



# BRITISH COLUMBIA LAW INSTITUTE

1822 East Mall, University of British Columbia  
Vancouver, British Columbia V6T 1Z1  
Voice: (604) 822 0142 Fax: (604) 822 0144 E-mail: [bcli@bcli.org](mailto:bcli@bcli.org)  
Website: [www.bcli.org](http://www.bcli.org)

## Backgrounder Report on the Employment Standards Act

The *Employment Standards Act* (ESA) sets the minimum standards for terms of employment and working conditions for most workplaces in British Columbia. It regulates most of the key aspects of an employment relationship, except occupational health and safety and collective bargaining, which are governed by other enactments. Collective agreements may supersede parts of the ESA in unionized workplaces, but the importance of this Act has increased with a decline in the level of unionization in recent decades.

The *Report on the Employment Standards Act* is the product of a law reform project which BCLI has carried on since 2014. The goal of the Employment Standards Act Reform Project was to carry out a thorough analysis of the ESA and develop recommendations for its reform to allow the Act to better address the contemporary needs and circumstances of British Columbia's workplaces. The Employment Standards Act Reform Project was the first comprehensive review of employment standards legislation in British Columbia by a neutral, independent body since the Thompson Commission's report was issued in 1994.

The BCLI report was preceded by a consultation paper published in June 2018 to gather public comment on tentative recommendations for changes to the ESA. The consultation paper attracted an extensive response, which was carefully considered in the process of finalizing the recommendations embodied in the report.

The report contains 71 recommendations for reform of the ESA, some of them reflecting both majority and minority views held within the Project Committee. The first chapter is a general introduction describing the Employment Standards Act Reform Project and the purpose of the document. The second chapter is an overview of the ESA and its administration. The remaining chapters each relate to different aspects of employment for which the ESA sets minimum standards, or to the procedure set out in the ESA for their enforcement:

- scope of the ESA
- hiring of employees
- hours of work, overtime and flextime
- wages and wage payment

- annual vacation and special leaves
- termination of employment
- vulnerable classes of employees
- complaints and enforcement
- enforcement mechanisms

The report also contains an extensive Executive Summary and the text of the ESA as it stands as of the date of its publication.

### **Sources of Funding for the Project**

The Employment Standards Act Reform Project was made possible by funding received from several sources: the Law Foundation of British Columbia, the Ministry of Labour, the Coalition of BC Businesses, the British Columbia Government and Service Employees' Union, the Hospital Employees' Union, and the Vancouver and District Labour Council. The British Columbia Federation of Labour also provided invaluable assistance in BCLI's search for project funding.

### **Project Committee**

The Employment Standards Act Reform Project was carried out with the aid of a 12-member Project Committee. Its membership reflected a great depth of knowledge and experience with the operation of the ESA and its administration, as well as a careful balance between employer and employee interests.

The present and past members of the Project Committee are:

Tom Beasley—Chair  
*Bernard LLP*

Hon. Marion J. Allan  
*Clark Wilson LLP*  
*BCLI Board Member*  
(2014-2015)

Prof. Robert G. Howell  
*Faculty of Law, University of Victoria*  
*BCLI Board Member*  
(2015 – present)

Doug Alley  
*The Alley Group*

Charles Gordon  
*Koskie Glavin Gordon*

Susan P. Arnold  
*Sheen Arnold McNeil LLP*

Dan Cahill  
*BC Government and Service Employees’  
Union (retired)*

Dave Ages  
*Former Employment Standards  
Regional Branch Manager*

Donald J. Jordan, Q.C.  
*Harris & Company, LLP*

Bruce A. Laughton, Q.C.  
*Laughton & Co.*

Ai Li Lim  
*West Coast Domestic Workers Associa-  
tion (2014)*

Peter F. Parsons  
*Farris Vaughan Wills and Murphy LLP  
(2014-2015)*

Devyn Cousineau  
*BC Human Rights Tribunal*

Michael A. Tanner  
*(Ministry Observer and Liaison)  
Ministry of Labour*

Andrea Zwack  
*Gall Legge Grant & Zwack LLP*

#### **ABOUT BCLI**

BCLI was incorporated in 1997 under the British Columbia *Society Act*. It is a non-partisan, not-for-profit organization dedicated to improvement of the law.

#### **CONTACT**

Gregory G. Blue, Q.C.  
Senior Staff Lawyer