



**CFIB**

**Fostering Canada's Entrepreneurial Economy through  
Smart Labour Standards  
- The Maritime Perspective**

**Presentation to the  
Federal Labour Standards Review Commission  
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**CANADIAN FEDERATION OF INDEPENDENT BUSINESS**

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## **Executive Summary**

The Canadian Federation of Independent Business (CFIB) is a non-partisan, not-for-profit advocacy group representing 105,000 small- and medium-sized enterprise (SME) owners across the country, of which more than 4,500 in New Brunswick, 5,000 in Nova Scotia and over 1,000 on Prince Edward Island operating in all industry sectors. CFIB takes its policy direction from members through regular surveys on the basis of one member, one vote.

### **The SME Sector: Canada's Engine of Economic Growth**

As in the rest of Canada, the majority of businesses in the Maritimes are very small: about one-in-seven employ five or fewer people. The SME sector nation-wide now accounts for 43 percent of the GDP and creates most new jobs. To ensure the Canadian SME sector continues to thrive in the years to come, it needs a flexible labour standards framework.

### **SME Main Challenges**

Government regulations and paper burden are one of CFIB members' top issues of concern. Canada Labour Code provisions impose a compliance burden on all businesses, but it is especially the case for small-and medium-sized businesses. CFIB recommends that changes to Part III of the CLC support the overall federal government direction of making government regulations "smarter" or more efficient, adaptive, and responsive to the fast changing economic environment.

A growing shortage of skilled labour is another major concern for SME owners. The shortage will likely worsen as the baby boomer generation retires. This shortage, among other factors, has contributed to the development of alternative forms of employment such as self-employment, part time and contract positions. It has also motivated employers to provide flexible working conditions to attract and retain skilled employees. CFIB recommends that changes to Part III of the CLC do not set additional constraints on employers, but rather balance employee rights with employee responsibilities.

CFIB's research in the area of work-life balance shows that there is no *one-size-fits-all* solution. Balancing personal and professional commitments is an individual preference that can be accommodated in many ways. CFIB believes that attempts to address work-family balance issues through Part III of the CLC would likely do more harm than good.

The Maritime Provinces are particularly sensitive to any changes in the environment they operate. Economies of scale are often less significant given the smaller size of the local economies. The tax environment is less business-friendly which already puts them at a disadvantage compared to the rest of Canada. Other factors are the importance of the rural economy, the higher proportion of more traditional industries and the out-migration of younger people. These local realities make that any changes to the labour conditions would touch the Maritimes more profoundly.

Finally, the Code's standards were designed in the mid-sixties to ensure a level playing field among employers and between employees and their employer. However, the labour market has evolved greatly since. Employees nowadays are in a stronger position vis-à-vis their employers in discussing working conditions due namely to the growing shortage of skilled labour, the increased level of technical specialization required and the option of going into self-employment. Another change is that almost three-quarter of businesses today have fewer than five employees and the employer works along side with his/her employees.

CFIB makes the following recommendations:

**1. Ensure that changes to Part III of the Canada Labour Code facilitate rather than hinder economic growth, productivity and competitiveness in a fast changing world economy.**

The Canadian economy has undergone tremendous change over the past forty years and the pace of change will likely continue unabated for the foreseeable future. Part III of the Canada Labour Code already provides minimum work standards that adequately protect the rights of employees. Expanding the scope of Part III of the Code to cover other forms of employment or to further constrain the employers' flexibility runs the risk of threatening the dynamism of Canada's economy and undermining job creation. CFIB recommends against extending the scope of Part III of the Code to include new forms of employment or self-employment.

**2. Adapt Part III of the Canada Labour Code to the reality of today's workplace by making it more flexible.**

The Code's standards were designed in the mid-sixties to ensure a level playing field among employers and between employees and their employer. However, the labour market has evolved greatly since. Employees nowadays are in a stronger position vis-à-vis their employers in discussing working conditions due namely to the growing shortage of skilled labour, the increased level of technical specialization required and the option of going into self-employment. Another change is that almost three-quarter of businesses today have fewer than five employees and the employer works along side with his/her employees. Examples of Code regulations that could be made more flexible include rules on overtime pay and hours of work.

**3. Balance employee rights with employee responsibilities.**

Changes to Part III of the Canada Labour Code should help promote greater employee-employer relations as opposed to perpetuate the adversarial climate that prevailed in the mid-sixties. Part III of the Code puts the emphasis on employee rights and employer responsibilities. The lack of emphasis on employee responsibilities is unfair to small employers and can affect the viability of the business. Accordingly, we recommend that:

- a. Employees be required to provide 2 weeks notice to their employer when they intend to terminate their employment. There are currently no obligations under the Code on the part of the employee to notify the employer.
- b. Employees be required to provide at least 4 weeks notice on their intention to come back to work prior to the completion of their maternity leave.

**4. Put more emphasis on raising employee and employer awareness of their rights and responsibilities.**

We believe that much of the resources being spent on workplace inspections might lead to better enforcement of the Code if these resources were used to communicate more effectively to employers and employees their rights and responsibilities. The focus should be placed on awareness programs rather than attempting to legislate or regulate solutions.

**Conclusion**

The Canadian economy has changed greatly in the past 40 years since the Canada Labour Code was created. In light of the growing importance of the SME sector to Canada's economic future, changes to Part III of the CLC must aim at increasing flexibility and reducing the compliance burden for small- and medium-sized businesses.

## Introduction

The Canadian Federation of Independent Business (CFIB) is a non-partisan, not-for-profit advocacy group representing 105,000 small- and medium-sized enterprise (SME) owners across the country, of which more than 4,500 in New Brunswick, 5,000 in Nova Scotia and over 1,000 on Prince Edward Island operating in all industry sectors. CFIB takes its policy direction from members through regular surveys on the basis of one member, one vote.

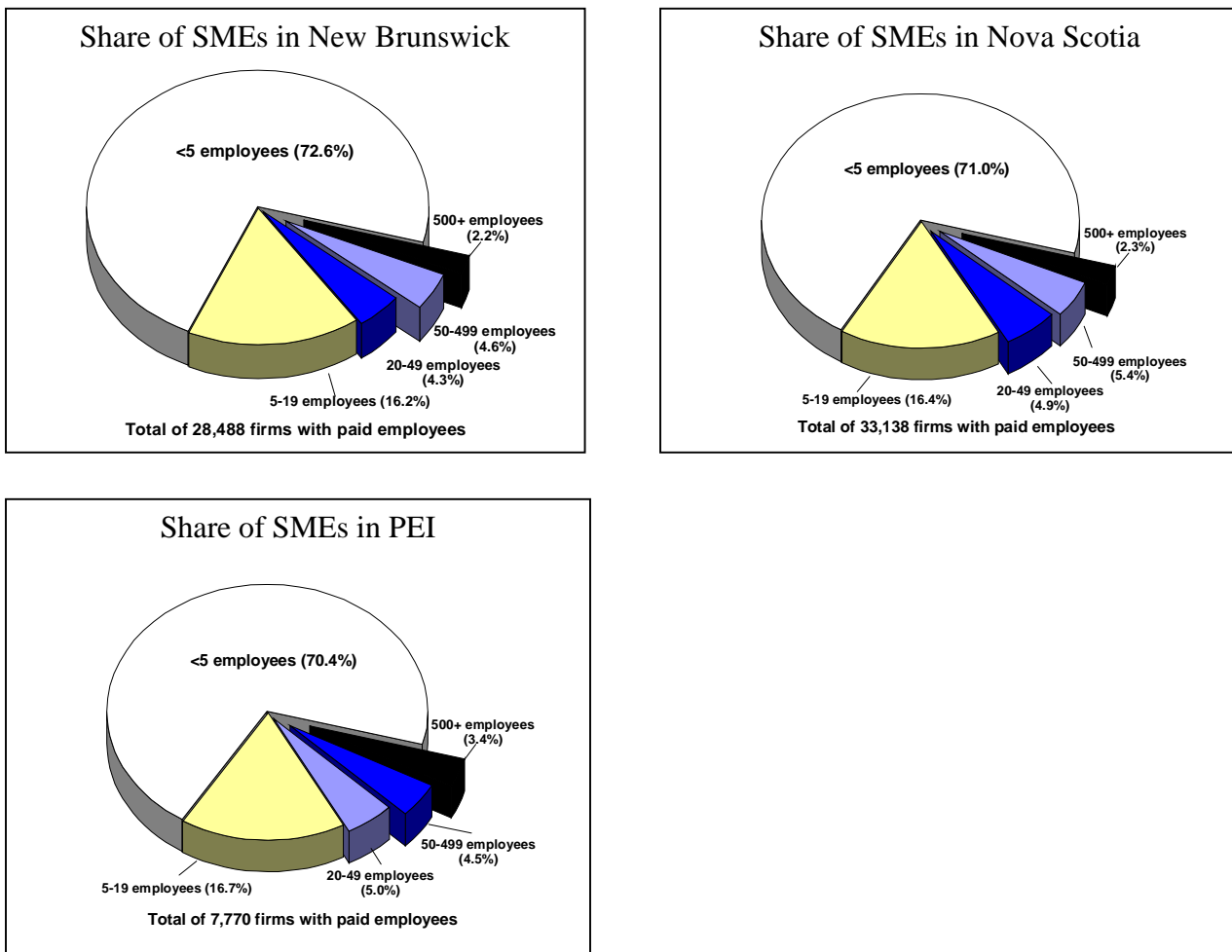
This brief consists of three parts: The first describes briefly the important and increasing role played by SMEs in today's economy in terms of economic growth and job creation; the second part outlines briefly some of our members' current challenges and concerns; and the third part outlines our members' comments and recommendations with respect to the review of the Canada Labour Code.

## I. The SME Sector: Canada's Engine of Economic Growth

### I. A. The SME Sector in the Maritimes

The Maritimes economy has changed greatly in the past 40 years since the Canada Labour Code was created. The importance of the SME sector in the Maritimes economy has been growing steadily over that period. In each of the three Maritime provinces, the SME sector accounts for about seventy per cent of all businesses, and employs half of the workforce in NB and NS, and 68 per cent of total employment in PEI (Statistics Canada, *1983-1999 Employment Dynamics*, 2002).

**Figure 1, Share of SMEs in the Maritime Economies**



The fact that most of today's workplaces are made up of few employees helps promote better communications between the employer and employees and leads to greater workplace satisfaction as surveys described further below show.

Most of the net new jobs are created by businesses employing fewer than 50 people. Statistics Canada shows that these firms created about one-quarter of net new jobs in NB, about 40 per cent in NS and over 60 per cent on the Island. A recent survey conducted by Leger Marketing shows that about two-in-three people trust SMEs to create jobs versus 25 per cent who trust the government and 14 per cent who trust the multinationals. The government, therefore, should not introduce policies that hinder the growth and expansion of SMEs.

### I. B. Self-Employed: Entrepreneurs by Choice

Increasingly, people are *choosing* self-employment rather than turning to it because of harsh employment conditions. Today, self-employed individuals represent approximately 12 per cent of total employment in NB, 13.2 per cent in NS and 15 per cent in PEI respectively. Statistics Canada data shows that self-employment is following a general upwards trend<sup>1</sup> (see Figure 2).

**Figure 2, Number of Self-employed in the Maritime Provinces**

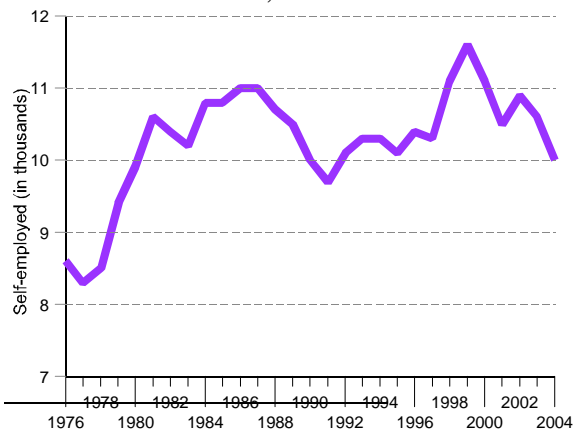
Number of self-employed in New Brunswick, 1976-2004



Number of self-employed in Nova Scotia, 1976-2004



Number of self-employed in Prince Edward Island, 1976-2004



<sup>1</sup> Statistics Canada, *Labour Force Historical Review*, 2005

Studies<sup>2</sup> have showed that the growing prominence of women entrepreneurs and the increase in the number of firms run by individuals over the age of 55 are the two major factors responsible for the considerable growth in the self-employment sector.

For individuals over the age of 55, who in many cases represent the most skilled and experienced individuals in the economy, new forms of employment such as self-employment or part-time work are a bridge to retirement. Part-time work is chosen mainly as a personal preference by 57 per cent of individuals aged 45 and over, Statistics Canada<sup>3</sup> data shows. This trend is sure to continue with the ageing of the Canadian population. Should the government choose to include self-employed individuals in Part III of the Canada Labour Code, the current flexibility enjoyed by many older self-employed individuals would be curtailed. Consequently, they could choose not to work at all.

Self-employed are among the most satisfied individuals when it comes to job satisfaction, as a 1999 joint CFIB-Scotiabank study<sup>4</sup> on workplace satisfaction showed. The study found that the most satisfied individuals were those with the greatest degree of autonomy, as almost two-thirds of business owners and the self-employed were very satisfied with their workplace. The next highest number of very satisfied employees was found in small business while public sector employees enjoyed the lowest level of job satisfaction.

One of the big transformations undergone by the labour market is that 42 per cent of the individuals polled recently in Atlantic Canada by Leger Marketing<sup>5</sup> said that creating their own company or being self-employed are the career paths they find most rewarding. At the opposite pole was spending the whole career within one large company, chosen by only 13 per cent of respondents.

### **Conclusions:**

1. Canada's economy has undergone a great deal of change over the past forty years; our recent economic performance in terms of economic growth and job creation has been unequalled amongst G-7 countries. The Canada Labour code needs to be modernized to reflect that and ensure the economy continues to grow and thrive.
2. The SME sector is Canada's engine of growth that needs a flexible labour standards framework to thrive in years to come.
3. The self-employment sector has become a significant contributor to the dynamism of our economy and there are no compelling reasons to make it subject to Part III of the Canada Labour Code.

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<sup>2</sup>CIBC, *Women Entrepreneurs: Leading the Charge*, June 28, 2005 and CIBC, *Start Me Up: A Look at New Entrepreneurs in Canada*, 2004

<sup>3</sup> Statistics Canada, [www40.statcan.ca/101/cst01/labor63a.htm](http://www40.statcan.ca/101/cst01/labor63a.htm), October 19, 2005

<sup>4</sup>Goldfarb Consultants, CFIB, and Scotiabank, *Study on Workplace Satisfaction in Private, Public Sectors*, based on 1,003 responses, October 1999.

<sup>5</sup> Leger Marketing, *Confidence of Canadians in Companies on Job Creation and Social Responsibilities*, June 27, 2005, 1,502 responses for Canada, p.9.

## II. SME Main Challenges

### II. A. Government Regulations and Paper Burden

Government regulations and paper burden are cited as top issues of concern by six out of ten CFIB members. While business owners understand the importance and benefits of regulations, excessive or overly rigid regulations stifle innovation, productivity, and economic growth<sup>6</sup>. Conservative estimates suggest that for every \$1 that government spends to administer regulation, the private sector spends \$20 to comply<sup>7</sup>.

This is particularly harmful for smaller firms that do not have dedicated in-house resources to deal specifically with government regulations and paper burden. For example, a CFIB study<sup>8</sup> conducted in Québec, found that for small businesses (1-19 employees) the cost of government regulations per employee was \$8,284, while it was only \$1,119 for businesses with 50 or more employees.

The other important aspect of the paper burden is the time and stress associated with gathering the information and filling all the paperwork required. A CFIB study shows that for almost three-in-four firms, complying with the regulation adds significant stress to the owner's life. Also 62 per cent owners say that the paperwork takes time away from spending it with family and friends, while half of entrepreneurs spend significant time on paperwork outside regular business hours.

The government has recognized in recent years that the economic environment has changed and that regulations need to change as well to ensure the Canadian economy stays competitive. The Smart Regulations initiative was launched earlier this year to make government regulations more efficient, adaptable, and responsive to the fast changing economic environment. The President of the Treasury Board, Reg Alcock, made the following observation in a speech<sup>9</sup> on the introduction of the government's plan for implementing its Smart Regulations initiative:

*“Sometimes our regulations are simply outdated; leftover structures from earlier days. They may have been passed decades ago to deal with the challenges of their time, but they aren't as effective as they might be in addressing the needs of our time.”*

The comments of the President of the Treasury Board are relevant to Part III of the Canada Labour Code.

#### Conclusions:

1. Changes to Part III of the Canada Labour Code need to support the overall federal government objective of making government regulations more efficient, adaptable, and responsive to the fast changing economic environment.
2. The current Canada Labour Code provisions impose a compliance burden on all businesses but especially on small-and medium-sized businesses.
3. Given the growing importance of the SME sector to Canada's economic future, changes to Part III of the Code should aim at increasing flexibility and reducing the compliance burden for small-and medium-sized businesses.

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<sup>6</sup> CFIB, *Making Red Tape Transparent: A Regulatory Reform model for Western Canada*, June 2004.

<sup>7</sup> Idem 6.

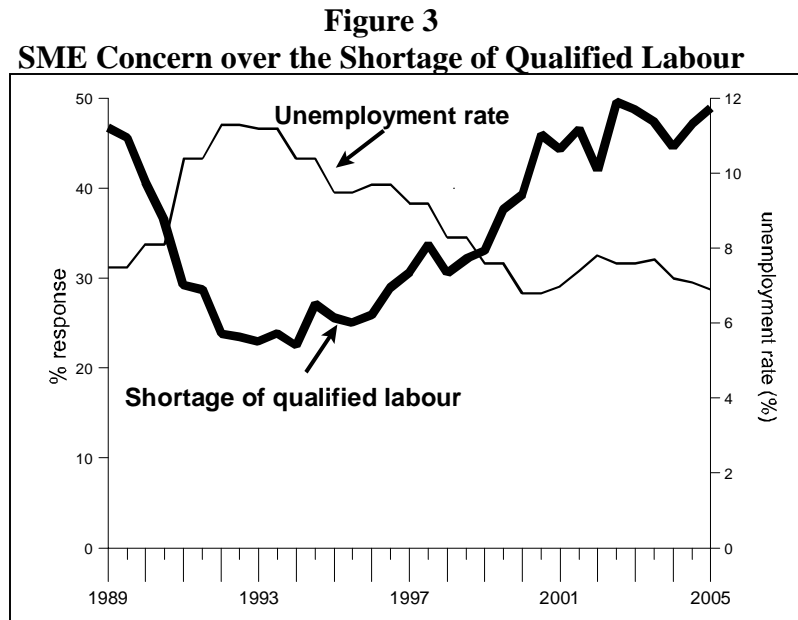
<sup>8</sup> FCEI, *La réglementation dans les PME du Québec*, octobre 2003.

<sup>9</sup> Government of Canada's Implementation Plan for Smart Regulation Speech, March 24, 2005.



## II. B. Shortage of Qualified Labour

Since the early nineties, Canada has experienced a steady drop in the unemployment rate coupled with a corresponding increase in shortages of qualified labour, as shown in Figure 3.



Source: CFIB Shortage of Qualified Labour, Results *Our Members' Opinions* Surveys # 24-56, 1989-2005; and Statistics Canada, August 2005.

The consequences of labour shortages are hiring difficulties. In 2000, 68 per cent of businesses indicated they had difficulties hiring, while in 2003, 82 per cent of firm owners indicated they encountered such problems. The 2003 CFIB survey revealed that there were about 250,000 to 300,000 vacant jobs among Canada's million or so small and medium-sized employers.<sup>10</sup> Throughout the first half of 2005, one in two Canadian SME owners (48.9 per cent) cited the shortage of qualified labour as a top concern (see Figure 3). In the Maritimes, New Brunswick firms were most concerned with labour shortages at 46.1%, while 32.6% firms in Nova Scotia and 32.2% businesses in PEI were worried with the shortage of labour.

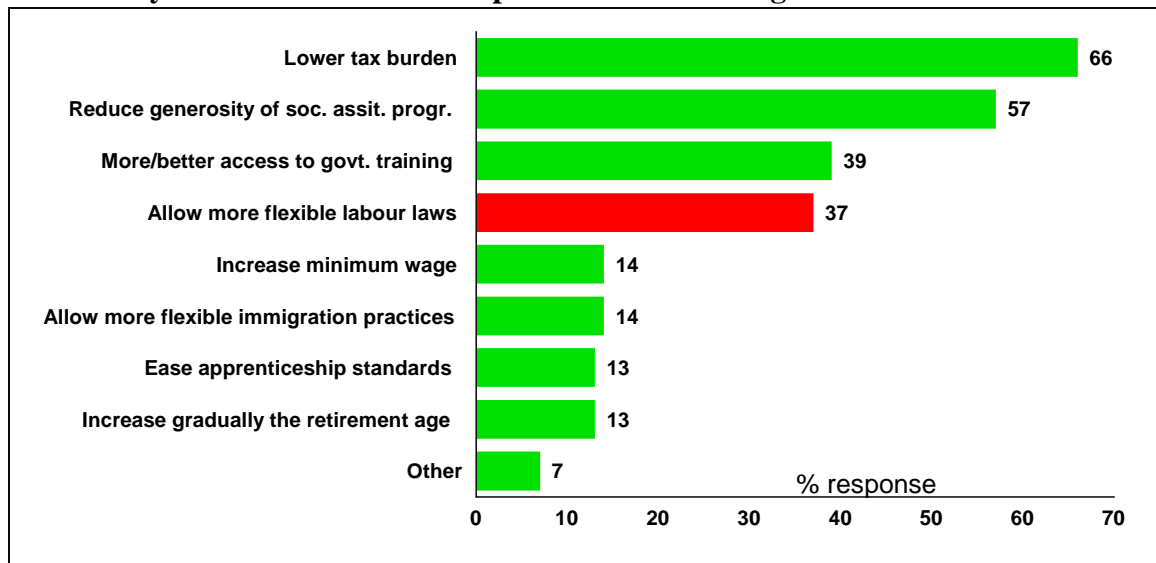
In a CFIB survey on labour availability conducted in 2003, 42 per cent of firms expected to increase the number of employees at their firms within the next three years, while 52 per cent expected to maintain the same level of employment. Of those that planned to hire, more than half (58 per cent) indicated they expected the level of hiring difficulty to worsen, and 34 per cent expected it to stay the same. In the Maritime provinces, PEI firms are by far most likely to say that it would become harder to find employees.

A problem that hits hard this region is the provincial out-migration. New Brunswick is losing individuals at a rate of 2.2 persons in a thousand, the highest rate in the Maritimes. PEI's rate is 1.61 for every thousand people, while Nova Scotia's is 0.5 in a thousand. On the other hand, immigration counts still very little in the region. While for Canada, 0.77 per cent of the population is new immigrants, in NB the same ratio is only 0.12 per cent, in NS 0.18 per cent and in PEI is 0.23 per cent.

<sup>10</sup> CFIB, *Help Wanted: Update*, April 2002.

Expected hiring difficulties, out-migration and the ageing of the population lead to the conclusion that the situation will likely get worse in the years to come. The immediate effect is that businesses do whatever they can to retain their employees. In terms of solutions, most business owners indicate this is a deep-rooted problem that does not involve one solution, but rather, a mix of solutions. They believe government, educational institutions, and businesses all have a role to play in reducing the shortage of qualified labour. In looking at ways government can help, SMEs have identified a number of measures. More flexible labour laws ranked fourth in importance, as shown on Figure 4.

**Figure 4**  
**Ways Governments Can Help Reduce the Shortage of Labour**



Source: CFIB, *Results of CFIB Surveys on Labour Availability*, based on 6,740 responses, April 2003.

### Conclusions:

1. Changes to Part III of the Canada Labour Code should not put additional constraints on employers already dealing with shortages of skilled labour.
2. The shortage of skilled labour provides an additional incentive for employers to provide good working conditions in order to attract and retain skilled employees.

## II. C. Work-life Balance and Flexibility in the Labour Market

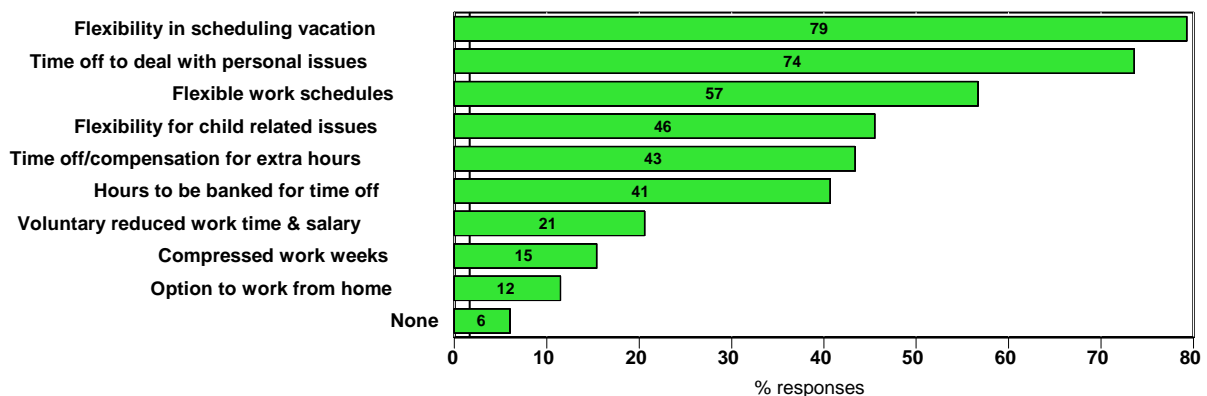
The perspective of the small business owner has often been overlooked in studies of work-life balance. The CFIB study<sup>11</sup> has shown that small business owners understand the importance of work-life balance as they face this conflict everyday in managing their own family and work obligations. Most firm owners work long hours. The CFIB study showed that about two thirds (57.8 per cent) of SME owners work between 40 and 59 hours a week and one-quarter work 60 hours or more per week. With respect to the self-employed, they are found at both ends of the scale as many who are self-employed may work on a contract or freelance basis where the workload changes often with the availability of work.

<sup>11</sup> CFIB, *Fostering Flexibility: Work and Family*, September 2004

Small business is family business. The before mentioned study found that over two-in-three SMEs hired at least one other family member, 77 per cent of PEI firms, 70 per cent in NS and 66 per cent in NB.

In dealing with their employees' needs, the CFIB survey revealed that virtually all SME owners offer some form of flexibility (see Figure 5). A majority of business owners offer flexibility in scheduling vacations (79 per cent) and time off to deal with personal issues (74 per cent), more than half (57 per cent) offer flexible work schedules, and just under half (46 per cent) offer flexibility in dealing with child related issues. Regarding long hours worked, a number of firm owners compensate their employees accordingly, either by giving them time off or additional compensation for extra hours (43 per cent) or by allowing them to bank hours for time off (41 per cent). In addition, one fifth (21 per cent) of employers allow voluntary reduced work time and salary, one seventh (15 per cent) allow compressed workweeks, and one-in-nine give their employees the option to work from home.

**Figure 5**  
**Types of Flexible Workplace Practices Available in Small Businesses**



Source: CFIB Research Results, *Survey on Workplace Practices*, based on 10,699 responses, February 2004.

Employees in small businesses are the happiest as reported in a study on workplace satisfaction by Goldfarb Consultants<sup>12</sup> previously referred to in this brief. The same survey indicated a significantly greater number of small business employees (64 per cent) are very satisfied with the flexibility and willingness of their employer to accommodate for personal or family needs compared to other employees in larger more structured workplaces (52 per cent).

Employers implement flexible workplace practices because they recognize the benefits associated with it. SME owners report having better relationship with their employees (77 per cent), higher employee job satisfaction (64 per cent), higher employee retention (61 per cent), fewer work absences (48 per cent), increased productivity (34 per cent), and being more competitive in attracting employees (22 per cent) as a result of their flexible workplace practices<sup>13</sup>.

Although they are implemented in many different ways, half (51 per cent) of SME owners indicate that the best way for enabling flexible workplace practices is an informal, case-by-case, approach.

<sup>12</sup> Goldfarb Consultants, CFIB and Scotiabank, *Study on Workplace Satisfaction in Private, Public Sectors*, 1,003 resp., Oct. 1999.

<sup>13</sup> Idem 13, Figure 5

Another 39 per cent of employers have found that both a formal and an informal approach have worked best for them, while only 6 per cent of employers find that a written policy on workplace practices was the best approach to take<sup>14</sup>.

For SME owners there is no cut and dry way of developing flexible workplace practices. Most (89 per cent) indicate that they have learned over time which workplace practices work best for their employees and about one third (34.0 per cent) said the workplace practices developed were suggested from their employees<sup>15</sup>.

In recent years, the federal government has put in place more generous maternity and compassionate leave provisions for employees. Unfortunately, these measures have been instituted without adequate consultations with the small business community that is most severely affected by these measures. The Canada Labour Code can be made fairer to SME employers by balancing the obligations of employers and employees. For instance, Alberta's labour standards now require employees to provide notification in writing to their employer at least four weeks prior to the end of their maternity leave and to also provide written notification of their intention to quit their job. These measures are currently absent from Part III of the Canada Labour Code and should be adopted by the federal government.

### **Conclusions:**

1. There is no *one-size-fits-all* approach to balancing personal, professional and business needs. Balancing personal and professional commitments is an individual preference resulting from a wide variety of personal and business needs and can be accommodated in many ways.
2. Attempts to address work-family balance issues through Part III of the Canada Labour Code would likely be too limiting, benefiting some but alienating others. Codifying practices may also prove to be detrimental to efforts that are already made by small business owners to create a good work environment for their employees.
3. Allowing small business employers and their employees to work together to find the most suitable solution is the best choice.

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<sup>14</sup> Idem 13, Figure 7

<sup>15</sup> Idem 13, Figure 6.

### **III. CFIB Recommendations**

**1. Ensure that changes to Part III of the Canada Labour Code facilitate rather than hinder economic growth, productivity and competitiveness in a fast changing world economy.**

The Canadian economy has undergone tremendous change over the past forty years and the pace of change will likely continue unabated for the foreseeable future. Part III of the Canada Labour Code already provides minimum work standards that adequately protect the rights of employees. Expanding the scope of Part III of the Code to cover other forms of employment or to further constrain the employers' flexibility risks threatening the dynamism of Canada's economy and undermining job creation. CFIB recommends against extending the scope of Part III of the Code to include new forms of employment or self-employment.

**2. Adapt Part III of the Canada Labour Code to the reality of today's workplace by making it more flexible.**

The Code's standards were designed in the mid-sixties to ensure a level playing field among employers and between employees and their employer. However, the labour market has evolved greatly since. Employees nowadays are in a stronger position vis-à-vis their employers in discussing working conditions due namely to the growing shortage of skilled labour, the increased level of technical specialization required and the option of going into self-employment. Another change is that almost three-quarter of businesses today have fewer than five employees and the employer works along side with his/her employees. Examples of Code regulations that could be made more flexible include rules on overtime pay and hours of work.

**3. Balance employee rights with employee responsibilities.**

Changes to Part III of the Canada Labour Code should help promote greater employee-employer relations as opposed to perpetuate the adversarial climate that prevailed in the mid-sixties. Part III of the Code puts the emphasis on employee rights and employer responsibilities. The lack of emphasis on employee responsibilities is unfair to small employers and can affect the viability of the business. For instance, employees should also be responsible to notify their employer when a change in their work situation arises, as the implications for a small workplace are very significant. Accordingly, we recommend that:

- a. Employees be required to provide 2 weeks notice to their employer when they intend to leave their job. There are currently no obligations under the Code on the part of the employee to provide any notice to the employer.
- b. Employees be required to provide at least four weeks notice on their intention to come back to work prior to the completion of their maternity leave.

**4. Put more emphasis on raising employee and employer awareness of their rights and responsibilities.**

Much of the resources spent on workplace inspections may lead to better enforcement of the code if these resources were used to communicate more effectively to employers and employees their rights and responsibilities. The focus should be placed on awareness programs rather than attempting to legislate or regulate solutions.

### **Conclusion**

The Canadian economy has changed greatly in the past 40 years since the Canada Labour Code was created. Given the growing importance of the SME sector to Canada's economic future, changes to Part III of the Code must aim at increasing flexibility and reducing the compliance burden for small-and medium-sized businesses.