

March 3 - 4, 2020 • Workshop: March 2, 2020
• Toronto, Ontario

The Canada Labour Code

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Professional Development

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- Beware enhanced compliance and enforcement provisions and higher administrative penalties
- Prepare for mandatory orders for internal audits of Part III practices and mandatory reporting to the Minister
- Adjust budgets for important new leave and benefit provisions
- Adjust schedules for changes to comply with new hours of work, notice of shift and scheduling changes
- Prepare for the impact of equal pay for part-time, casual or seasonal workers
- Understand changes to individual and group terminations
- Know the increased scope and power of the Canadian Industrial Relations Board
- Implement best practices for preventing and responding to workplace sexual harassment and violence
- Comply with your obligations under the Pay Equity Act and the Accessible Canada Act

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The Canada Labour Code

March 3 - 4, 2020 • Workshop: March 2, 2020 • Toronto, Ontario

DAY ONE PROGRAM AGENDA: TUESDAY, MARCH 3, 2020

08:00 - 09:00 Registration and Continental Breakfast

09:00 - 09:15



Welcome and Opening Remarks from the Chair

Norm Keith, Partner, Fasken Martineau DuMoulin LLP

09:15 - 10:15



Leave and Benefit Provisions: Budgeting the High Cost of Change

Jackie VanDerMeulen, Partner, Fasken Martineau DuMoulin LLP

Cristina Toteda, Counsel, Labour and Employment Law, Air Canada

Daniel Di Vecchia, Labour Affairs Officer, Labour Program, Employment and Social Development Canada

Adriana Savo, Officer, Labour Affairs, Employment and Social Development Canada

Do your employee leave policies reflect the changes that have/will occur? This session will spell out the important as well as the nuanced and complex changes to leave and benefit provisions, how they will affect you and what you need to do to prepare. Topics covered will include:

- Personal leave
- Medical leave
- New family violence leave
- Extended bereavement leave
- Traditional Indigenous practices leave
- Parental sharing benefits
- Removal of service, eligibility requirements
- What if the collective agreement provides a greater right or benefit?
- What will be considered a greater right or benefit?
- Anticipated problems and proactive solutions
- Perspectives on these changes directly from the Labour Program
- Labour Program handouts and interpretive guidelines

10:15 - 10:30 Break

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10:30 - 11:15



Changes to: Hours of Work, Notice of Shift & Scheduling Changes, Breaks & Rest Periods: Impact on Your Ability to Compete in a 24/7 World

Jennifer Hodgins, Senior Associate, Employment & Labour, Norton Rose Fulbright Canada LLP

As of September 1, 2019 significant changes to the Canada Labour Code came into effect that will have a particular impact on how employers may manage an employee's work day. This session will provide the information you need to effectively comply and/or anticipate challenges that may arise as well. It will also address the impact of collective agreement rights and possible regulatory exemptions for certain industries. It will cover changes relating to:

- Unpaid breaks
- Medical breaks
- Nursing breaks
- Notice of Work Schedule
- Notice of Shift Change
- Right to Refuse Overtime
- Overtime Banking
- Flexible Work Arrangements
- Vacation time and pay

11:15 - 12:15



Equal Work for Equal Pay for Part-time, Casual or Seasonal Workers: Tricky Definitions of "Same or Similar" and Impact on the Bottom Line

Mireille Giroux, Lawyer, Koskie Minsky LLP



Jackie VanDerMeulen, Partner, Fasken Martineau DuMoulin LLP

Claire Vachon, Partner, Fasken Martineau DuMoulin LLP



- What is the same or similar work?
- Prohibition against paying employees differently based on employment status if the employees perform the same or similar work
- Exceptions where differential pay will be allowed
- Wage rate compliance review
- Application to Temporary Help Agencies

12:15 - 13:15 Luncheon

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13:15 - 14:15



Changes to Individual and Group Termination Entitlements

Susan Ursel, Senior Partner, Ursel Phillips Fellows, Hopkinson LLP

Termination policies must reflect important changes to the CLC including:

- Rights on termination of employment
- Modified notice period entitlements for termination without cause
- The graduated notice system based on number of consecutive months of continuous employment
- What is continuous employment?
- Changes in employer obligations for group terminations
- Severance pay
- Unjust dismissal - new mechanisms for summary dismissal of complaints before the CIRB
- Group termination

14:15 - 14:30 Break

14:30 - 15:30



Canada Industrial Relations Board Update and Cases: Go In With Your Eyes Open - What Changes Should We Expect?

Ginette Brazeau, Chair, Canada Industrial Relations Board

- Increased powers for the CIRB
- What is CIRB responsible for dealing with?
- Unjust dismissals
- Wage recovery appeals
- Reprisal allegations
- Occupational Health and Safety Appeals

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15:30 - 16:00



Q & A and the How To's of Compliance

Daniel Di Vecchia, Labour Affairs Officer, Labour Program, Employment and Social Development Canada

Norm Keith, Partner, Fasken Martineau DuMoulin LLP

Adriana Savo, Officer, Labour Affairs, Employment and Social Development Canada

- Compliance through education and counselling, investigation of complaints, inspections of workplaces, wage recovery and adjudication of unpaid wages, unjust dismissal
- Role of Labour Standards Inspectors investigating complaints, proactive inspections, providing advice and information to assist federally regulated employers and employees
- Tools to respond to non-compliance with the Code: issuing a notice of voluntary compliance, seeking an assurance of voluntary compliance from the employer, issuing a determination letter and payment order to recover unpaid wages, providing mediation to try to settle unjust dismissal complaints
- Extended Q & A. This session is an opportunity to ask the questions that have arisen for you over the course of the day.

16:00

End of Day One

TORONTO, ONTARIO

EVENT LOCATION: TORONTO, ONTARIO

The Canada Labour Code will be held at a convenient downtown location in Toronto, Ontario. Detailed venue information will be forthcoming as it becomes available.

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DAY TWO PROGRAM AGENDA: WEDNESDAY, MARCH 4, 2020

08:00 - 09:00 Registration and Continental Breakfast

09:00 - 09:15



Welcome and Opening Remarks from the Chair

Norm Keith, Partner, Fasken Martineau DuMoulin LLP

09:15 - 10:15



Best Practices for Preventing and Responding to Workplace Sexual Harassment and Violence: How To's For Cost-Effective Compliance

Ana Maria Iliescu-Stieghelbauer, Policy Officer, Labour Program, Employment and Social Development Canada

Hilary Flett, Director, Harassment and Violence Prevention Division, Labour Program, Employment and Social Development Canada

Norm Keith, Partner, Fasken Martineau DuMoulin LLP

- Employer obligation to keep workplace free of sexual harassment
- Definitions of harassment and violence
- What does “the workplace” include – don’t forget social media!
- Who is covered?
- Need to raise awareness
- Need for training
- Foster an atmosphere that encourages reporting from victims and witnesses
- What policies on workplace sexual harassment should include
- Best practices in responding to allegations
- Consider measures to accommodate the parties pending completion of investigation
- Indicia of a proper Investigation
- informal resolution or neutral third party investigation with recommendations to be implemented
- Reporting requirements
- Privacy and protection from retaliation
- Naming and shaming

10:15 - 10:30 Break

10:30 - 11:15



Impact of Changes on Collective Bargaining

Moderator Norm Keith, Partner, Fasken Martineau DuMoulin LLP

Veronica Kenny, Labour and Employment Legal Manager, UPS Canada



- Is there a greater right or benefit in the collective agreement?
- What is considered a greater right or benefit?
- Impact on respective party’s leverage within collective bargaining

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DAY TWO PROGRAM AGENDA: WEDNESDAY, MARCH 4, 2020

11:15 - 12:15



Proactive Pay Equity Legislation in the Federal Sector is Here

Karen Jensen, Federal Pay Equity Commissioner, Canadian Human Rights Commission (CHRC)

- Who is covered?
- Requirement for employers to proactively develop a pay equity plan
- Filing with the Commission
- Examination of compensation practices to ensure women and men receive equal pay for work of equal value
- Employers required to take action to address systemic disparities
- Commissioner's power to initiate audits, conduct investigations, issue orders and administrative monetary penalties
- Impact of the phrase "while taking into account the diverse needs of employers"
- Impact of the exclusion of certain forms of compensation

12:15 - 13:15 Luncheon

13:15 - 14:15



Accessible Canada Act: Removing Barriers to Full Participation in the Workplace

Maureen Haan, Board Member, Canadian Accessibility Standards Development Organization (CASDO)



Jeff Willbond, Director of Accessibility, Canada Post

- Three entities created through the Act
- The mandate of the Canadian Accessibility Standards Development Organization
- Priority areas for standard development
- Canada Post Accessibility Strategy - becoming an inclusive employer of choice

14:15 - 14:30 Break

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DAY TWO PROGRAM AGENDA: WEDNESDAY, MARCH 4, 2020

14:30 - 15:15



Calculating Entitlements: How to Avoid Costly Mistakes

Miguel Mangalindan, Senior Associate, Monkhouse Law

- Hours of work
- Standard work day and work week
- Day of rest requirement
- Overtime
 - new time off provisions by written agreement,
 - do you have a policy for addressing refusal of overtime due to family responsibility?
- Exemptions from standard hours of work
 - averaging and the averaging period in unionized versus non-unionized workplaces
 - where are permits required?
 - modified work schedules, compressed work week, flexible hours
 - Written agreements on averaging, modified work
 - Special hours of work regulations in trucking, railway and broadcasting
- Questions to ask to verify compliance with daily and weekly hours of work requirements

15:15 - 16:00



Anticipating Part III Internal Audits: Creating A Comprehensive Checklist of Compliance and Dispute Issues

Samia Hussein, Lawyer, Sherrard Kuzz LLP

The Ministry of Labour can order an employer to perform an internal audit to determine compliance with CLC employment standards obligations (hours of work, wages, vacations and holidays, etc). An employer that is required to conduct an internal audit must provide a report of the results to the Ministry, identifying incidents of potential non-compliance. The Minister can then enforce compliance through one of the available enforcement tools. This session will explore:

- What an audit might consist of based on a checklist of key compliance issues
- Why you should do a self audit before being ordered to
- What if the contract or collective agreement confers a greater right or benefit?

16:00 - 16:30



Wrap-Up, Take-Away and Next Steps: Channeling What You Have Learned into Productive and Timely Action!

Norm Keith, Partner, Fasken Martineau DuMoulin LLP

This session is designed to help you organize your thoughts on what you have absorbed over the course of the last two days. What issues are most important to you in your own workplace? Where should you be taking immediate action? What areas do you need additional information on? And most importantly, what will your next steps be upon returning to your office?

16:30

End of Day Two

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WORKSHOP PROGRAM AGENDA: MONDAY, MARCH 2, 2020

14:00 - 16:30



Workshop

Canada Labour Code versus Provincial Legislation What Law Applies?

Special Workshop For Indigenous and Other Organizations

Andrew Monkhouse, Managing Partner, Monkhouse Law

The question of whether federal or provincial law applies to an organization is important, complex and highly fact specific. This session will help you knowledgeably and systematically assess your situation to make this determination.

- How getting the jurisdictional question “wrong” can lead to costly regulatory violations.
- How federal and provincial courts decided which law should apply in the past: Broad versus restrictive approaches
- How your jurisdiction can be considered, Courts, Tribunals, workplace safety and more.
- How determining whether First Nations employers are provincially or federally regulated determines statutory obligations under labour standards, occupational health and safety, human rights, labour relations and other legislation
- Supreme Court of Canada’s decision in NIL/TU,O Child and Family Services Society and the B.C. Government and Service Employees’ Union, et al
- Presumption that labour relations falls under provincial jurisdiction
- 2-step test for displacing the presumption
- Important recent determinations, including inter-provincial trade and telecommunications
- Nelson v. Lower Stl/Atl’mxTribal Council: Fiduciary duties to give First Nations’ peoples the rights pursuant to the laws of Canada, in this case the right to reinstatement
- Functions that fall under federal jurisdiction
- When an employer is located on reserve land and its function is to manufacture products or operate retail businesses, it would be governed by provincial laws
- Examples of where First Nations operations were found to be federally regulated
- Examples where First Nations operations are provincially regulated

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LOCATION:

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YOUR REGISTRATION INCLUDES:

Registration fees include all course materials, continental breakfast, lunch, and refreshments. **Parking and accommodation are not included.**

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CANCELLATION POLICY:

Substitutions may be made at any time. If you are unable to attend, please make cancellations in writing and email to register@infonex.com or fax to 1.800.558.6520 **no later than March 3, 2020**. A credit voucher will be issued to you for the full amount, redeemable against any other INFONEX course and which is valid for twelve months (one year) from the date of issue.

Registrants who cancel after **March 3, 2020**, will not be eligible to receive any credits and are liable for the entire registration fee.

Confirmed registrants who do not cancel by **March 3, 2020** and fail to attend will be liable for the entire registration fee.

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