

Notice of Collective Termination

Jurisdiction	Number of Employees Terminated	Minimum Notice	Person(s) to whom Notice Must be Given	Content of Notice	Establishment of Joint Planning Committee	Other
Federal¹	50 or more employees in an industrial establishment within 4 weeks	16 weeks before termination date of first employee in group whose employment is to be terminated	Minister of Labour <i>Copy of any notice given to Minister must be given immediately to:</i> <ul style="list-style-type: none"> • Minister of Human Resources Development • Canada Employment Insurance Commission² • Trade union representing a redundant employee • Where redundant employee not represented by trade union: <ul style="list-style-type: none"> ○ to employee; or ○ immediately posted in conspicuous place in industrial establishment where employee is employed. 	<ul style="list-style-type: none"> • Employer's name • Location(s) of terminations • Nature of employer's industry • Date(s) on which terminations are to occur • Estimated number of employees in each occupational classification whose employment will be terminated • Name of any trade union certified or recognized as affected employees' bargaining agent • Reason for termination 	Required after employer gives notice to Minister Exceptions exist for certain unionized employees	<p><i>Other Notices:</i> A written statement to each redundant employee, no later than two weeks before the termination date, setting out, as at that date, vacation benefits, wages, severance pay and any other benefits and pay arising from the employment.</p> <p><i>Waiver of Group Termination Provisions:</i> On the submission of any person, the Minister may, in specified circumstances, waive any or all group termination provisions with respect to any industrial establishment or any class of employees therein³.</p> <p><i>Exemption from Termination Provisions:</i> Employers are exempt from the application of all group termination provisions with respect to employees employed on a seasonal basis or on an irregular basis under an arrangement whereby they may elect to work or not when requested to do so.</p> <p><i>Layoff:</i> A layoff is deemed to be a termination, except in specific circumstances⁴.</p> <p><i>Severance Pay⁵:</i> An employee who has completed 12 consecutive months of employment with an employer is entitled, in addition to notice of termination or pay in lieu of notice, to the greater of:</p> <ul style="list-style-type: none"> • 2 days' wages (at the regular rate for regular hours of work⁶) for each completed year of employment; or • 5 days' wages (at the regular rate for regular hours of work).

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Alberta ⁷	50 employees or more at a single location within 4 weeks	4 weeks	Minister of Human Resources and Employment	<ul style="list-style-type: none"> Number of employees being terminated Effective date(s) of terminations 	Not specified	<p><i>Individual Notice of Termination:</i> Written notice of individual termination or termination pay must be given, pursuant to the ESC.</p> <p><i>Exemption from Notice of Termination Provisions:</i> Employer exempt from giving notice to Minister with respect to persons employed:</p> <ul style="list-style-type: none"> on a seasonal basis; or for a definite term or task. <p><i>Variance:</i> The Director of Employment Standards may approve a scheme of employment with respect to an employer and its employees or prospective employees that applies despite any provision of the ESC. Such an approval may be revoked, amended or varied at any time. However, an exemption from group termination requirements has never been granted.</p> <p><i>Layoff:</i> When a layoff is no longer temporary⁸, it is deemed a termination and termination requirements apply.</p>
British Columbia ⁹	50 employees or more at a single location within 2 months	50-100 employees: 8 weeks before termination date of first employee 101-300 employees: 12 weeks before termination date of first employee 301 employees or more: 16 weeks before termination date of first employee <u>OR</u>	<ul style="list-style-type: none"> Each affected employee¹⁰ Trade union certified or recognized as affected employees' bargaining agent Minister of Skills Development and Labour 	<ul style="list-style-type: none"> Number of affected employees Effective date(s) of termination Reasons for termination 	May be required by Minister	<p><i>Individual Notice of Termination:</i> Notice and termination pay requirements are in addition to any individual notice of termination or pay in lieu that must be given to an employee under the ESA or the applicable collective agreement.</p> <p><i>Obtaining Other Employment:</i> Termination pay requirements under the group termination provisions apply whether or not the employee has obtained other employment or has in any other way realized or recovered any money during the notice period.</p> <p><i>Maintaining Working Conditions:</i> Once notice is given to an employee, his/her wage rate, or any other condition of employment must not be altered without the written consent of the employee or the representing trade union¹¹.</p> <p><i>Variance:</i> An employer and any of its employees may apply in writing to the Director of Employment Standards for a variance from notice and termination pay requirements for group terminations¹². However, a variance will not be interpreted as a waiver of the minimum requirements of the ESA.</p> <p><i>Layoff:</i> When a layoff is no longer temporary¹³, it is deemed a termination and termination requirements apply.</p>

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		Pay in lieu or a combination of notice and pay in lieu				<i>Exemption from Termination Provisions:</i> Employers are exempt from the application of the termination provisions with respect to certain employees ¹⁴ .
Manitoba ¹⁵	50 employees or more within 4 weeks	50-100 employees: 10 weeks before termination date of first employee 101-300 employees: 14 weeks before termination date of first employee 301 employees or more: 18 weeks before termination date of first employee <u>OR</u> Pay in lieu	Minister of Labour and Immigration <i>Copy of notice</i> given to Minister must be given immediately to: <ul style="list-style-type: none"> • bargaining agent of affected employees; and • each employee not represented by a bargaining agent or posted in conspicuous places at the workplace¹⁶. 	<ul style="list-style-type: none"> • Effective date(s) of terminations • Reasons for terminations • Estimated number of employees terminated in each occupational classification • Names of at least two employer representatives to sit on a joint planning committee 	May be established by the Minister	<p><i>Notice by Affected Employee:</i> An affected employee who terminates his/her employment after the employer has given a notice of group termination, but before the latter expires, must give the employer notice of individual termination as required by the ESC.</p> <p><i>Maintaining Working Conditions:</i> Once notice is given by the employer, an employee's wage rate or working conditions must not be altered except in accordance with a collective agreement, or with the written consent of the representing bargaining agent or of the affected employee, if the latter is not represented by a bargaining agent.</p> <p><i>Employer and Bargaining Agent Co-operation:</i> An employer who gives notice of collective termination to the Minister, and a bargaining agent who is given copy of the notice, must co-operate with the Minister in any action or program initiated by the Minister to eliminate the necessity for terminations and to facilitate the reinstatement of the terminated employees.</p> <p><i>Layoff:</i> A layoff is deemed to be a termination, except in specific circumstances¹⁷.</p> <p><i>Exemption from Notice of Termination Provisions:</i> In certain circumstances, the requirement to provide notice of group termination does not apply¹⁸ or may be waived by the Minister¹⁹.</p> <p><i>Exemption from Termination Provisions:</i> Termination provisions do not apply with respect to certain individuals²⁰.</p>

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New Brunswick ²¹	More than 10 employees representing at least 25% of the employer's workforce (whether termination or layoff) within 4 weeks	6 weeks ²² <u>OR</u> Pay in lieu	<ul style="list-style-type: none"> Affected employees Their bargaining agent Minister of Training and Employment Development <p><i>Copy of notice must be posted to inform all the employees.</i></p>	<i>Not specified</i>	<i>Not specified</i>	<p><i>Exemption from Notice of Termination Provisions:</i> Employers exempt from giving notice of group termination with respect to certain employees²³.</p> <p><i>Variance:</i> An employer may apply to the Director of Employment Standards to be exempted from any provision of the ESA²⁴.</p>
Newfoundland and Labrador ²⁵	50 employees or more within 4 weeks	50-199 employees: 8 weeks 200-499 employees: 12 weeks 500 employees or more: 16 weeks <u>OR</u> Pay in lieu, including overtime the employee would have worked ²⁶ .	<ul style="list-style-type: none"> Affected employees Minister of Human Resources, Labour and Employment must be notified immediately after notices are given to the employees (employees' services may not be terminated if employer fails to notify employees or Minister) 	<p><u>Notice to employees:</u> <i>not specified</i></p> <p><u>Notice to Minister:</u></p> <ul style="list-style-type: none"> Number of persons to whom notice has been given Period of notice Reasons for giving notices 	<i>Not specified</i>	<p><i>Individual Notice of Termination:</i> Written notice of individual termination must also be given to each employee pursuant to LSA.</p> <p><i>Notice by Affected Employee:</i> Nothing prevents an employee from giving an employer notice of termination under the termination provisions of the LSA.</p> <p><i>Exemption from Notice of Termination Provisions:</i> Certain employees are excluded from notice of group termination provisions²⁷.</p> <p><i>Termination on Remote Sites:</i> Employer must provide free transportation to the nearest point at which regularly scheduled transport services are available to a terminated or laid off employee employed at a remote site.</p> <p><i>Layoff:</i> When a layoff is no longer temporary²⁸, the employee is deemed terminated at the beginning of the temporary layoff.</p>

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Northwest Territories²⁹ and Nunavut³⁰	25 employees or more within 4 weeks	25-49 employees: 4 weeks 50-99 employees: 8 weeks 100-299 employees: 12 weeks 300 employees or more: 16 weeks	Labour Standards Officer	<i>Not specified</i>	<i>Not specified</i>	<p><i>Individual Notice of Termination:</i> Individual notice of termination, under the LSA, must also be given to each affected employee.</p> <p><i>Employment Continued After Expiry of Notice Period:</i> Notice of termination is without effect if the employee's employment continues beyond the expiry of the notice period.</p> <p><i>Expiry of Notice:</i> No termination may take effect until the required notice period has been completed.</p> <p><i>Maintaining Working Conditions:</i> Once notice of termination is given, the employer must maintain the working conditions³¹.</p> <p><i>Layoff:</i> If the employer fails to give the employee notice of temporary layoff, the employee is deemed to have his/her employment terminated³².</p>
Nova Scotia³³	10 employees or more in an establishment within 4 weeks	10-99 employees: 8 weeks 100-299 employees: 12 weeks 300 employees or more: 16 weeks <u>OR</u> Pay in lieu ³⁴	<ul style="list-style-type: none"> • Each person whose employment is to be terminated³⁵ • Minister of Labour 	<i>Not specified</i>	<i>Not specified</i>	<p><i>Employment Continued After Expiry of Notice Period:</i> If a person continues to be employed after the expiry of the notice of termination for a period exceeding the length of notice, the employer must not terminate the employment without issuing a new notice.</p> <p><i>Notice During Vacation:</i> Notice of termination period may not include any week of vacation unless the employee agrees otherwise after receiving the notice.</p> <p><i>Conditional Notice of Termination:</i> A notice of termination may be made conditional upon the happening of a future event if the length of the notice complies with the statutory notice requirements.</p> <p><i>Maintaining Working Conditions:</i> Once notice is given to an employee, his/her wage rate, or any other condition of employment must not be altered.</p> <p><i>Where a Layoff Becomes a Termination:</i> A laid off employee who was not entitled to a notice of termination, due to the duration of the layoff, and whose employment is terminated, must receive from the employer payment in lieu of notice in accordance with the termination provisions of the LSC. In such a case, the employment is deemed to terminate on the day the employee was laid off.</p>

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						<p><i>Exemption from Notice of Termination Provisions:</i> An employer is not required to give notice of group termination (or pay in lieu) to certain employees³⁶.</p> <p><i>Exemption from Termination Provisions:</i> Certain employees are excluded from group termination provisions³⁷.</p>
Ontario ³⁸	<p>50 employees or more in an establishment³⁹:</p> <ul style="list-style-type: none"> representing more than 10% of the number of employees in the establishment who have been employed there for at least three months; or the terminations are caused by the permanent discontinuance of at least part of the employer's business at the establishment; within 4 weeks. 	<p>50-199 employees: 8 weeks</p> <p>200-499 employees: 12 weeks</p> <p>500 employees or more: 16 weeks</p> <p><u>OR</u></p> <p>Pay in lieu⁴⁰</p>	<p>Director of Employment Standards</p> <p>The notice must be posted in at least one conspicuous place in the employer's establishment throughout the notice period, beginning on the first day of the notice period.</p>	<ul style="list-style-type: none"> Employer's name and mailing address; Work location(s) of employees being terminated; Number of employees working at each location who are paid on an hourly, salaried and other basis and the number of these employees whose employment is being terminated; Anticipated date(s) for terminations; Name of any trade union local representing any of the terminated employees; and Name, title and telephone number of the individual who completed the form on behalf of the employer⁴¹. 	Not specified	<p><i>Notice of Termination Where Seniority Rights Apply:</i> Where employees' contracts of employment provide seniority rights allowing for the bumping of less senior employees in case of layoff or termination of employment, the employer can, instead of having the notice of termination delivered to such an employee whose employment is terminated, post the notice in a conspicuous part of the workplace, setting out the name, seniority, job classification and proposed layoff or termination date of the employee; this notice is deemed to constitute notice of termination, as of the day of the posting, to any employee displaced by an employee named in the notice⁴².</p> <p><i>Temporary Work:</i> An employer may provide temporary work to an employee who has been given notice of termination, for up to 13 weeks after the termination date specified in the notice, without being required to provide a further notice of termination.</p> <p><i>Notice During Vacation:</i> Notice of termination period may not include any vacation time unless the employee agrees otherwise after receiving the notice.</p> <p><i>Notice by Affected Employee:</i> An employee, to whom notice of group termination has been given, must not terminate his/her employment unless the employer has been given written notice⁴³.</p> <p><i>Maintaining Working Conditions:</i> During the notice period of group termination, the employer must:</p> <ul style="list-style-type: none"> not reduce the employee's wage rate or alter any other term or condition of employment; pay, in each week, the employee's regular wages for a regular work week; and continue to make the required benefit plan contributions until the end of the notice period.

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						<p><i>Exemption from Notice of Termination Provisions:</i> Certain employees are not entitled to notice of termination or termination pay⁴⁴.</p> <p><i>Severance Pay:</i></p> <ul style="list-style-type: none"> • In addition to notice of termination or pay in lieu of notice, an employee with five years of service or more (whether or not continuous or active) who is dismissed, constructively dismissed, laid off⁴⁵ for 35 weeks or more in a period of 52 consecutive weeks, laid off because of a permanent discontinuance of the employer's business at an establishment, or whose employer refuses or is unable to continue employing him/her, may be entitled to severance pay. • For the employee to be eligible, his/her employment must be terminated by an employer who has an annual payroll of \$2.5 million or more, or the employee must be part of a group of 50 or more employees whose employment is terminated in a six-month period as a result of a permanent discontinuance of all or part of the employer's business at an establishment⁴⁶.
Prince Edward Island ⁴⁷	<i>Not specified</i>	<i>Not specified</i>	<i>Not specified</i>	<i>Not specified</i>	<i>Not specified</i>	
Quebec ⁴⁸	<p>10 employees or more in an establishment within 2 months</p> <p>The terminations are for technological or economic reasons.</p>	<p>10-99 employees: 8 weeks</p> <p>100-299 employees: 12 weeks</p> <p>300 employees or more: 16 weeks</p>	<p>Minister of Employment and Social Solidarity⁴⁹</p> <p><i>Copy of notice</i> given to Minister must be given to:</p> <ul style="list-style-type: none"> • Labour Standards Commission (Commission des normes du travail); and 	<ul style="list-style-type: none"> • Name and address of employer or concerned establishment • Sector of activity • Names and addresses of any affected employees' unions • Reason for collective terminations 	<p>Required upon request of Minister where number of affected employees is not less than 50</p>	<p><i>Individual Notice of Termination:</i> Notice of collective termination is in addition to any individual notice of termination that must be given to an employee under the LSA.</p> <p><i>Employer Unable to Give Notice:</i> In case of a superior force or where an unforeseeable event prevents the employer from giving notice of collective termination, the notice must be given to the Minister as soon as the employer is in a position to do so⁵⁰.</p> <p><i>Posting of Notice:</i> Notice must be posted in a conspicuous and readily accessible place in the concerned establishment.</p>

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			<ul style="list-style-type: none"> certified union(s) representing affected employees. 	<ul style="list-style-type: none"> Anticipated date for collective terminations Number of employees likely to be affected by collective terminations 		<p><i>Layoff:</i> A layoff for a period of at least six months, involving at least 10 employees of the same establishment, within a period of two consecutive months is deemed a termination.</p> <p><i>Maintaining Working Conditions:</i> During the notice period, the employer may not change the affected employees' wages or group insurance and pension plans recognized in the establishment, without the written consent of the affected employee or the certified union representing the employee.</p> <p><i>Exemption from Termination Provisions:</i> Certain employees are excluded from group notice of termination provisions⁵¹.</p>
Saskatchewan ⁵²	10 employees or more in an establishment within 4 weeks	10-49 employees: 4 weeks 50-99 employees: 8 weeks 100 employees or more: 12 weeks	<ul style="list-style-type: none"> Minister of Labour Each employee whose employment will be terminated Trade union representing a redundant employee 	<ul style="list-style-type: none"> Number of employees whose employment will be terminated Effective date(s) of terminations Reasons for terminations 	Not specified	<p><i>Individual Notice of Termination:</i></p> <ul style="list-style-type: none"> Individual notice of termination or layoff, under the LSA, must also be given to each affected employee. Notice of group termination may be given concurrently with an individual notice of termination or layoff. <p><i>Variance:</i> An employer may apply in writing to the Director of Labour Standards Branch to be exempted from group notice of termination requirements. The Director may grant the exemption if satisfied that giving the written notice would be prejudicial to the employer and the employees.</p> <p><i>Exemption from Notice of Termination Provisions:</i> Notice of group termination requirements do not apply to certain employees⁵³.</p>
Yukon ⁵⁴	25 employees or more within 4 weeks	25-49 employees: 4 weeks 50-99 employees: 8 weeks	Director of Employment Standards	Not specified	Not specified	<p><i>Individual Notice of Termination:</i> Individual notice of termination, under the ESA, must also be given to each affected employee.</p> <p><i>Employment Continued After Expiry of Notice Period:</i> Notice of termination is without effect if the employee's employment continues beyond the expiry of the notice period.</p>

Jurisdiction	Number of Employees Terminated	Minimum Notice	Person(s) to whom Notice Must be Given	Content of Notice	Establishment of Joint Planning Committee	Other
		100-299 employees: 12 weeks 300 employees or more: 16 weeks				<p><i>Maintaining Working Conditions:</i> Once notice is given to an employee, his/her wage rate, or any other condition of employment must not be altered, without the employee's consent.</p> <p><i>Temporary Layoff:</i> An employer placing a group of 50 or more employees on temporary layoff within a four-week period must give notice to the Director of Employment Standards of its intention to do so at least four weeks before the date of temporary layoff⁵⁵.</p> <p><i>Termination on Remote Sites:</i> An employer who terminates or lays off an employee employed at a remote site must provide free transportation for the employee to the nearest point at which regularly scheduled transportation services are available.</p> <p><i>Exemption from Termination Provisions:</i> Termination provisions do not apply with respect to certain individuals⁵⁶.</p>

General exclusions: Most jurisdictions exclude a number of occupations and industries from legislated minimum employment standards.

In conjunction with the present chart, the **Notice of Individual Termination of Employment** chart should also be consulted.

Notes:

¹ *Canada Labour Code:* sections 211 to 230, 235 to 237; *Canada Labour Standards Regulations:* sections 26 to 28, 30 to 32.

² An employer, who gives notice to the Minister and any trade union to which a copy of the notice is given, must give the CEIC any information it requests for the purpose of assisting redundant employees and must cooperate with it to facilitate the employees' re-establishment in employment.

³ The Minister may waive group termination provisions if it is shown to his/her satisfaction that their application, in respect of any industrial establishment:

- would be or is unduly prejudicial to the interests of the employees therein or to any class of employees therein;
- would be or is unduly prejudicial to the interests of the employer of those employees;
- would be or is seriously detrimental to the operation of the industrial establishment; or
- is not necessary, because measures for the assistance of redundant employees at that establishment that are substantially the same or to the same effect as the measures established under the CLC have been established by collective agreement or otherwise.

⁴ A layoff is deemed to be a termination unless:

- it is a result of a strike or lockout;
- it is for a term of 12 months or less and the layoff is mandatory by virtue of a minimum work guarantee in a collective agreement;
- it is for a term of more than three months and the employee continues to receive payments from the employer, the employer continues to make payments regarding a registered pension benefits plan or a group or employee insurance plan, the employee receives supplementary unemployment benefits, or the employee would be entitled to receive such benefits, but is disqualified under the *Employment Insurance Act*; or
- it is for a term of three months or less;
- it is for more than three months, but the employee is given notice at or before the time of layoff that he/she will be recalled within six months of the layoff's start;
- the layoff is for a term of more than three months but not more than 12 months and the employee maintains recall rights in accordance with a collective agreement.

With respect to the last three circumstances, any period of re-employment of less than two weeks duration is not included in the calculation of the length of the layoff.

⁵ An employer is not required to provide severance pay to an employee who has been dismissed for just cause or who, on ceasing to be employed or before that time, is entitled to a pension under a registered pension plan contributed to by the employer, or to a pension under the *Old Age Security Act*, the *Canada Pension Plan* or the *Quebec Pension Plan*.

⁶ The regular hours of work in a day of an employee whose hours of work are averaged is 8 hours. The regular hours of work in a day of an employee whose hours of work are not averaged, are the actual hours worked by the employee exclusive of overtime hours, in the 4 complete weeks prior to termination of employment. A complete week is one in which no general holiday occurs, no annual vacation is taken by the employee, and the employee was not absent from work for any other reason.

⁷ *Employment Standards Code (ESC)*: sections 56, 62, 63, 74 and 137.

⁸ A temporary layoff is defined as a layoff of less than 60 days, or a layoff of 60 days or more during which the employee receives an agreed upon wage or the employer makes payments into a pension or insurance plan for the employee or the employee retains recall rights under a collective agreement.

⁹ *Employment Standards Act (ESA)*: sections 1 and 62 to 73; *Employment Standards Regulation*: sections 33 and 37.

¹⁰ This notice has no effect if:

- the notice period coincides with a period during which the employee is on annual vacation, leave, temporary layoff, strike or lockout or is unavailable for work due to a strike or lockout or medical reasons; or
- the employment continues after the notice period ends.

¹¹ If a condition of employment is substantially altered, the Director of Employment Standards may determine that the employment of an employee has been terminated.

¹² The Director of Employment Standards may vary a time period or requirement regarding a group termination if satisfied that a majority of the employees who will be affected by the variance are aware of its effect and approve of the application, and the variance is not inconsistent with the purposes of the ESA (as set out in section 2 of the ESA). In addition, the Director must be satisfied that the variation will facilitate the preservation of the employer's operations, an orderly reduction or closure of the employer's operations, or the short term employment of employees for special projects. The Director may specify that a variance applies only to one or more of the employer's employees, specify an expiry date for a variance, and attach any conditions to a variance. The employer must display a copy of the Director's determination on a variance application in locations where it can be read by any affected employee.

¹³ A layoff is deemed to be temporary if:

- it does not exceed 13 weeks in a period of 20 consecutive weeks; or
- in the case of an employee who has a right of recall, it does not exceed the specified period within which the employee is entitled to be recalled to employment.

A week of layoff means a week in which an employee earns less than 50% of his/her regular weekly wages, averaged over the previous eight weeks.

¹⁴ Termination provisions do not apply to an employee:

- employed under an arrangement whereby he/she may elect to work or not when requested to do so;
- employed for a definite term, or for specific work to be completed in a period of up to 12 months (unless the employee continues to be employed at least three months after completing the term or specific work);
- employed at one or more construction sites by an employer whose principal business is construction;
- employed under an employment contract that has become impossible to perform due to an unforeseeable event or circumstance other than receivership or a proceeding under an insolvency Act;
- who has refused reasonable alternative employment offered by the employer;
- who has refused alternative work made available through a seniority system;
- who has been laid off or terminated as a result of the normal seasonal reduction, suspension or closure of an operation; or

- who has been laid off and did not return to work within a reasonable time after being requested to do so by the employer.

Moreover, the termination provisions do not apply to auxiliary or volunteer fire fighters, to student nurses or to fishers.

¹⁵ *Employment Standards Code (ESC)*: sections 66 to 79; *Minimum Wages and Working Conditions Regulation*: sections 2 to 5, 19 and 20.

¹⁶ This notice constitutes notice of termination of employment of an individual only if the employee is identified in the notice and the length of notice meets the requirements of the ESC.

¹⁷ A layoff is not deemed to be a termination when:

- it is customary, during that period of the year, to lay off employees because of the seasonal nature of the industry and the employee has been advised, upon being hired, that he/she will be laid off during that period;
- the layoff is for a term of eight weeks or less in any period of 16 consecutive weeks;
- the layoff is for more than eight weeks and the employer recalls the employee within the time specified by the Minister; or
- the layoff is for more than eight weeks, but the employer continues to pay wages or to make payments to the employee of an agreed amount, or the employer continues to make payments for the benefit of the employee to a pension plan and/or insurance plan.

When a layoff becomes a termination, the employment of the employee is deemed to have been terminated, without notice, on the first day of the layoff, and the employer must pay to the employee pay in lieu of notice under the ESC.

¹⁸ No termination notice is required where:

- the termination occurs within the first 30 days of employment (unless otherwise agreed in writing by the employer and the employee before employment begins);
- the employment terminates at the end of a fixed period of employment;
- the employment is for a specified work or undertaking and for a period not exceeding 12 months, on completion of which the employment terminates;
- the employee is laid off, and it is not deemed to be a termination;
- the employee acts in a manner that constitutes wilful misconduct or disobedience or wilful neglect of duty that is not condoned by the employer;
- the employee is on strike or is locked out;
- the employee is laid off after refusing an offer of reasonable alternate work made available by the employer or through a seniority system;
- the employee fails to return to work within a reasonable time after being recalled from a layoff;
- the employee is employed in construction;
- the employee is employed under an arrangement whereby he/she may elect to work or not when requested to do so;
- the employee reaches the retirement age as established by custom or practice in the employer's business;
- the employee acts in an insubordinate or violent manner toward the employer or in a dishonest manner in the course of employment; or
- the contract of employment is impossible to perform or is frustrated by a fortuitous or unforeseeable circumstance.

¹⁹ By request, the Minister may waive the group termination notice requirement if satisfied that the application of this requirement is unduly prejudicial to the interests of the employees, class of employees, or the employer, or is seriously detrimental to the operation of the employer's business.

²⁰ The following are excluded from most of the ESC's minimum standards, including notice of group termination provisions:

- persons employed in agriculture, fishing, fur or dairy farming, or in the growing of horticultural or market garden products for sale;
- practicing members and students-in-training of regulated professions; and
- persons employed in a private family home, paid by a member of the family, and whose employment in the home consists of working as: a domestic worker for not more than 24 hours in a week for the same employer, a sitter attending primarily to the needs of a member of the household who is a child, or a companion attending primarily to the needs of a member of the household who is aged, infirm or ill.

²¹ *Employment Standards Act (ESA)*: sections 1, 5, 8, 32 to 34; *Employment Standards General Regulation*: section 4.

²² Where the length of notice of termination required by a collective agreement exceeds 6 weeks, the employer must give the notice required by the collective agreement.

²³ No notice of group termination is required where an employee:

- has completed a definite assignment that he/she was hired to perform over a period not exceeding 12 months;
- has completed a term of employment that was fixed in the employment contract, unless the employee is employed for a period of three months beyond that period;
- retires under a *bona fide* retirement plan;
- is doing construction work in the construction industry;

- is terminated or laid off as a result of the normal seasonal reduction, closure or suspension of an operation;
- is laid off for a period not exceeding six days; or
- is laid off due to a lack of work resulting from any reason unforeseen by the employer at the time notice would otherwise have been given, for such period as the lack of work continues due to that reason.

²⁴ The Director of Employment Standards may grant an exemption if the employer can show to his/her satisfaction that:

- the employer suffers a special hardship in complying with the provision that is not suffered by other employers and that the employee(s) receive(s) other benefits or advantages that can be viewed as reasonable compensation in lieu; or
- the employment contract in question was entered into voluntarily and without force or coercion between persons having a close family relationship.

In certain circumstances, the matter may be referred to the Labour and Employment Board for a hearing.

²⁵ *Labour Standards Act (LSA)*: sections 43.12, 49, 50 and 53 to 58; *Labour Standards Regulations*: section 13.

²⁶ Based on overtime performed in the month preceding the termination of employment.

²⁷ Group notice of termination provisions do not apply to an employee who:

- has been employed by the employer for less than one month;
- is laid off or terminated due to an unforeseeable event or circumstance that frustrates his/her contract of employment or renders it impossible to perform;
- is laid off after refusing an offer by the employer of reasonable alternate work or after refusing work made available through a seniority system;
- is employed in the construction industry, in logging, in fishing or on an offshore oil well drilling rig;
- is laid off or terminated during or as a result of a strike or lock-out;
- has reached the age of retirement according to the established practice of the employer;
- is employed for seasonable production work in a fish plant in peak periods to supplement the regular workforce;
- is employed under an arrangement whereby he/she may elect to work or not when requested to do so; or
- does not return to work within a reasonable time after being requested by the employer to do so.

In addition, notice of intention to terminate need not be given to an employee who is not entitled to notice under the LSA's notice of individual termination provisions.

²⁸ A layoff is deemed to be temporary if it does not exceed 13 weeks in a period of 20 consecutive weeks. However, a day during the 20-week period in which the employee receives pay, including pay received for a public holiday occurring during that period, is not counted in the calculation of the 13-week layoff period.

²⁹ *Labour Standards Act (LSA)*: sections 2, 14.01 and 14.05 to 14.10.

³⁰ *Labour Standards Act (LSA)*: sections 2, 14.01 and 14.05 to 14.10.

³¹ Once notice of termination is given, the employer:

- must not reduce the wages or rate of wages, or alter any other condition of employment; and
- must, between the date the notice is given and the date of termination, pay wages and benefits to the employee to whom notice is given in an amount not less than the wages and benefits to which the employee would have been entitled if the employee had worked his/her usual hours of work in that period, whether or not work is required or performed.

³² Where an employer temporarily lays off an employee and the layoff exceeds a temporary layoff:

- the employment of the employee must be deemed to have terminated on the last day of temporary layoff; and
- the employer must pay the employee termination pay in accordance with individual notice of termination provisions.

"Temporary layoff" is defined as an interruption of employment for a period of not more than 45 days in a period of 60 consecutive days, or more than 45 days where the employee is recalled within a time fixed by the Labour Standards Officer.

³³ *Labour Standards Code (LSC)*: sections 71 to 78; *Labour Standards Regulations*: section 2 and 8.

³⁴ An amount equal to the pay that would have been earned for work performed by the employee at the regular rate in a normal, non-overtime work week, for the period of the prescribed notice.

³⁵ The written notice must be served personally or sent by registered mail.

³⁶ An employer is not required to give notice (or pay in lieu) to an employee who:

- has been employed for less than three months;
- is employed for a definite term or task for a period not exceeding 12 months and does not continue to be employed for a period of three months or more after completion of the term or task;
- is laid off or suspended for no longer than six consecutive days;

- is discharged or laid off for any reason beyond the control of the employer (e.g., complete or partial destruction of plant, destruction or breakdown of machinery or equipment, unavailability of supplies, lack of orders for products, accident, labour disputes, weather conditions and government actions) if the employer has exercised due diligence to foresee and avoid the cause of discharge or layoff;
- has been offered reasonable alternate employment by his/her employer;
- has reached the age of retirement according to the established practice of the employer; or
- is employed in the construction industry.

³⁷ The following are excluded from most of the LSC's minimum standards, including group termination provisions:

- employees covered by a collective agreement;
- employees engaged in work as real estate salespersons, automobile salespersons, or salespersons—other than route salespersons—who are entitled to receive all or part of their remuneration as commissions for purchase offers or sales which are normally made outside the employer's establishment; and
- employees who work on fishing vessels or in the operation of fishing vessels on water.

³⁸ *Employment Standards Act, 2000* (ESA 2000): sections 54, 55 and 58 to 66; *Termination and Severance of Employment Regulation*: sections 2, 3, 5 to 7 and 9.

³⁹ The ESA 2000 defines "establishment" as "a location at which the employer carries on business". However, where an employer carries business in more than one location, separate locations are deemed to constitute one establishment if they are located within the same municipality or if one or more employees at a location have seniority related "bumping" rights that extend to the other location under a written employment contract.

⁴⁰ Termination pay must be a lump sum equivalent to the amount the employee would have received during the period of notice. Where the employee does not have a regular work week or is paid on a basis other than time, the employer must pay the employee an amount calculated according to the weekly average amount of regular wages earned by the employee during the 12-week period immediately preceding the day of termination. The employer must also continue to make all benefit plan contributions necessary to maintain the benefits to which the employee would have been entitled had he/she been employed during the period of notice. If the employer fails to do so, the amount that should have been contributed is deemed to be unpaid wages.

If the employer terminates the employment of employees without giving the required notice, the employees are deemed to have been actively employed during the period for which there should have been notice for the purposes of any benefit plan under which entitlement to benefits might be lost or affected if the employees cease to be actively employed.

⁴¹ Notice of group termination is deemed to have been given on the date the Director of Employment Standards receives this information.

Notice may also include:

- economic circumstances surrounding the terminations;
- any consultations which have taken place or are proposed with the local communities or the affected employees or their agent in connection with the terminations;
- any proposed adjustment measures and the number of employees expected to benefit from each; and
- a statistical profile of the affected employees.

⁴² The employer is not required to maintain the wage rate or other conditions of employment of an employee who displaces another employee in such a circumstance.

⁴³ Written notice must be given:

- at least one week before the termination, if his/her period of employment is less than two years; or
- at least two weeks before the termination, if his/her period of employment is two years or more.

Such notice is not necessary if the employer breaches a term of the employment contract, including if the employer constructively dismisses the employee.

⁴⁴ No notice of termination (or pay in lieu) is required where an employee:

- has been continuously employed for less than three months;
- is on a temporary layoff;
- is employed for a definite term or task at the end of which employment is to terminate (unless employment terminates before the expiry of the term or task, the term expires or the task is completed more than 12 months after employment commences, or employment continues for three months or more after the expiry of the term or the completion of the task);
- has his/her employment terminated after refusing an offer of reasonable alternate work with the employer or refusing work made available through a seniority system;
- is temporarily laid off and does not return to work within a reasonable time after being requested to do so by his/her employer;
- has his/her employment terminated during or as a result of a strike or lockout at the place of employment;
- is employed under an arrangement whereby he/she may elect to work or not when requested to do so;
- has his/her employment terminated after reaching the age of retirement according to the employer's established practice;

- is guilty of wilful misconduct or disobedience or wilful neglect of duty that is not trivial and has not been condoned by the employer;
- works in the construction industry; and
- whose employer is engaged in building, alteration or repair of a ship or vessel with a gross tonnage of over ten tons designed for commercial navigation, and who has agreed, personally or through a bargaining agent, to be exempted from statutory notice of termination provisions in return for a supplementary unemployment benefit plan.

In addition, subject to the *Human Right Code*, notice is not required where a contract of employment has become impossible to perform or has been frustrated by a fortuitous or unforeseeable event or circumstance.

⁴⁵ For severance pay purposes, a week of layoff is defined as a week in which the employee receives less than one-quarter the amount he/she would earn at his/her regular rate for a regular work week, and that is not an “excluded week” (i.e., a week during which the employee, for one or more days, was not able to work, was subject to a disciplinary suspension or was not provided with work due to a strike or lock-out at the place of employment or elsewhere). In the case of an employee who does not have a regular work week, the amount of “earnings” used to determine layoff status is deemed to be the average amount earned per non excluded week in a specified 12-week period.

⁴⁶ Employees who resign after receiving notice of termination retain their right to severance pay, provided they give at least two weeks' notice to their employer. For the purpose of determining eligibility to severance pay, their employment is deemed to have been severed on the day the employer's notice of termination would have taken effect. When calculating the amount of severance pay, however, their employment is deemed to have been severed on their effective date of resignation.

The minimum amount of severance pay due to an employee is calculated by:

- adding the number of years of employment completed by the employee (whether or not continuous or active), including any partial year of employment (i.e., the number of additional months of employment divided by 12); and
- multiplying this sum by the employee's regular wages for a regular work week, for a total of up to 26 weeks of wages. (Where the employee does not have a regular work week or is paid on a basis other than time, severance pay is based on the average amount of regular wages received by the employee for the weeks in which he/she worked in the 12-week period preceding the date employment was severed or the date of the commencement of the layoff that resulted in severance of employment.)

An employee's length of employment is deemed to include any period of notice of termination that should have been given by the employer under the ESA 2000.

Severance pay may be paid in instalments over a period of up to three years with the agreement of the employee or the approval of the Director of Employment Standards.

Employers are not required to provide severance pay to an employee:

- employed in construction;
- engaged in the on-site maintenance of buildings, structures, roads, sewers, pipelines, mains, tunnels or other works;
- whose employment is severed as a result of the permanent discontinuance of business caused by the economic consequences of a strike;
- who retires at the time his/her employment is severed and who receives an unreduced pension benefit reflecting any service credits the employee would have earned until the normal age of retirement had employment not been severed;
- whose employment is severed after refusing reasonable alternative employment with the employer or made available through a seniority system;
- who has been guilty of wilful misconduct, disobedience or wilful neglect of duty that is not trivial and has not been condoned by the employer;
- who is employed under an arrangement whereby he/she can elect to work or not when requested to do so; or
- whose contract of employment has become impossible to perform or has been frustrated (unless the impossibility or frustration is the result of a permanent discontinuance of business because of a fortuitous or unforeseen event, the employer's death, the employee's death if notice of termination had been received before the death, or is the result of an illness or injury suffered by the employee and the *Human Rights Code* prohibits severing the employment for this reason).

⁴⁷ This is the only jurisdiction without group termination provisions in its employment standards legislation. As such, the rules that apply to individual terminations apply when larger groups of employees have their employment terminated. See chart entitled “Notice of Individual Termination of Employment”.

⁴⁸ *An Act respecting labour standards* (LSA): sections 3, 3.1, 84.0.1 to 84.0.15, and 141.1; *Regulation respecting labour standards*: sections 35.0.1 and 35.0.2.

⁴⁹ Notice must be mailed to the operations branch of Emploi-Québec. The notice has effect from the date on which it is mailed.

⁵⁰ Where the employer fails to give proper notice, except in case of superior force or where an unforeseeable event prevents it, the employer must:

- pay each terminated employee an indemnity equal to the employee's regular wages, excluding overtime, for a period equal to the required notice period, or the remainder of the required notice period; and
- pay the indemnity at the time of termination or at the end of a period of six months after a layoff.

An employee is entitled to the greater indemnity in lieu of individual notice or of collective notice, but may not cumulate both.

⁵¹ The following employees are excluded from collective termination provisions:

- employees who have less than three months of uninterrupted service;
- employees whose contract for a fixed term or for a specific undertaking expires;
- employees who have been appointed to an exempted position in the public service (i.e. a position that is exempted from certain provisions of the *Public Service Act*);
- employees who have committed a serious fault;
- employees in the construction industry;
- employees who are laid off for a period of less than six months;
- working in establishments whose activities are seasonal or intermittent; or
- working in establishments affected by a strike or lock-out.

⁵² *Labour Standards Act (LSA)*: sections 4 and 44.1; *Labour Standards Regulations, 1995*: sections 3 and 22.

⁵³ Notice of group termination is not required where employees:

- are employed under an agreement whereby they may elect to work or not when requested to do so;
- are employed for a definite term;
- are employed for a specific project not exceeding 12 months;
- are offered and have refused reasonable alternative work or employment by the employer;
- are terminated because of the normal seasonal reduction, suspension or closure of the employer's operations;
- are laid off for a period not exceeding 26 weeks;
- have had their employment terminated because they have reached the age of retirement (as established by the employer); or
- are employed under a contract of employment that has become impossible to perform due to an unforeseeable event or circumstance.

⁵⁴ *Employment Standards Act (ESA)*: sections 2, 48 to 58 and 106; *Employment Standards General Exemption Regulation*: section 4.

⁵⁵ A layoff is deemed to be temporary if:

- it is for a period not exceeding 13 weeks in a period of 20 consecutive weeks; or
- it is for more than 13 weeks, but the employer recalls the employee to work within a time fixed by the Director of Employment Standards.

⁵⁶ The following are excluded from termination provisions:

- the construction industry;
- seasonal or intermittent undertakings that operate for less than six months in a year;
- employees discharged for just cause;
- employees whose employer has failed to abide by the terms of the employment contract;
- employees on temporary layoff;
- employees employed under a contract of employment that is impossible to perform due to an unforeseeable event or circumstance;
- employees who have refused reasonable alternative employment offered by their employer;
- employees who have completed a project or assignment that they were hired to perform over a period not exceeding 12 months; or
- employees who have completed their term of employment, unless they are still employed for more than one month after completion of the term.

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