

We're submitting the following feedback regarding the Review of the Employment Standards Code:

Regarding Salaried Employees:

- We think that all employees should be covered by the hours of work and overtime provisions – i.e., this should pertain to both full-time (35 - 40 hr/wk) and part-time (anything under 35 hr/wk) employees. In all cases where employees work overtime, the employer should have to compensate them for the additional hours worked, and this compensation should be 1.5 times the regular pay rate for both full-time and part-time employees. (Right now, it appears that only full-time, 40 hr/wk, employees are paid 1.5 X their regular rate of pay for overtime hours – i.e., employees who are hired on, for example, a 25 hr/wk still have to work over a 40 hr/wk in order to be paid time and a-half. Anything under that is only eligible for 1 X the regular rate of pay. Something should be done to provide more equitability between full-time and part-time employees.)

Regarding the Definition of a Manager:

- We think that the Code should supply such a definition vis-à-vis non-management employees. (This would help clarify the Code's definition as opposed to some organizations' Personnel Policies. In some cases, there is a lot of ambiguity as to what staff are considered management and non-management and, especially in smaller non-profits, it would appear that no staff can really be considered management as it is the Board who does the hiring/firing and sets the salaries, etc.)

Regarding Promotion of Compliance Measures:

- Yes, we think that the Compliance Measures should be strengthened under the Code, and that all Employers should be urged to post a Summary of the Employment Standards Code in their workplace.

- The Compliance Measures should include administrative penalties reflecting the nature of the violation (whether it be additional fines for non-compliance with regard to paying outstanding overtime and/or having their name published for committing unfair labour management practices).

Regarding Termination Notice:

- We think that the system for providing notice should most definitely be changed to reflect the amount of time an employee has worked for an organization/company, and that it should be revised to one pay period for every year worked for an employer, up to a maximum of about 12 pay periods. (There have been cases where employees have worked most of their work-life in one company at one position. These employees are at a great disadvantage if they are laid off prior to their pension years. In addition, not all employees – especially those who work for the smaller non-profit or small business sector – have a pension provided by their organization/company. This puts them in an even worse position.)

In most cases where an employee quits without providing notice of more than two weeks to the employer, the employer should not be able to collect a financial penalty. (However, if an employee should quit due to workplace mistreatment/abuse, he/she should not have to provide any notice to their employer. The Code should include anti-bullying rules and should also make it very clear to employers that bullying/emotional/psychological abuse and physical abuse will not be tolerated in the workplace, and that they could face stiff penalties if they commit such abuse.)

Regarding Statutory Holiday Pay for Part-Time Employees:

- Yes, we think that Manitoba should change the eligibility requirements for part-time workers to qualify for holiday pay, and that the formulas of other jurisdictions should be looked at in this regard.

Regarding Wage Deductions:

- Yes, we think that the Code should be much more specific about which deductions are permissible. (No workers should end up with salaries that are essentially below the minimum wage. If employers continue to conduct such practices, they should have to pay a heavy penalty as they are essentially exploiting and mistreating their workers.)

Regarding Employment of Children:

- In most cases, children under the age of 12 should not be employed – most especially in cases where their health and safety could be compromised, and there should be clearer rules regarding the development and education of children.

Regarding Unpaid Leaves:

- The Code should provide unpaid leaves for such things as maternity, family illness/responsibility and bereavement, as well as educational leaves so that employees can further develop their careers and/or employment skills.

We are also submitting some additional thoughts regarding the Code’s revision:

- 1) **Bullying/emotional/psychological abuse** is becoming ever more present in the workplace and, to combat this, strict anti-bullying/anti-abuse laws should be set up and set forward within the Code. (As you are probably already aware, Quebec has established some leadership in this area, and it would be good to consult their legislation regarding this.)
- 2) **Employees of Non-profit organizations should receive special consideration under the Code’s review.** Very few non-profit employees (especially employees of the smaller non-profits) are supported by unions and, in most cases, employees do not receive any benefits other than the basics – i.e., CPP and EI. In addition, the financial compensation of employees is generally much less than that of employees in other sectors – especially the governmental sector. (The other sector in which employees do not generally receive much in the way of benefits is the smaller business sector.) If at all possible, more equality has to be established between the sectors. (This is an issue that really needs to be addressed!) In addition to the generally low salaries and poor benefit conditions, more and more non-profit employees are also having to increasingly endure day-to-day bullying/emotional abuse from their employers. [Because most non-profit employees do not have a union to support them, they can easily be taken advantage of by their employers, and emotional/psychological abuse is becoming too common an experience for non-profit employees. More and more people who’ve worked, or are working in, the non-profit sector cite similar experiences with their employers. In addition, in many cases non-profit sector employees work a vast amount of overtime and are not duly compensated.) No employee should be treated poorly; however, it’s a double injury when employees are not compensated adequately in pay and/or benefits.]
- 3) **It should be mandatory for the Boards of all Non-profit organizations to set up a probationary period for all new Board members**, and all new Board members should have to undergo Board training (i.e., if they’ve never received such training). To support this, a specific Code of Conduct should be established for all non-profit Boards. (Having an outside body do this would ensure greater objectivity in establishing such a Code.)

In addition, Employment Standards should urge all non-profit Boards to include a bylaw regarding the mental and emotional status of Board members – i.e., that if any Board member should be found to be either mentally or emotionally unsound in their dealings with staff and/or one another, he/she will be removed from the Board and may be reinstated only after he/she has undergone proper treatment. (This should also apply to senior employers/management of non-profit organizations.)

4) It would be most helpful if the Labour Board/Employment Standards Branch would set up a mediation procedure for all non-unionized employees facing mistreatment (exploitation/abuse) within the workplace, or if the Branch would work on this in conjunction with Mediation Services and/or other bodies involved in the area of mediation.

In closing, we'd like to thank you for requesting feedback from the public regarding your review. The workplace has changed quite dramatically over the years, and it is essential that our province keep up with the times.

Sincerely,

Laureen Narfason & George Hamilton