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EMPLOYMENT STANDARDS ACT REFORM PROJECT

Backgrounder

Consultation Paper 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 British Columbia Law Institute (BCLI) has had a law reform project on the ESA underway since 2014. The goal of the Employment Standards Act Reform Project is to carry out a thorough analysis of the *Employment Standards Act* and develop recommendations for its reform to allow the Act to better address the contemporary needs and circumstances of British Columbia's workplaces. It is the first independent, comprehensive review of the Act in more than 20 years.

Consultation is an essential part of law reform. BCLI has issued the ***Consultation Paper on the Employment Standards Act*** to vet tentative recommendations for changes to the ESA developed by the Project Committee and provide a focal point for gathering public comment on reform of BC's employment standards legislation. The changes to the ESA proposed in the Consultation Paper are referred to as "tentative recommendations" because they remain subject to revision, change, or abandonment after review and consideration of the responses received from stakeholders and the general public.

Readers may provide their views on the tentative recommendations and reform of the ESA generally by several means: completing an online survey with space for free comments, e-mailing comments to BCLI, or by regular mail.

Responses to the Consultation Paper are requested by **31 August 2018**. All responses to the Consultation Paper received by that date will be considered in formulating final recommendations on reform of the ESA. The final recommendations will be published in a subsequent report.

Contents of the Consultation Paper

The Consultation Paper contains 78 tentative recommendations, 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 deal with changes considered and proposed in relation to the ESA provisions dealing with all of the following areas:

- 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 Consultation Paper contains an extensive Executive Summary.

Sources of Funding for the Project

The Employment Standards Act Reform Project has been made possible by project 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 funding for this project.

Project Committee

The Employment Standards Act Reform Project is being carried out with the aid of a 12-member Project Committee. Its membership reflects a great depth of knowledge and experience with the operation of the ESA and its administration, and 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*

David 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 Association
(2014)

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

Devyn Cousineau
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*. Its mission is to be a leader in law reform by carrying out the best in scholarly law-reform research and writing and the best in outreach relating to law reform.

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