

8.1.3 Federal and provincial labour legislation

8.1.3.1 Jurisdictions

The Canada Labour Code (RSC 1970, c.L-1) applies only to federal undertakings and any other operations that Parliament declares are for the general advantage of Canada or two or more of its provinces. The Code consolidated previous legislation regulating employment practices, labour standards, etc., in the federal jurisdiction.

Because it imposes conditions on the rights of the employer and employee to enter into a contract of employment, labour legislation is, generally speaking, law in relation to civil rights and provincial legislatures are authorized to make laws in relation both to local works and to property and civil rights. Power to enact labour legislation has become, therefore, largely a provincial prerogative, under which a large body of legislation has been enacted affecting the employment relationship in such fields as working hours, minimum wages, the physical conditions of workplaces, apprenticeship and training, wage payment and wage collection, labour-management relations and workmen's compensation.

8.1.3.2 Federal labour legislation

Industrial relations. Part V of the Canada Labour Code (Industrial Relations) contains the former Industrial Relations and Disputes Investigation Act of 1948. In general, it provides that employees and employers have the right to organize and bargain collectively and that trade unions may be certified as sole bargaining agents for employee groups. Trade unions and employers are required, on notice, to bargain collectively in good faith. Part V of the Code also provides for assistance by conciliation officers and conciliation boards in reaching collective agreements. Employees may change bargaining agents at such times and under such conditions as are set out in this Part of the Code, which also prescribes conditions affecting the duration and renewal of collective agreements. The latter must also provide for the arbitration of disputes concerning their meaning or violation. Part V prohibits unfair labour practices, i.e., the interference with or domination of trade unions by employers or interference, discrimination and coercion in trade union activity. The conditions that must be observed prior to strike and lockout action are also set down.

Industrial inquiry commissions may be appointed to investigate industrial matters or disputes. The Minister of Labour is charged with administering the Code and is directly responsible for the provisions affecting the appointment of conciliation officers, conciliation boards and industrial inquiry commissions, consent to prosecute, and complaints that the Act has been violated or that a party has failed to bargain in good faith.

The Canada Labour Relations Board administers provisions concerning the certification of bargaining agents and, on referral by the Minister, investigates complaints that a party has failed to bargain collectively and to make every reasonable effort to conclude a collective agreement.

Fair employment practices. Part I of the Canada Labour Code (Fair Employment Practices) contains the provisions of the former Fair Employment Practices Act of 1953. It prohibits discrimination in employment based on race, national origin, colour or religion, discrimination by trade unions in regard to membership or employment, the use by employers of employment agencies that practise discrimination, and the use of advertisements or inquiries in connection with employment that express, directly or indirectly, any limitation, specification or preference as to race, colour, religion or national origin.

Labour standards. Part III of the Canada Labour Code (Labour Standards) replaced the Canada Labour (Standards) Code of 1965. The equal pay provisions of Part II of the Code were incorporated by amendment into Part III. The amendment introduced regulations regarding maternity leave, notice of group and individual termination of employment, severance pay and wage garnishment. Changes were also made in the coverage of the legislation and in provisions governing hours of work, minimum wages, annual vacations and general holidays.

The Code sets both standard and maximum hours of work. The overtime rate (one and a half times the regular rate) must be paid after eight hours in a day and 40 hours in a week, to a maximum of 48 hours in a week. Hours may be averaged when an employee's schedule of hours varies from day to day or week to week because of the nature of the work. If the Minister