all or part of the employee's pay to cover a cash shortage of the employer if

(a) the employer finds the cash shortage during or at the end of the employee's shift;

(b) the employer

(i) advises the employee of the cash shortage at the end of the employee's shift or as soon as is reasonably possible thereafter,

(ii) permits the employee the opportunity to explain or find the cash shortage, and

(iii) reports the cash shortage to an inspector; and

(c) the inspector issues a decision to the employer and employee, before the end of the employee's pay period during which the cash shortage occurred, indicating that the inspector is satisfied that the employee is responsible for a cash shortage. 2009,c.5,s.9.

Payroll records

5.6 (1) Every employer shall, in respect of each employee of the employer, make and keep at the employer's principal place of business in the province, for a period of 36 months after the employee performs work for the employer, complete and accurate records of

(a) the name, address and social insurance number of the employee;

(b) the date of birth of the employee;

(c) the wage rate and actual earnings of the employee;

(d) the number of hours the employee works in each day and week;

(e) the gross earnings of the employee per pay period;

(f) the deductions from the employee's gross earnings and the nature of each deduction;

(g) the date the employee started employment and the date the employee's employment terminated;

(h) the type of work performed by the employee;

(i) the period in which the employee received vacation with pay;
(j) the amount of pay in lieu of vacation that has been paid to the employee; and
(k) the number of overtime hours the employee has accumulated and used.

Exception *re* hours of work of salaried employees

(2) Clause (1)(d) does not apply in respect of the salaried employees of an employer where the employer establishes a work week and makes and keeps a record showing the number of hours worked by such employees in excess of the work week.

Employer to file information on request

(3) An employer shall, within seven days after receipt of a request from the board or an inspector, or within such other time as may be allowed by the board or an inspector, provide to the board or the inspector a statement setting forth the information required to be kept under subsection (1), together with a copy of any contract of service that the employer has with the employees of the employer in relation to wages, hours of work and any other term or condition of employment governed by this Act or the regulations, as may be required by the request. 2009,c.5,s.9.

Definitions

5.7 In this section,

director

(a) "director" means a director of a corporation;

corporation

(b) "corporation" includes a co-operative association.

Non-application

(2) This section does not apply to directors of corporations that are carried on without the purpose of gain.

Directors' liability for pay

(3) Subject to subsection (4), the directors of a corporation that is an employer are jointly and severally liable with the corporation to an employee of the corporation for pay owing from the corporation to the employee, up to a maximum amount equivalent to six month's pay, that becomes payable while they are directors if either
(a) the corporation is insolvent, the employee has filed a claim for unpaid pay with a receiver duly appointed in respect of the corporation or with the corporation's trustee in bankruptcy, and the claim has not been paid; or
(b) an inspector or the board has made an order pursuant to this Act requiring the corporation to pay an amount to the employee of the corporation on account of unpaid pay, and the corporation has failed to comply with the order within 30 days of the date the order was made.

Exception where due diligence exercised

(4) A director of a corporation is not liable for unpaid pay under this section where the director exercised the degree of care, diligence and

skill to ensure that pay owing was paid that a reasonably prudent person would have exercised in comparable circumstances.

No relief by contract, etc.

(5) A provision in a contract, or in the letters patent, articles, by-laws or in a resolution of a corporation which purports to relieve a director of the corporation from liability under this section is void and of no force and effect.

Recovery

(6) The provisions of this Act respecting the recovery of pay from an employer apply with necessary modifications to the recovery of pay from a director of a corporation. 2009,c.5,s.9.

PAID HOLIDAYS

Paid holidays

6. (1) In this section and sections 7 to 10, "paid holiday" means New Year's Day, Islander Day, Good Friday, Canada Day, Labour Day, Remembrance Day, Christmas Day and any day prescribed as a paid holiday in the regulations.

Idem

(2) Except as provided by section 9, every employer shall grant every employee a holiday with pay on each paid holiday falling within any period of employment. 1992,c.18,s.6; 2003,c.35,s.2; 2008,c.48,s.2; 2009,c.5,s.10.

Employees not entitled to paid holidays

7. (1) Subsection 6(2) and sections 8 to 10 do not apply to an employee in respect of a paid holiday if the employee

(a) has been in the employ of his or her present employer for less than 30 calendar days prior to the paid holiday;

(b) has not received pay for at least 15 of the 30 calendar days immediately preceding the paid holiday;

(c) fails, without reasonable cause, to work on both the employee's last scheduled work day before the paid holiday and the employee's first scheduled work day after the paid holiday;

(d) has agreed to work on the paid holiday and has, without reasonable cause, failed to report for and perform work on the paid holiday; or

(e) is employed under a contract of service under which the employee may elect to work or not when requested to do so.

Employees not directed to work

(2) Clause (1)(c) shall not apply to an employee if the employer of the employee has directed or permitted the employee not to report for work on one or both of the employee's scheduled work days referred to in that clause. 1992,c.18,s.7; 2009,c.5,s.11.

Paid holiday on non-working day

8. When a paid holiday falls on a day that is a non-working day for an employee, the employer shall grant the employee a holiday with pay on either

(a) the working day immediately following the paid holiday; or

(b) the day immediately following the employee's vacation,

or grant the employee another day agreed upon by the employee and the employer before the date of the next annual vacation of the employee. 1992,c.18,s.8.

Pay for working paid holiday

9. Where an employee is required to work on a paid holiday, the employer shall

(a) pay that employee at a rate at least equal to one and one-half times the employee's regular rate of wages for the time worked on that day in addition to a day's pay at the employee's regular rate of pay; or

(b) pay that employee at the employee's regular rate of wages for the time worked on that day and grant the employee a holiday with pay on another day agreed by the employer and the employee before the date of the next annual vacation of the employee. 1992,c.18,s.9.

No reduction of wages

10. (1) An employer of an employee whose wages are calculated on a weekly or monthly basis shall not reduce the employee's weekly or monthly wages for a week or month in which a paid holiday occurs by reason only that the employee does not work on the paid holiday.

Certain employees to receive regular rate of pay

(2) An employer of an employee whose wages are calculated on a daily or hourly basis shall pay the employee for a paid holiday on which the employee does not work at least the equivalent of the wages the employer would have paid at the employee's regular rate of wages for the employee's normal hours of work.

Equivalent to regular rate

(3) An employer of an employee whose wages are calculated on any basis other than a basis mentioned in subsections (1) or (2) shall pay the employee for a paid holiday on which the employee does not work at least the equivalent of the wages the employer would have paid at the employee's regular rate of wages for the employee's normal working day.

Calculation

(4) For the purpose of this Act, an inspector may calculate the rate of wages due to an employee for the purposes of determining the pay owed to an employee for the paid holiday. 1992,c.18,s.10.

VACATION PAY

Annual vacation with pay

11. (1) Where an employee works for an employer for a continuous twelve-month period, the employer shall,

(a) not later than four months after the twelve-month period ends, give the employee

(i) an unbroken vacation of at least two weeks, if the employee has less than eight years of continuous employment with the employer, or

(ii) an unbroken vacation of at least three weeks, if the employee has at least eight years of continuous employment with the employer;

(b) at least one week before the employee's vacation begins, notify the employee of the date the employee's vacation begins; and

(c) at least one day before the employee's vacation begins, pay the employee

(i) an amount at least equal to four per cent of the employee's wages for the twelve-month period during which the employee established the right to a vacation, if the employee has less than eight years of continuous employment with the employer, or

(ii) an amount at least equal to six per cent of the employee's wages for the twelve-month period during which the employee established the right to a vacation, if the employee has at least eight years of continuous employment with the employer.

Vacation pay on termination of employment

(2) Where an employee's employment with an employer ceases, the employer shall, not later than the last day of the next regular pay period after the employee's employment ceases, pay to the employee

(a) an amount equal to four per cent of the employee's wages for the period the employee has worked for the employer, if the employee has worked for the employer for a period of less than twelve continuous months from the date the employment commenced;

(b) an amount equal to four per cent of the employee's wages for the period the employee has worked for the employer from the date the employee last became entitled, under subsection (1), to vacation with pay, if the employee has been employed continuously by the employer for a period of at least one year and less than eight years; or

(c) an amount equal to six per cent of the employee's wages for the period the employee has worked for the employer from the date the employee last became entitled, under subsection (1), to vacation with pay, if the employee has been employed continuously by the employer for a period of at least eight years.

Holiday occurring during vacation

(3) Where a paid holiday as defined in subsection 6(1) occurs during the period of a vacation, the period of the vacation shall be lengthened by one working day.

Sick leave

(4) Sick leave with pay shall not be considered as vacation with pay or pay in lieu of vacation. 1992,c.18,s.11; 2009,c.5,s.12.

Waiver of entitlement to vacation with pay

11.1 (1) Where an employee

(a) works for an employer for a continuous twelve-month period; and

(b) works less than 90 percent of the normal working hours of the employee during that period,

the employee may waive the employee's entitlement to vacation with pay under subsection 11(1) in return for the payment provided under subsection (2), by giving the employer written notice of the waiver prior to the end of the twelve-month period.

Pay in lieu of vacation

(2) Where an employee gives an employer notice in accordance with subsection (1) of the employee's wish to waive his or her entitlement to a vacation with pay under subsection 11(1), the employer shall pay to the employee, not later than one month after the end of the twelve-month period during which the employee established the entitlement,

(a) an amount at least equal to four per cent of the employee's wages for the twelve-month period, if the employee has less than eight years of continuous employment with the employer; or

(b) an amount at least equal to six per cent of the employee's wages for the twelve-month period, if the employee has at least eight years of continuous employment with the employer. 2009,c.5,s.13.

Vacation pay and pay in lieu of vacation, held in trust

12. Notwithstanding the provisions of any other Act, every employer shall be deemed to hold

(a) vacation pay accruing due to an employee in trust for the employee and for payment of the vacation pay to the employee in the manner and at the time provided under section 11; and

(b) pay in lieu of vacation accruing due to an employee in trust for the employee and for payment of the vacation pay to the employee in the manner and at the time provided under section 11.1,

and any such pay deemed to be held in trust shall be a charge upon the assets of the employer or the employer's estate in the employer's hands or in the hands of a trustee, and shall have priority over all other claims including those of the Crown. 1992,c.18,s.12; 2009,c.5,s.14.

Value of board and lodging

13. (1) For the purpose of calculating the amount of vacation pay payable to an employee under section 11, or the amount of pay in lieu of vacation payable to an employee under section 11.1, wages shall include the cash value of board and lodging, or either of them, furnished by the employer.

Determination of cash value

(2) The cash value of board or lodging referred to in subsection (1) shall be deemed to be the greatest of the following:

(a) the amount that is actually deducted from the pay of the employee by the employer for board or lodging under any contract or agreement;

(b) the amount agreed upon between the employer and the employee as being the cash value thereof; or

(c) the amount specified in the order issued by the board under clause 5(1)(d). 1992,c.18,s.13; 2009,c.5,s.15.

Most favourable provisions apply

14. Repealed by 2009,c.5,s.16. 1992,c.18,s.14; 2009,c.5,s.16.

HOURS OF WORK

Standard number of hours of work

15. (1) The standard number of hours of work that an employer may require of an employee during a work week is 48 hours.

Exemptions

(2) The board may, by order,

(a) prescribe standard work weeks, other than the one established in subsection (1), comprising the number of hours of work in excess of the number established in subsection (1) that the board considers appropriate;

(b) prescribe

(i) the specific employers or classes of employers, and

(ii) the specific employees or classes of employees of such employers,

to whom a standard work week prescribed under clause (a) applies; and

(c) exempt the employers and employees, or any classes thereof, for whom a standard work week is prescribed in an order made under this subsection from the standard work week established in subsection (1).

Factors considered

(3) Before making an order under subsection (2), the board shall take into account the following factors:

(a) the seasonal nature of the work;

(b) the effect of the extended hours on the health and safety of workers and the public;

(c) work requirements that include the need to have employees in the work premises while not always engaged in work-related activities; and

(d) the duration of the work schedule customary in the industry.

Overtime

(4) Repealed by 2009,c.5,s.17. 1992,c.18,s.15; 2009,c.5,s.17.

Overtime hours - pay rate

15.1 (1) An employer shall pay an employee at the rate of one and one-half times the employee's regular rate of pay for each overtime hour of work performed by the employee for the employer during a work week.

Overtime hours- paid time off work

(2) Where an employee of an employer performs one or more overtime hours of work for the employer during a work week, the

employer may, instead of paying the employee for that work in accordance with subsection (1), give the employee one and one-half hours of paid time off work for each overtime hour worked, if

(a) the employee requests such compensation in writing; and

(b) the paid time off work is taken by the employee within three months of the work week in which the overtime was earned.

Where employment ends before paid time off is taken

(3) Where the employment of an employee ends before any paid time off requested under subsection (2) has been taken by the employee, the employer shall pay the employee overtime pay in accordance with subsection (1) for any overtime hours that the employee worked and has not been compensated for. 2009,c.5,s.18.

REST PERIODS

Rest day

16. (1) An employer shall provide each employee, except those employees excluded by the regulations, with an unpaid rest period of at least twenty-four consecutive hours in every period of seven days and, whenever possible, that rest period shall include Sunday.

Rest period

(2) An employer shall provide for each employee an unpaid rest or eating period of at least one-half hour at intervals such that as a result no employee works longer than five consecutive hours without an unpaid rest or eating period.

Remaining at place of employment

(3) An employer shall not require an employee to remain at the employee's place of employment during an unpaid rest or eating period provided by the employer in accordance with subsection (2). 1992,c.18,s.16; 2009,c.5,s.19.

Refuse to work on Sunday

16.1 (1) An employee who, immediately before the day this section comes into force, is employed by an employer engaged in a retail business to which the *Retail Business Holidays Act* R.S.P.E.I. 1988, Cap. R-13.02 applies, may refuse to work on any Sunday for that employer if the employee gives the employer verbal or written notice of refusal at least seven days before any Sunday to which the refusal applies.

Refusal may cover multiple Sundays

(2) An employee may give the notice required by subsection (1) in relation to one Sunday, more than one Sunday or any combination of Sundays.

Employer shall not penalize

(3) No employer, or person acting on behalf of an employer, shall dismiss, suspend, lay off, penalize, discipline or discriminate against an employee because the employee has refused, or given a notice of refusal, to work on a Sunday under subsection (1).

Exception

(4) Notwithstanding subsection (1), an employee who meets the requirements set out in subsection (1) and who was first employed by his or her employer after March 17, 2007, may only refuse to work on any Sunday that falls between December 25 of any year and the Friday before Victoria Day of the following year. 2006,c.21,s.2; 2010,c.10,s.1.

REPORTING PAY

Reporting pay

17. Each time an employee is required to report to work or for a work related activity, the employer shall pay the employee wages at the employee's regular rate of pay for not less than three hours. 1992,c.18,s.17; 2009,c.5,s.20.

TIPS OR GRATUITIES

Tips and gratuities

17.1 (1) Tips and gratuities are the property of the employee to whom or for whom they are given.

Restriction

(2) No employer shall

(a) withhold tips or gratuities intended for an employee; or

(b) treat tips or gratuities intended for an employee as the wages or partial wages of the employee,

unless the employer and the employee have first agreed that the tips or gratuities of the employee are to be calculated as additional wages of the employee.

Billings

(3) Where the tips and gratuities of an employee are based on the billings of his or her employer in respect of banquets, bus tours, and other prescribed events, the employer shall pay the tips and gratuities to the employee within 60 days of the date of the event.

Exclusive to employee

(4) No employer of an employee shall require the employee to share a tip or a gratuity with the employer of the employee.

Employer surcharge

(5) Where an employer imposes a surcharge or other charge on a customer in lieu of the payment of tips or gratuities to an employee, all of the amounts collected in respect of the surcharge or other charge are the property of the employee for whom they are intended.

Restrictions

(6) Where an employer imposes a surcharge or other charge on a customer in lieu of the payment of tips or gratuities to an employee, the employer shall not

(a) withhold the amounts collected in respect of the surcharge or other charge from the employee; or

(b) treat the amounts collected in respect of the surcharge or other charge as the wages or partial wages of the employee,

unless the employer and the employee have first agreed that the amounts collected in respect of the surcharge or other charge are to be calculated as additional wages of the employee.

Exclusive to employee

(7) Where an employer imposes a surcharge or other charge on a customer in lieu of the payment of tips or gratuities to an employee, the employer shall not require the employee to share any amount collected in respect of the surcharge or other charge with the employer of the employee.

Payment of amounts collected under surcharge

(8) Where an employer imposes a surcharge or other charge on a customer in lieu of the payment of tips or gratuities to an employee, the employer shall distribute all of the amounts collected in respect of the surcharge or other charge to the employee not later than the last day of the next pay period of the employee.

Administrative charges

(9) An employer shall not pass on any administrative charges of the employer, including credit card or debit card charges, to an employee.

Pooling

(10) An employer may adopt the practice of pooling tips and gratuities for the benefit of some or all of the employees, but such practice does not give the employer a proprietary interest in the tips and gratuities so pooled.

Idem

(11) An employer shall advise an employee, in writing, of any pooling policy in effect at the time the employee is hired. 2009,c.5,s.21.

MATERNITY, PARENTAL AND ADOPTION LEAVE

Unlawful dismissal etc.

18. No employer shall dismiss, lay off or suspend an employee by reason only of the fact that the employee

(a) is pregnant;

(b) is temporarily disabled because of pregnancy;

(c) has applied for maternity leave in accordance with section 19; or

(d) has applied for parental or adoption leave in accordance with section 22. 1992,c.18,s.18.

Maternity leave

19. (1) Where a pregnant employee of an employer

(a) submits an application, in accordance with subsection (2), to the employer for maternity leave;

(b) has been in the employment of the employer for a total of at least 20 weeks of the 52 weeks immediately preceding the commencement date for the maternity leave specified in the application; and

(c) provides the employer with a certificate from a medical practitioner that states that the employee is pregnant and specifies the estimated date of birth,

the employer of the employee shall grant the employee maternity leave without pay from employment with the employer in accordance with section 20.

Application

(2) An application by an employee to her employer for maternity leave shall

(a) be made in writing;

(b) specify the dates that the employee proposes to commence and terminate the leave; and

(c) be given to the employer at least four weeks before the commencement date for the leave specified in the application. 1992,c.18, s.19; 2000,c.7,s.2; 2009,c.5,s.23.

Entitlement

20. (1) The maternity leave to which an employee is entitled pursuant to section 19 shall consist of a period not exceeding seventeen weeks commencing at any time during the period of eleven weeks immediately preceding the estimated date of birth.

Idem

(2) Notwithstanding subsection (1), where the actual date of birth is later than the estimated date of birth, the employee is entitled to not less than six weeks leave after the actual date.

Commencement of maternity leave

(3) Where the pregnancy of an employee would unreasonably interfere with the performance of the employee's duties, the employer may require the employee to commence maternity leave not more than three months prior to the estimated date of birth.

Onus of proof

(4) In any prosecution alleging a violation of subsection (3) the onus shall be upon the employer to prove that pregnancy of the employee would unreasonably interfere with the employee's duties.

Return to work

(5) The employee may return to work and the employer may permit the employee to return to work at a date earlier than six weeks after the date of actual delivery. 1992,c.18,s.20.

Reinstatement on expiration of leave

21. (1) Repealed by 2009,c.5,s.24.

Pension benefits

(2) Repealed by 2009,c.5,s.24. 1992,c.18,s.21; 2009,c.5,s.24.

Parental leave, persons entitled

22. (1) Every employee

(a) who has been in the employment of the employer for a total of at least 20 weeks of the 52 weeks immediately preceding the day on which the requested leave is to commence;

(b) who,

(i) becomes the natural parent of a child,

(ii) assumes actual care and custody of a child, for the purposes of adoption, or

(iii) adopts or obtains legal guardianship of a child under the law of a province, and

(c) who, at least four weeks before the expected date of commencement of the leave, submits to the employer, an application for parental leave, specifying the date of commencement and the date of termination of the leave,

is entitled to and shall be granted, parental leave without pay for a continuous period of up to thirty five weeks.

Adoption, application date

(2) Notwithstanding subsection (1), in the case of leave pursuant to subclauses (1)(b)(ii) or (iii), an application for parental leave shall not be required earlier than the date on which the employee is notified of the placement of the child and the leave shall be granted without pay consisting of a continuous period of up to fifty two weeks.

Maximum aggregate leave

(2.1) Subject to subsection 22.01(1), the aggregate amount of leave that may be taken by one or two employees under this section and section 20 in respect of the same event, shall not exceed fifty two weeks.

Leave only in specified period

(3) Subject to subsections (6) and 22.01(1), parental leave shall be taken only during the fifty two week period commencing on the date of the child's birth or the date on which the child comes into the custody of the employee, whichever is later.

Application of section 21

(4) Repealed by 2009,c.5,s.26.

Early return

(5) Notwithstanding subsection (1), an employer may accept an employee's return to work before the expiry of the parental leave granted provided that the employee gives the employer 2 weeks written notice of proposed return date.

Parental leave with maternity leave

(6) Where an employee intends to take parental leave in addition to maternity leave, the employee must commence the parental leave immediately on expiry of the maternity leave without a return to work after expiry of the maternity leave and before commencement of the parental leave, unless the employee and the employer otherwise agree.

Not applicable to foster parents

(7) This section does not apply to a person acting as a foster parent to a child. 1992,c.18,s.22; 2000,c.7,s.4; 2008,c.8,s.8(3); 2009,c.5,s.26.

Extended leave

22.01 (1) Where

(a) an employee is on leave without pay granted under section 19 or 22;

(b) the child, in respect of whom the employee is granted leave, has a physical, psychological or emotional condition requiring an additional period of parental care;

(c) the employee, in accordance with subsection (2), submits an application to the employer for an extension of such leave; and

(d) the employee, if requested to do so, provides the employer with a certificate from a medical practitioner that states that the child has, in the opinion of the medical practitioner, a physical, psychological or emotional condition requiring an additional period of parental care,

the employer shall grant the employee an extension of the leave of absence without pay of up to five consecutive weeks, beginning immediately after the end of the leave granted under section 19 or 22.

Application

(2) An application by an employee for an extension of leave under subsection (1) shall

(a) be given, in writing, to the employer at least one week before the day on which the employee's current leave under section 19 or section 22 ends; and

(b) if required by the employer, be accompanied by a certificate of a medical practitioner that states that the child has, in the opinion of the medical practitioner, a physical, psychological or emotional condition requiring an additional period of parental care. 2009,c.5,s.27.

Reinstatement on expiration of leave

22.02 (1) An employer who has granted maternity, parental or adoption leave to an employee pursuant to section 19 or 22, as the case may be, shall, on the expiry of that leave, permit the employee to resume work in the position held by the employee immediately before the leave began or, if that position no longer exists, in a comparable position with not less than the same wages and benefits that the employee would have received if the employee had not been granted the leave and, in either case, with no loss of any seniority or pension benefits that had accrued to the employee up to the commencement of the leave.

Pension benefits

(2) For the avoidance of doubt, an employer is not obliged to pay pension benefits in respect of any period of maternity, parental or adoption leave granted to an employee. 2009,c.5,s.27; 2015,c.26,s.1.

FAMILY LEAVE

Family leave

22.1 (1) Where an employee has been employed by an employer for a continuous period of six months or more, the employer shall, at the request of the employee, grant the employee leaves of absence without pay of up to three days, in total, during a twelve calendar-month period to meet responsibilities related to the health or care of a person who is a member of the immediate family or extended family of the employee.

(2) An employee who intends to take a leave of absence under subsection (1) shall advise the employer of the employee's intention to take the leave, the commencement date of the leave and, subject to subsection (1), the anticipated duration of the leave. 2003,c.35,s.3.

Details of leave to employer

LEAVE RELATED TO CRITICALLY ILL CHILD

22.11 (1) In this section,

Definitions

(a) "certificate" means a certificate issued in respect of a person by a medical practitioner that

certificate

(i) states that the person's life is at risk as a result of an illness or injury, and

(ii) estimates the time period during which the person is expected to need care or treatment for the illness or injury;

(b) "critically ill child" means a person who is under 18 years of age on the day on which a medical practitioner issues a certificate in respect of the person;

critically ill child

(c) "medical practitioner" means a person who is authorized to practise medicine under the laws of the jurisdiction in which he or she practises medicine;

medical practitioner

(d) "parent" includes

parent

(i) the spouse of a parent of a child,

(ii) a person with whom a child has been placed for the purposes of adoption,

(iii) a guardian or foster parent of a child, and

(iv) a person who has the care and custody of a child, whether or not the person and the child are related by blood or adoption.

(2) Where an employee has been employed by an employer for a continuous period of three months or more and is the parent of a critically ill child, the employer shall, on the request of the employee, grant to the employee unpaid leave of absence for up to 37 weeks within a 52-week period determined under subsection (3) or clause (5)(a), for the purpose of providing care and support to the critically ill child.

Entitlement to unpaid leave

(3) An employee may only take an unpaid leave of absence under this section during the 52-week period that commences

Commencement of entitlement

(a) on the first day of the work week in which the certificate respecting the critically ill child is issued; or

(b) where the employee commences unpaid leave of absence before a certificate respecting the child is issued, the first day of the work week in which the leave was commenced.

End of entitlement

(4) An employee's entitlement to unpaid leave of absence under this section ends on the last day of the work week in which either of the following occurs:

(a) the critically ill child dies;

(b) the employee has taken 37 weeks of unpaid leave of absence under this section during the 52-week period determined under subsection (3).

More than one critically ill child

(5) Notwithstanding subsections (3) and (4), where an employee is a parent of two or more children who are critically ill at the same time,

(a) the 52-week period referred to in subsection (3) commences

(i) on the first day of the work week in which the first certificate is issued respecting any of the critically ill children, or

(ii) where the employee commences unpaid leave of absence before a certificate respecting any child is issued, the first day of the work week in which the leave was commenced; and

(b) the employee's entitlement to unpaid leave of absence under this section ends on the last day of the work week in which either of the following occurs:

(i) the last of the critically ill children dies, or

(ii) the employee has taken 37 weeks of unpaid leave of absence under this section during the 52-week period determined under clause (a).

Minimum period of leave

(6) An unpaid leave of absence taken under this section may only be taken in periods of not less than one work week in duration.

Total amount of unpaid leave

(7) The total amount of unpaid leave of absence that may be taken by two or more employees under this section in respect of the care and support of the same critically ill child or children shall not exceed 37 weeks.

Same position, pay benefits

(8) When an employee returns to work following the end of an unpaid leave of absence taken under this section, the employer shall permit the employee to resume work in the position the employee held immediately before the unpaid leave of absence began or, if that position no longer exists, in a comparable position, with not less than the same wages and benefits the employee would have received if the employee had not been granted the unpaid leave of absence.

Provision of certificate

(9) Where an employer makes a request, in writing, to an employee who has taken unpaid leave of absence under this section, the employee shall provide to the employer a copy of the certificate respecting the critically ill child or children. 2015,c.26,s.2.

LEAVE RELATED TO CRIME-RELATED DISAPPEARANCE OR DEATH OF CHILD

22.12 (1) In this section, Definitions

(a) "child" means a person who is under 18 years of age; child

(b) "crime" means an offence under the *Criminal Code* (Canada); crime

(c) "parent" includes parent

(i) the spouse of a parent of a child,

(ii) a person with whom a child has been placed for the purposes of adoption,

(iii) a guardian or foster parent of a child, and

(iv) a person who has the care and custody of a child, whether or not the person and the child are related by blood or adoption.

(2) Where an employee has been employed by an employer for a continuous period of three months or more and 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, the employer shall, on the request of the employee, grant to the employee unpaid leave of absence for up to 52 weeks, commencing the first day of the work week during which the child disappears. Entitlement to unpaid leave, disappearance

(3) An employee's entitlement to unpaid leave of absence under subsection (2) ends on the last day of the work week in which any of the following occur: End of entitlement, disappearance

(a) fourteen days have expired since the child is found alive;

(b) fourteen days have expired since circumstances changed and it no longer seemed probable that the disappearance of the child was the result of a crime;

(c) fifty-two weeks have expired since the first day of the work week during which the child disappeared;

(d) the child is found dead.

(4) Where an employee has been employed by an employer for a continuous period of three months or more and 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, the employer shall, on the request of the employee, grant to the employee unpaid leave of absence for up to 104 weeks, commencing the first day of the work week in which the child is found dead. Entitlement to unpaid leave, death

(5) An employee's entitlement to unpaid leave of absence under subsection (4) ends on the last day of the work week in which either of the following occurs: End of entitlement, death

(a) fourteen days have expired since circumstances changed and it no longer seemed probable that the death of the child was the result of a crime;

(b) one hundred and four weeks have expired since the first day of the work week during which the child was found dead.

Exception

(6) Notwithstanding subsection (2) or (4), an employee is not entitled to unpaid leave of absence under this section if the employee is charged with a crime related to the disappearance or death of the child.

Minimum period of leave

(7) An unpaid leave of absence taken under this section may only be taken in periods of not less than one work week in duration.

Total amount of unpaid leave

(8) The total amount of unpaid leave of absence that may be taken by two or more employees under this section in respect of the disappearance or death of the same child, or in respect of the same children who disappear or die as a result of the same crime, shall not exceed 52 weeks in relation to a disappearance or 104 weeks in relation to a death.

Same position, pay and benefits

(9) When an employee returns to work following the end of an unpaid leave of absence taken under this section, the employer shall permit the employee to resume work in the position the employee held immediately before the unpaid leave of absence began or, if that position no longer exists, in a comparable position, with not less than the same wages and benefits the employee would have received if the employee had not been granted the unpaid leave of absence.

Provision of reasonable documentation

(10) Where an employer makes a request, in writing, to an employee who has taken unpaid leave of absence under this section, the employee shall provide to the employer reasonable documentation in the circumstances to support the employee's entitlement to unpaid leave of absence under this section. 2015,c.26,s.2.

SICK LEAVE

Sick leave

22.2 (1) Where an employee has been employed by an employer for a continuous period of six months or more, the employer shall, at the request of the employee, grant the employee leaves of absence without pay of up to three days, in total, during a twelve calendar-month period for sick leave.

Medical certificate

(2) Where an employee requests a leave of absence under subsection (1) that is three consecutive calendar days in length, the employer may require the employee to provide the employer with a certificate signed by a medical practitioner certifying that the employee is or was unable to work due to illness or injury.

(3) An employee requesting leave under subsection (1) shall advise the employer, subject to subsections (1) and (2), of the anticipated duration of the leave. Details of leave to employer

(4) Where an employee has been employed by the same employer for a continuous period of at least five years, the employer shall, at the request of the employee, grant the employee one day of paid sick leave during a twelve calendar-month period in addition to any unpaid leave that the employee is entitled to under subsection (1). Paid day of sick leave

(5) Where an employee is entitled to one day of paid sick leave pursuant to subsection (4), the employer shall pay the employee for the day of the leave at the employee's regular rate of pay for a day of work. 2003,c.35,s.3; 2009,c.5,s.28. *Idem*

COMPASSIONATE CARE LEAVE

22.3 (1) In this section, Definitions

(a) "family member" means, in respect of an employee, family member

(i) a member of the immediate family of the employee,

(ii) a member of the extended family of the employee,

(iii) a niece, nephew, foster parent, ward or guardian of the employee,

(iv) any person who the employee considers to be like a person described in subclause (i), (ii) or (iii), and

(v) any other person who is a member of a class of persons that are prescribed to be family members by the regulations for the purposes of this section;

(b) "medical practitioner" means a person who is entitled to practice medicine under the laws of the jurisdiction or jurisdictions where the care or treatment of a family member is provided. medical practitioner

(2) Every employer shall grant an unpaid leave of absence of up to eight weeks to an employee for the purpose of providing care and support to a family member of the employee if the employee provides the employer, before or after taking the unpaid leave of absence, with a copy of a certificate issued by a medical practitioner stating that a family member of the employee has a serious medical condition carrying with it a significant risk of death within 26 weeks. Entitlement to unpaid leave

(3) An employee may only take an unpaid leave of absence under this section between the times specified in subsections (4) and (5). Computation of time of leave

(4) An unpaid leave of absence taken under this section commences Commencement of unpaid leave of absence

(a) the first day of the work week for which the certificate was issued; or

(b) where the unpaid leave of absence was commenced before the certificate was issued, the first day of the work week in which the leave was commenced.

End of unpaid leave of absence

(5) An unpaid leave of absence taken under this section ends

(a) on the last day of the work week in which the employee's family member dies; or

(b) immediately after the expiration of 26 work weeks following the first day of the work week as determined under subsection (4).

Minimum period of absence

(6) An unpaid leave of absence taken under this section may only be taken in periods of not less than one work week's duration.

Total amount of leave

(7) The total amount of unpaid leave of absence 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 8 weeks.

Copy of certificate

(8) Where requested in writing by the employer within 15 days after an employee's return to work, the employee shall provide the employer with a copy of the certificate referred to in subsection (2). 2003,c.4,s.1; 2008,c.8,s.8(2); 2009,c.5,s.29.

BEREAVEMENT LEAVE

Bereavement leave

23. (1) On the death of a member of the immediate family or extended family of an employee, the employer of the employee shall grant to the employee a leave of absence

(a) of one day of paid leave and up to two consecutive days of unpaid leave, if the deceased person was a member of the immediate family of the employee; or

(b) of up to three consecutive days of unpaid leave, if the deceased person was a member of the extended family of the employee.

Paid day of leave

(1.1) Where an employer's employee is entitled to one day of paid leave pursuant to clause (1)(a), the employer shall pay the employee for the day of the leave at the employee's regular rate of pay for a day of work.

Vacation

(1.2) Where an employee, during the period of a vacation, takes a paid day of leave under subsection (1), the employer shall extend the employee's vacation by one working day.

Timing of leave

(2) An employee may only take a leave of absence granted under this section during the period of bereavement and, if the employee intends to take such a leave of absence, the employee must commence the leave of

absence not later than the day of the funeral or the memorial service of the deceased person who was a member of the immediate family or extended family of the employee.

(3) Repealed by 2009,c.5,s.30. 1992,c.18,s.23; 2003,c.35,s.4; 2009,c.5,s.30. Notice to employer

UNPAID LEAVE FOR RESERVISTS

23.1 (1) In this section Definitions

(a) "Reserves" means the component of the Canadian Forces referred to in the *National Defence Act* (Canada) as the reserve force; Reserves

(b) "service" means active duty or training in the Reserves. service

(2) An employee who Unpaid leave for reservist

(a) is a member of the Reserves;

(b) has been employed by the same employer in civilian employment for at least six consecutive months; and

(c) has volunteered for service and, as a result, is required to be absent from work for the purpose of service,

is entitled to an unpaid period of leave for the purpose of that service on

(d) giving the employer the notice required by subsection (4); and

(e) providing the employer, if the employer so requires, reasonable verification of the necessity of the leave, including a certificate from an official with the Reserves stating

(i) that the employee is a member of the Reserves and is required for service, and

(ii) if possible, the expected start and end dates for the period of service.

(3) The period of unpaid leave to which an employee is entitled under subsection (2) for the purpose of service is the period necessary to accommodate the period of service for which the employee is required to be absent from work. Length of leave

(4) An employee who intends to take an unpaid leave under subsection (2) shall advise the employer, in writing and as soon as is reasonable and practical in the circumstances, of the employee's intention to take the unpaid leave and of the anticipated commencement date and end date of the unpaid leave. Notice of leave for service

(5) An employee on an unpaid leave under subsection (2) shall provide the employer with written notice of the expected date of the employee's return to work. Return to work after notice

Deferral of employee's return to work

(6) The employer may defer the employee's return to work by up to two weeks or one pay period, whichever is longer, after receiving a notice from the employee under subsection (5).

Reinstatement on expiration of unpaid leave

(7) An employer who has granted unpaid leave to an employee pursuant to subsection (2) shall permit the employee to resume work in the position occupied by the employee at the time such unpaid leave commenced or, if that position no longer exists, in a comparable position with not less than the same wages and benefits the employee would have received if the employee had not been granted the unpaid leave, and, in either case, with no loss of seniority or pension benefits.

Pension benefits

(8) For the avoidance of doubt, an employer is not obliged to pay pension benefits in respect of any period of unpaid leave granted to an employee under subsection (2). 2007,c.5,s.1.

COURT LEAVE

Court leave

23.2 An employer shall grant an employee a leave of absence without pay for any period that the employee is absent from work as a result of being

(a) summoned to serve on a jury;

(b) selected to serve on a jury; or

(c) served with a summons to attend at the hearing of an action, application or proceeding as a witness.

GENERAL PROVISIONS CONCERNING LEAVE

Dismissal, suspension or layoff

23.3 (1) An employer shall not dismiss, suspend or layoff an employee who has been granted a leave of absence under this Act for reasons arising from the leave alone.

Rights during leaves

(2) An employee who has been granted a leave of absence under this Act

(a) retains seniority accrued up to the commencement of the leave; and

(b) shall be deemed to have been continuously employed with the same employer during the leave of absence.

Continued participation in benefit plans

(3) For the period of any leave to which an employee is entitled under sections 19, 22, 22.11, 22.12 and 22.3, the employer

(a) shall grant to the employee the option of maintaining any benefit plan in which the employee is participating prior to the start of the leave; and

(b) shall notify the employee, in writing, of the option and the date beyond which the option may no longer be exercised at least ten

days prior to the last day on which the option could be exercised to avoid an interruption in benefits.

Application of subsection (3)

(4) Subsection (3) applies with respect to life insurance plans, accidental death plans, extended health plans, dental plans and any specific benefit plans or class of benefit plans prescribed by the regulations for the purposes of this subsection.

Payment of cost of participation

(5) Where the employee chooses, in writing, to maintain any benefit plan to which subsection (3) applies, the employee shall enter into an arrangement with the employer to pay the cost required to maintain the benefit plan, including the employer's share thereof, and the employer shall process the documentation and payments as arranged. 2009,c.5,s.31; 2015,c.26,s.3.

SEXUAL HARASSMENT

Sexual harassment defined

24. In sections 25 to 28, "sexual harassment" means any conduct, comment, gesture or contact of a sexual nature

(a) that is likely to cause offence or humiliation to any employee; or

(b) that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion. 1992,c.18,s.24.

Employee right

25. Every employee is entitled to employment free of sexual harassment. 1992,c.18,s.25.

Employer obligation

26. Every employer shall make every reasonable effort to ensure that no employee is subjected to sexual harassment. 1992,c.18,s.26.

Policy statement

27. (1) Every employer shall, after consultation with employees or their representatives, if any, issue a policy statement concerning sexual harassment.

Content of policy statement

(2) The policy statement required by subsection (1) may contain any term consistent with the intent of sections 24 to 28 the employer considers appropriate, but must contain the following:

(a) a definition of sexual harassment that is substantially the same as the definition in section 24;

(b) a statement to the effect that every employee is entitled to employment free of sexual harassment;

(c) a statement to the effect that the employer will make every reasonable effort to ensure that no employee is subjected to sexual harassment;

(d) a statement to the effect that the employer will take such disciplinary measures as the employer considers appropriate against

any person under the employer's direction who subjects any employee to sexual harassment;

(e) a statement explaining how complaints of sexual harassment may be brought to the attention of the employer;

(f) a statement to the effect that the employer will not disclose the name of a complainant or the circumstances related to the complaint to any person except were disclosure is necessary for the purposes of investigating the complaint or taking disciplinary measures in relation thereto; and

(g) a statement informing employees of the discriminatory practices provisions of the *Human Rights Act* R.S.P.E.I. 1988, Cap. H-12, that pertain to rights of persons to seek redress under that Act.

Awareness

(3) Every employer shall make each person under the employer's direction aware of the policy statement required by subsection (1). 1992,c.18,s.27.

Redress

28. Where an employee alleges to an inspector that sexual harassment or discrimination is taking place, the inspector shall advise the employee of the right of redress through the *Human Rights Act*. 1992,c.18,s.28.

CONTINUITY OF EMPLOYMENT

Sale of business or undertaking

28.1 (1) Where an employer sells a business or undertaking, or a part of a business or undertaking, and the purchaser employs an employee of the seller, the employment of the employee shall be deemed not to have been terminated or severed for the purposes of this Act, and his or her employment with the seller shall be deemed to have been employment with the purchaser for the purpose of any subsequent calculation of the employee's length or period of employment.

Application

(2) Subsection (1) does not apply if the day on which the purchaser hires the employee is more than 13 weeks after the earlier of his or her last day of employment with the seller and the day of the sale.

sells and sale

(3) In this section, "sells" includes leases, transfers or disposes of in any other manner, and "sale" has a corresponding meaning. 2009,c.5,s.32.

NOTICE OF TERMINATION

Termination of employment by employer, notice period

29. (1) Except where an employer has just cause to terminate an employee, and subject to subsection (2), an employer shall not terminate or lay off an employee who has been employed by the employer for a continuous period of six months or more without having given the employee at least

(a) two weeks notice in writing, where the employee has been employed by the employer for a continuous period of six months or more but less than five years;
(b) four weeks notice in writing, where the employee has been employed by the employer for a continuous period of five years or more but less than ten years;
(c) six weeks notice in writing, where the employee has been employed by the employer for a continuous period of 10 years or more but less than 15 years; or
(d) eight weeks notice in writing, where the employee has been employed by the employer for a continuous period of 15 years or more.

Exceptions, termination without notice

(2) Subsection (1) does not apply to
(a) a person who is employed to perform a definite task for a period not exceeding twelve months;
(b) a person who is laid off for a period not exceeding six consecutive days;
(c) a person who has been offered reasonable other employment by his or her employer;
(d) a person who is terminated or laid off for any reason beyond the control of the employer, including
(i) the complete or partial destruction of a plant,
(ii) the destruction or breakdown of machinery or equipment,
(iii) the inability to obtain supplies and materials, or
(iv) the cancellation or suspension of, or inability to obtain, orders for the products of the employer, if the employer has exercised due diligence to foresee and avoid the cause of termination or layoff; or
(e) a person who is terminated or laid off because of labour disputes, weather conditions or actions of any governmental authority that affect directly the operations of the employer.

Additional notice required where employee continues to work

(2.1) Where an employee is given a written notice of termination or layoff by the employer but continues to work for the employer for a period of one month or more beyond the end of the notice period, the notice is extinguished and the employer shall only terminate or lay off the employee after giving a new notice in accordance with subsection (1).

Amount of pay to which employee entitled

(3) Where an employer discharges or lays off an employee in accordance with subsection (1), the employer shall pay to the employee, in respect of the period of the notice given under that subsection, the wages earned by the employee during that period or a sum equivalent to

the employee's normal wages for the number of weeks prescribed by subsection (1) exclusive of overtime, whichever is the greater.

Idem

(4) Where an employer, contrary to subsection (1) discharges or lays off an employee without having given notice required by that subsection, the employer shall pay to the employee a sum equivalent to the employee's normal wages for the number of weeks prescribed by subsection (1) exclusive of overtime.

Period of notice if employed for more than six months

(4.1) Where an employee has been employed continuously for longer than six months, the employee shall not terminate the employment without giving the employer, in writing, at least

(a) one weeks notice where the employee has been employed by the employer for a continuous period of six months or more but less than five years; and

(b) two weeks notice where the employee has been employed by the employer for a continuous period of five years or more.

Most favourable terms apply

(5) Nothing in this section affects any provision in a contract of service, or any recognized custom, by virtue of which an employee or employer is entitled to more notice of termination of employment or of lay off or to more favourable compensation in respect of the period of any such notice than is provided by this section. 1992,c.18,s.29; 2003,c.35,s.5; 2009,c.5,s.33.

COMPLAINTS AND ENFORCEMENT

Determination of amount payable

30. (1) Where an employer has failed to pay an employee

(a) the amount of wages due such employee; and

(b) any vacation pay or gratuities to which the employee is entitled,

the inspector shall determine the difference between the amount paid to the employee and the amount to which the employee is entitled.

Complaint respecting benefits

(2) Where an employer has failed or refused to provide any benefit to which an employee is entitled, but which is not required to be paid directly to the employee, the employee may, within twelve months of the alleged violation, make a complaint to an inspector and the inspector shall determine the amount to which the employee is entitled.

Inquiry

(3) Where an inspector receives a complaint under subsection (2) or has reasonable grounds to believe there has been a failure to comply with this Act, the inspector shall inquire into the matter.

Order of inspector

(4) Where an inspector determines that an employer has contravened a provision of this Act within the preceding twelve months, the inspector shall notify the employer of any determination made under subsection (1) or (2) and may order the employer to

(a) do any act that in the opinion of the inspector constitutes full compliance with this Act; and

(b) pay over to the inspector in trust not later than a date designated in such notice, any unpaid wages, overtime pay, or vacation pay not exceeding $5,000 owing to an employee as determined under subsection (1) or any benefits owing to the employee as determined under subsection (2), or both.

Content of order

(5) Where an inspector has received from an employer unpaid wages, overtime pay, vacation pay or benefits under clause (4)(b), the inspector shall in any order made under subsection (4) specify the provision of this Act that has been contravened and advise the employer against whom the order is made of the right to appeal to the board within ten days of receipt of the order made under subsection (4).

Payment to employees

(6) Where no appeal is made to the board within the time specified in subsection (5), the inspector shall pay to the employee or employees all monies collected on their behalf.

Action by inspector for recovery of wages etc

(7) An inspector shall have standing to bring action in any court of competent jurisdiction or otherwise to pursue any claim to recover unpaid wages, unpaid vacation pay or any other monies owing under this Act on behalf of the board, any employee or any group of employees.

Complaint to board

(8) An employee who, having made a complaint to an inspector, is not satisfied with the result may make a complaint in writing to the board.

Appeal

(9) Any employer affected by an order made under this Act by an inspector may, within ten days after the order is served, file an appeal with the board, and where no such appeal is filed the order of the inspector is deemed to be an order of the board.

Compliance with orders

(10) An employer in respect of whom an inspector has made an order under this Act shall comply with the order unless an appeal has been filed with the board.

Parties

(11) In any proceeding before the board with respect to a complaint pursuant to subsection (1) or (2) or an appeal pursuant to subsection (9) the parties shall be

(a) the employer;

(b) the employee or group of employees;

(c) the inspector; and

(d) any other person specified by the board upon such notice as the board may determine.

Representative

(12) In any proceeding before the board any of the parties may be heard through a representative.

Idem

(13) Where a group of employees having the same or substantially the same interests has a complaint pursuant to this Act, one complaint may be made in a representative capacity.

Procedure

(14) In any proceeding before the board pursuant to subsection (11), the board shall

(a) review the matter at a hearing;

(b) give the employer, employee, group of employees or the representative of any of them, full opportunity to present evidence and make submissions;

(c) decide whether or not a party has contravened this Act;

(d) determine the amount, if any, owing to the employee or group of employees; and

(e) make an order in writing to the contravening party to

(i) do any act that, in the opinion of the board constitutes full compliance with the provision contravened, and

(ii) rectify an injury caused to the person injured or make compensation therefor.

Compliance with board order

(15) A person to whom an order of the board has been directed shall forthwith comply with the order.

Registration of order in Supreme Court

(16) An inspector or any employee or group of employees on whose behalf an order has been made under this Act may enter with the Registrar of the Court of Appeal and the Supreme Court

(a) an order of an inspector by which an employer is ordered to do any act or to pay unpaid pay in respect of which the time for appeal to the board has elapsed and no appeal has been filed; or

(b) an order of the board by which an employer is ordered to do any act or to pay unpaid pay,

as if it were an order of the Supreme Court and every such order is thereafter enforceable as an order of the Supreme Court.

Disbursement of property or proceeds by sheriff

(17) Subject to subsection (18), where any sheriff has possession or control of any property of the person against whom an order has been entered in accordance with subsection (15), or the proceeds thereof, the sheriff shall disburse the proceeds in accordance with the priorities established by this Act.

Challenge of order

(18) Where an order has been entered as an order of the Supreme Court in accordance with subsection (16), any person other than the employer may challenge the order in interpleader proceedings or on application to set aside any execution thereunder as provided for by the rules of court but the order of an inspector or the board is *prima facie* proof that the amount of money ordered to be paid was due and owing when the order was made.

(19) Where an order has been entered as an order of the Supreme Court in accordance with subsection (16), the inspector shall notify the sheriff and apply for an attachment order against the employer as provided for in the rules of court. Attachment order

(20) Notwithstanding the requirements of the rules of court, an inspector is not required to have sureties or give any security. 1992,c.18,s.30; 2008,c.20,s.72(26); 2009,c.5,s.35. Sureties

31. (1) Unpaid pay set out in a determination constitutes a lien, charge and secured debt in favour of the inspector against all the real and personal property of the obligor, including money due or accruing due to the obligor from any source. Lien for unpaid pay

(2) Notwithstanding any other Act, the amount of a lien and charge and secured debt referred to in subsection (1) is payable and enforceable in priority over all liens, judgments, charges, or any other claims or rights including those of the Crown in right of the province and, without limiting the generality of the foregoing, the amount has priority over Priority

(a) an assignment, including an assignment of book debts, whether absolute or otherwise and whether crystallized or not;

(b) a mortgage of real or personal property;

(c) a debenture charging personal property, whether crystallized or not; and

(d) a contract, account receivable, insurance claim or proceeds of a sale of goods

whether made or created before or after the date the wages were earned or the date a payment for the benefit of an employee became due. 1992,c.18,s.31.

32. (1) Where an inspector has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make any payment under this Act, the inspector may, by registered letter or by a letter served personally, demand that the person pay the monies otherwise payable to the employer in whole or in part to the inspector in trust on account of the liability under this Act. Payment to inspector by third party

(2) The receipt of an inspector for monies paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. Receipt constituted discharge

(3) Every person who has discharged any liability to an employer who is liable to make a payment under this Act without complying with a demand under this section is liable to pay an amount equal to the liability Liability

discharged or the amount that is required to be paid under this section, whichever is the lesser. 1992,c.18,s.32.

33. Sections 33 and 34 repealed by 2009,c.5,s.36. 1992,c.18,s.33,34; 2009,c.5,s.36.

PROTECTION OF COMPLAINANTS

Discrimination against employee making complaint

35. No employer shall discriminate against an employee because the employee has made a complaint under this Act or has testified or is about to testify, or because the employer believes that the employee may testify at an inquiry or in any proceedings relative to enforcement of this Act or because the employee has made or is about to make any such disclosure as may be required of the employee by virtue of this Act. 1992,c.18,s.35.

Protection of complainant

36. Where a person who makes a complaint to the board or an inspector requests that the person's name and identity be withheld, the person's name and identity shall not be disclosed to any person by the board or inspector except where disclosure is necessary for the purposes of a prosecution or is considered by the board to be in the public interest. 1992,c18,s.36.

Collusion

37. Repealed by 2009,c.5,s.38. 1992,c.18,s.37; 2009,c.5,s.38.

OFFENCES AND PENALTIES

Offences and penalties

38. (1) Any person who

(a) wilfully delays or obstructs the board or an inspector or any other official in the exercise of any of their duties under this Act;

(b) furnishes false or misleading information in any statement or record required to be furnished under this Act;

(c) fails to comply with any order, schedule, notice or requirement under this Act; or

(d) contravenes any provision of this Act or the regulations made under this Act,

is guilty of an offence and is liable on summary conviction to a fine of not less than $200, and not more than $10,000.

Technical irregularity

(2) No proceedings under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity.

Limitation

(3) No prosecution under this Act shall be instituted more than two years after the occurrence of the last act or default upon which the prosecution is based. 1992,c.18,s.38; 2009,c.5,s.39.

NOTICE OF PROSECUTION

39. No prosecution for an offence shall be instituted without the board having notice of the intent to prosecute. 1992,c.18,s.39. Notice

GENERAL

39.1 Every employer shall keep posted in a conspicuous place at any place of employment where the employees of the employer are engaged in their duties, copies of all orders under this Act relating to wages, hours of work or any other condition or term of employment governed by this Act and the regulations. 2009,c.5,s.41. Posting orders, etc

40. (1) A document may be served or delivered for the purposes of this Act or any proceedings thereunder by personal service or by sending the said document by registered mail. Service

(2) For the purposes of this Act or any proceedings thereunder, any notice or communication sent through Her Majesty's mails shall be presumed, unless the contrary is proved, to have been received by the addressee three days after the date of mailing. 1992,c.18,s.40. Receipt of notice

REGULATIONS

41. (1) The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers are necessary for carrying out the purposes of this Act, and, without restricting the generality of the foregoing, may make regulations Regulations

(a) exempting any class of employees or employers from the application of this Act or any section or other provision of it, including

(i) persons employed in specified occupations or professions,

(ii) persons employed in any specified class of work, and

(iii) persons employing employees referred to in subclauses (i) and (ii);

(b) prescribing the form of the oath or affirmation of office that members of the board are required to take under subsection 4(8);

(c) respecting the evidence, in writing, required under subsection 4(8) that a member of the board has taken the prescribed oath or affirmation of office, including the form and manner of filing that evidence;

(d) prescribing the days that are paid holidays for the purposes of subsection 6(1);

(e) prescribing the events referred to in subsection 17.1(3) as being prescribed;

(f) prescribing the classes of persons that are family members of an employee for the purposes of subclause 22.3(1)(a)(v);

(g) prescribing the specific benefit plans or classes of benefit plans referred to in subsection 23.3(4) as being prescribed;

(h) prescribing any other thing that, by this Act, is to be prescribed or is to be determined or regulated by regulation; and

(i) defining any word or expression that is used but not defined in this Act.

Transitional Regulations

(2) The Lieutenant Governor in Council may make regulations providing for any transitional matters the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments to the *Employment Standards Amendment Act, 2009.*

Idem

(3) A regulation under subsection (2) may provide that it applies despite this Act. 1992,c.18,s.41; 2009,c.5,s.42.

RECIPROCAL ENFORCEMENT OF ORDERS

Reciprocity

42. (1) If the Lieutenant Governor in Council is satisfied that reciprocal provisions will be made by another province for the enforcement of orders of an inspector or the Board issued under this Act, the Lieutenant Governor in Council may, by order

(a) declare the province to be a reciprocating province for the purpose of enforcing orders, certificates or judgments for the payment of wages, overtime pay or entitlement made under an enactment of that province; and

(b) designate an authority within that province as the authority who may make applications or certificates under this section.

Application to enforce

(2) If an order, certificate or judgment for the payment of wages, overtime pay or entitlements has been obtained under an enactment of a reciprocating province, the designated authority may apply to an inspector to enforce the order, certificate or judgment.

Enforcement

(3) On receiving a copy of the order, certificate or judgment for the payment of wages, overtime pay or entitlements

(a) certified to be a true copy by the court in which the order, certificate or judgment is registered; or

(b) if there is no provision in the reciprocating province for registration of the order, certificate or judgment in a court, certified to be a true copy by the designated authority and on being satisfied that the wages, overtime pay, entitlements or an amount payable under section 30 is still owing,

an inspector shall file the copy of the order, certificate or judgment with the Registrar of the Supreme Court and the order is then enforceable as an order of an inspector or the board. 1992,c.18,s.42; 2015,c.36,s.24.

REPEALS AND TRANSITIONAL PROVISIONS

Repeals

43. Repeals. 1992,c.18,s.43.

Transitional provisions

44. This Act applies in respect of a complaint received or an inquiry made by an inspector after this Act comes into force, even though the matters or things that give rise to the complaint or inquiry occurred before this Act came into force. 1992,c.18,s.44.

Commencement

45. This Act came into force on November 1, 1992 by proclamation of the Lieutenant Governor in Council. 1992,c.18,s.45.

Effective date and proviso

46. Amendments to sections 19 and 22 came into force on December 31, 2000., and do not apply to any event, that occurred prior to December 31, 2000, for which a person would be entitled to take maternity or parental leave. 2000,c.7,s.5.