

Ministry of Labour
Estimates Debate Binder - 2017/18 Table of Contents

	Tab
ESTIMATES HIGHLIGHTS	
Budget Qs and As	1
Budget Summary	2
Commitments	
Key Accountabilities	3
Mandate Letter - Honourable Harry Bains	4
EMPLOYMENT STANDARDS	
Agriculture Sector Compliance	7
Child Employment	8
<i>Employment Standards Act</i> - Exclusions and Alternate Standards	9
Employment Standards Branch Budget, Resources and Service Levels	10
Employment Standards Branch Fiscal Year Statistics	11
International Labour Agreements	12
Minimum Wage and Fair Wages Commission	13
Self Help Kit	14
Temporary Foreign Workers and a Temporary Foreign Worker Registry	15
Updating Employment Standards	16
LABOUR RELATIONS	
B.C. Labour Relations Board Update	20
Collective Bargaining	21
Labour Relations Code Review	22
WORKERS' COMPENSATION	
Asbestos	26
Bullying, Harassment and Mental Disorders	27

Ministry of Labour
Estimates Debate Binder - 2017/18 Table of Contents

Forest Safety Issues Including Resource Roads	28
Lakeland and Babine Sawmill Explosions	29
Occupational Health and Safety Regulation Harmonization Under the New West Partnership and the Council of the Federation	30
Post-Traumatic Stress Disorders and First Responders	31
Protecting the Lives and Safety of Workers	32
Workers' Compensation	33

CROSS-PROGRAM	
Improving Labour Laws and Measures	37
Oversight of B.C.'s Labour Tribunals	38

CORPORATE NOTES	
Direct Award Contracts	41
Operational Contracts	42
Vendor Complaint Review Process (VCRP)	43
Deputy Minister's Office - Budget	44
Executive Compensation (Agencies, Boards and Commissions)	45
Ministry Fees	46
Minister's Office – Budget	47
Minister's Office – Travel	48
Transfers	49
Ministry Service Plan Qs & As Ministry 2017/18 - 2019/20 Service Plan	50

Budget 2017/18 Questions and Answers

Contents

1. What does the Ministry of Labour's budget provide for?	2
2. Why has Labour's budget increased by \$348,000 in 2017/18?	4
3. How was the budget established for the Fair Wages Commission?	5

1. What does the Ministry of Labour's budget provide for?

The Ministry of Labour's 2017/18 budget of \$11.524M provides for the programs, operations and other activities under the following core businesses: Labour Programs, and Executive and Support Services.

Labour Programs (2017/18 Budget of \$10.001M)

Labour Programs provides for services promoting harmonious labour and employment relations by establishing a fair and balanced labour and employment law framework that promotes a growing sustainable economy. The ministry works to promote worker health and safety, labour relations stability and to ensure British Columbia's employment standards reflects the needs of British Columbians.

Labour Programs includes the following areas: Labour Policy and Legislation, WorkSafeBC Funded Services and the Employment Standards Branch.

Labour Policy and Legislation (2017/18 Budget of \$2.089M)

Labour Policy and Legislation provides for the Fair Wages Commission, Labour Policy and Legislation Branch, and the Assistant Deputy Ministers' Office.

- **The Fair Wages Commission** will be appointed to make recommendations concerning minimum wage increases and the discrepancy between minimum wages and living wages.
- **The Labour Policy and Legislation Branch** provides labour and employment-related research and expertise and is responsible for developing legislation and regulations. The branch also provides a range of corporate support services such as representing the Ministry at major events and participating in cross government initiatives.
- **The Assistant Deputy Minister's Office** provides leadership, strategic guidance and support to all Labour staff and program areas, and direct corporate support to the ADM and other ministry executive offices.

Employment Standards Branch (2017/18 Budget of \$7.911M)

- Administration of the Employment Standards Act and Regulation, which set minimum standards for wages and working conditions in most workplaces.

WorkSafeBC Funded Services (2017/18 Budget of \$1,000):

- The **Workers' Advisers Office** provides free advice and assistance to workers and their dependants on disagreements they may have with WorkSafeBC decisions.
- The **Employers' Advisers Office** provides advice, assistance, representation and education related to the workers' compensation system for employers operating in British Columbia.

- The **Workers' Compensation Appeals Tribunal** hears appeals of decisions made by the Review division of WorkSafeBC, and is the final level of appeal in the workers' compensation system of British Columbia.
- The Workers' Advisers Office, Employers' Advisers Office, and Workers' Compensation Appeals Tribunal operate independently from WorkSafeBC.
- Costs are fully recovered from the accident fund established pursuant to the *Workers Compensation Act*.

Executive and Support Services (2017/18 Budget of \$1.523M)

Executive and Support Services provides for the Minister of Labour's Office, the Deputy Minister's Office and the Management Services Division.

Minister's Office (2017/18 Budget of \$591,000)

- This provides for the office of the Minister of Labour, including salaries, benefits, allowances, and operating expenses for the minister and the minister's staff.

Corporate Services (2017/18 Budget of \$932,000)

- The **Deputy Minister's Office** provides strategic advice and direction for the Ministry of Labour.
- The **Management Services Division** provides administrative services for the operating programs of the Ministry of Labour, including financial administration and budget coordination, strategic and business planning and reporting, human resources, office management, and accommodation and information systems, some of which are provided by the Ministry of Municipal Affairs and Housing and the Ministry of Jobs, Trade and Technology

2. Why has the Ministry of Labour's budget increased by \$348,000 in 2017/18?

The Ministry of Labour's 2017/2018 budget is \$11.524 million, an increase of \$348,000 from the 2016/2017 restated estimates budget of \$11.176 million

The net budget increase of \$348,000 is due to:

An increase of **\$240,000** was provided to establish the Fair Wages Commission.

The Ministry received an increase of \$490,000 over two years in order to establish the Fair Wages Commission.

- \$240,000 in 2017/18, and \$250,000 in 2018/19

The establishment of the Fair Wages Commission is a commitment in the 2017 Confidence and Supply Agreement between the BC Green Party and the BC New Democratic Party.

The Minister of Labour's mandate letter includes the expectation that the ministry will make substantive progress to establish a Fair Wage Commission to support the work of implementing the \$15-per-hour minimum wage and to bring forward recommendations to close the gap between the minimum wage and liveable wages.

An increase of **\$108,000** in salaries and benefits for BCGEU staff to reflect negotiated increases and employee benefit adjustment.

3. How was the budget established for the Fair Wages Commission?

The Ministry of Labour received a budget lift of \$240,000 in 2017/18 and \$250,000 in 2018/19 in order to establish the Fair Wages Commission.

Expense s.17	2017/18	2018/19	Total

The costs estimated for the commission are driven primarily by:

- The number of Commission appointees;
- The remuneration levels required to retain the appointees, and;
- Costs of Commission supports such as research and advisory services.

s.17

The assumptions for remuneration levels required to retain the appointees are based on the Ministry of Finance's experience with its 2016 Commission on Tax Competitiveness. The remuneration levels for appointees to the Fair Wages Commission will be subject to review and approval by the Appointee Remuneration Committee.

Costs for Commission supports, such as professional advisory fees and publishing costs are based on experience with past government commissions, such as the Commission on Tax Competitiveness.

The costs presented for the Commission are preliminary estimates. These estimates have been provided in advance of the Ministry receiving Cabinet direction on Commission terms of reference and Commission appointees.

Ministry of Labour

2017/18 Estimates Summary

MINISTRY ESTIMATES BUDGET OVERVIEW

2017/18 Estimate Budget: \$11.524M (up 3.1% or \$348K from Restated Estimates 2016/17 of \$11.176m)

* Note: \$348K Increase due to the following:

- \$240K increase for the establishment of the Fair Wages Commission.
- \$106K net salary and benefit increase for BCGEU staff as per the current collective agreement.
- \$3K increase for the benefits rate change from 24.3% in 2016/17 to 24.34% in 2017/18 and a \$1K decrease for estimates presentation purposes.

CORE BUSINESS SUMMARY

Labour Programs \$10.001M

\$10.001M (\$348K increase from Estimates 2016/17 - attributed to a budget lift of \$240K to establish the Fair Wages Commission, \$105K for BCGEU wage increases and increased employee benefit charges in 2017/18 of \$3K).

Executive and Support Services \$1.523M

There is no overall variance compared to the 2016/17 Restated Estimates.

\$1K increase for BCGEU wage increases is offset by a \$1K decrease for estimates presentation purposes.

In the 2016/17 restated year the \$591K budget for the Minister's Office is included under Corporate Services as the office was created in 2017/18.

- Minister's Office \$591K (\$591K increase from Estimates 2016/17)
- Corporate Services \$932K (\$591K decrease from Estimates 2016/17)

Labour also received an incremental budget increase of \$1.047M towards the creation of the Minister's Office and Deputy Minister's Office. The increase is not reflected in estimates. The budget for the prior year of 2016/17 is restated to include amounts for the two offices. Estimates budget is presented in this manner because the offices are not the result of an overall increase in government spending; the

resources for the offices were transferred in from disestablished ministries.

CAPITAL BUDGET

- \$3K Office Furniture and Equipment (no change from Estimates 2016/17).
 - Budgets are placeholders that give the Ministry legal authority to acquire furniture and equipment if required.

WORKPLAN – 2017/18 Mandate Letter – Honourable Harry Bains – Minister of Labour

s.12,s.13,s.14

Page 011 to/à Page 012

Withheld pursuant to/removed as

s.12;s.14;s.13



July 18, 2017

Honourable Harry Bains
Minister of Labour
Parliament Buildings
Victoria, British Columbia V8V 1X4

Dear Minister Bains:

Congratulations on your new appointment as Minister of Labour.

It has never been more important for new leadership that works for ordinary people, not just those at the top.

It is your job to deliver that leadership in your ministry.

Our government made three key commitments to British Columbians.

Our first commitment is to make life more affordable. Too many families were left behind for too long by the previous government. They are counting on you to do your part to make their lives easier.

Our second commitment is to deliver the services that people count on. Together, we can ensure that children get access to the quality public education they need to succeed, that families can get timely medical attention, and that our senior citizens are able to live their final years with dignity.

These and other government services touch the lives of British Columbians every day. It is your job as minister to work within your budget to deliver quality services that are available and effective.

Our third key commitment is to build a strong, sustainable, innovative economy that works for everyone, not just the wealthy and the well-connected. Together, we are going to tackle poverty and inequality, create good-paying jobs in every corner of the province, and ensure people from every background have the opportunity to reach their full potential.

These three commitments along with your specific ministerial objectives should guide your work and shape your priorities from day to day. I expect you to work with the skilled professionals in the public service to deliver on this mandate.

As you are aware, we have set up a *Confidence and Supply Agreement* with the B.C. Green caucus. This

.../2

agreement is critical to the success of our government. Accordingly, the principles of “good faith and no surprises” set out in that document should also guide your work going forward.

As minister, you are responsible for ensuring members of the B.C. Green caucus are appropriately consulted on major policy issues, budgets, legislation and other matters as outlined in our agreement. This consultation should be coordinated through the Confidence and Supply Agreement Secretariat in the Premier’s Office. The secretariat is charged with ensuring that members of the B.C. Green caucus are provided access to key documents and officials as set out in the agreement. This consultation and information sharing will occur in accordance with protocols established jointly by government and the B.C. Green caucus, and in accordance with relevant legislation.

British Columbians expect our government to work together to advance the public good. That means seeking out, fostering, and advancing good ideas regardless of which side of the house they come from.

Our government put forward a progressive vision for a Better B.C. that has won broad support with all members of the legislature. There is consensus on the need to address many pressing issues such as reducing health-care wait times, addressing overcrowded and under-supported classrooms, taking action on climate change, tackling the opioid crisis, and delivering safe, quality, affordable child care for all. As one of my ministers, I expect you to build on and expand that consensus to help us better deliver new leadership for British Columbians.

As part of our commitment to true, lasting reconciliation with First Nations in British Columbia our government will be fully adopting and implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and the Calls to Action of the Truth and Reconciliation Commission. As minister, you are responsible for moving forward on the calls to action and reviewing policies, programs, and legislation to determine how to bring the principles of the declaration into action in British Columbia.

In your role as Minister of Labour I expect that you will make substantive progress on the following priorities:

- Establish a Fair Wage Commission to support the work of implementing the \$15-per-hour minimum wage by 2021 and to bring forward recommendations to close the gap between the minimum wage and livable wages. The commission will make its first report within 90 days of its first meeting.
- Create a Temporary Foreign Worker registry to help protect vulnerable workers from exploitation and to track the use of temporary workers in our economy.
- Update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced.
- Review and develop options with WorkSafe B.C. to increase compliance with employment laws and standards put in place to protect the lives and safety of workers.

.../3

- Ensure British Columbians have the same rights and protections enjoyed by other Canadians by reviewing the Labour Code to ensure workplaces support a growing, sustainable economy with fair laws for workers and businesses

All members of Cabinet are expected to review, understand and act according to the *Members Conflict of Interest Act* and to conduct themselves with the highest level of integrity. Remember, as a minister of the Crown, the way you conduct yourself will reflect not only on yourself, but on your Cabinet colleagues and our government as a whole.

I look forward to working with you in the coming weeks and months ahead.

It will take dedication, hard work, and a real commitment to working for people to make it happen, but I know you're up to the challenge.

Sincerely,

A handwritten signature in black ink that reads "John Horgan". The signature is written in a cursive, flowing style.

John Horgan
Premier

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Agriculture Sector Compliance

Revised: September 13, 2017

Issue: Protections for farm workers, particularly in the context of the 2007 van accident that killed three workers

Response:

- Government has made commitments to update employment standards, and to review and develop options to increase compliance with employment laws and standards to protect the lives and safety of workers.
- Government is committed to protecting the health and safety of farm workers and ensuring that vehicle safety and employment standards are enforced.
- I acknowledge that following the tragic van accident in 2007, the previous government took steps to strengthen the protections for farm workers. As part of government's commitments to update employment standards and to focus on increased compliance to protect the lives and safety of workers, I will be reviewing the measures that the previous government took to see what more can be done to protect farm worker health and safety.
- The Employment Standards Branch maintains an agriculture compliance team that conducts site visits (including worker interviews) and payroll audits, participates in roadside vehicle inspections, and conducts education sessions with employers and employees in the agriculture sector.

Background/Status:

Protections Added Since 2007

- In 2007, a van accident in the Fraser Valley killed three agricultural farm workers. In the wake of this event, the then Minister responsible for Labour announced changes to better protect farm workers. Changes to the *Employment Standards Act* were implemented to:
 - Require that farm producers may only engage farm labour contractors who are licenced, to eliminate the use of unlicensed farm labour contractors and ensure improved compliance with Regulations.
 - Allow for the cancellation or suspension of a farm labour contractor's license if they violate relevant WorkSafeBC and motor vehicle laws and regulations.
 - Charge farm labour contractors the costs paid by government to provide safe alternative transportation for stranded workers when an unsafe

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

vehicle is taken out of service during roadside inspections.

- In 2010, government received the findings of a Coroner's inquest. The previous government addressed the recommendations arising from the inquest by:
 - Establishing an interagency committee to coordinate enforcement, prevention and education.
 - Amending the *Motor Vehicle Act* to allow government to act swiftly and strongly against those Designated Inspection Facilities that do not perform inspections to standards.
 - Changing the laws to require a seatbelt for every passenger transported in a van or other passenger vehicle.
 - Increasing random roadside safety checks on vehicles used to transport farm workers.
- The interagency committee includes representatives from:
 - Employment Standards Branch (ESB).
 - WorkSafeBC.
 - Commercial Vehicle Safety and Enforcement (Ministry of Transportation and Infrastructure).
 - Superintendent of Motor Vehicles (Ministry of Attorney General).
 - RCMP¹.
- Statistics summarizing the interagency committee's activities are reported on the website: www.gov.bc.ca/farmworkers (See Appendix 1 for 2016 statistics on interagency committee reporting relating to roadside vehicle checks).
- In 2007, the percentage of vehicles failing inspection was 32 per cent. In 2016, the percentage of vehicles failing inspection was 23 per cent (38 of the 165 inspected vehicles).

Farm Labour Contractors (FLC)

- The *Employment Standards Act* requires farm labour contractors to be licensed by the Director of Employment Standards.
- Applicants must pass a written test on the *Employment Standards Act* and Regulation, and post security for wages in the form of a bond equal to 80 hours at minimum wage for each employee. In addition, a WorkSafeBC clearance letter must also be provided that shows the employer to be registered and in good standing. Vehicle inspection reports must be submitted annually for any vehicle

¹ The Superintendent of Motor Vehicles (Ministry of Attorney General) and the RCMP have not actively participated on the committee in the past several years.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

used to transport workers.

- The licence may be cancelled or suspended should it be found that the contractor is in contravention of the *Employment Standards Act* or Regulation, or certain provisions of occupational health and safety regulations under the *Workers Compensation Act* or provisions of the *Motor Vehicle Act* Regulations.
- Farm Labour Contractors are required to deposit wages directly into the employee's bank account.
- ESB undertakes a combination of random roadside inspections, unannounced site visits, worker interviews, payroll audits and education sessions over the course of the harvest season.

ESB Agriculture Compliance Team, Selected Stats (Calendar Year 2016)

- 34 Site Visits.
- 57 Audits.
- 29 Determinations issued finding one or more contraventions of the Act.

Seasonal Agriculture Worker Program (SAWP)

- SAWP is a partnership between the Governments of Canada, Mexico and certain Caribbean countries. There is no direct provincial involvement in negotiating SAWP agreements.
- Under SAWP, B.C. employers may hire temporary foreign workers from participating countries to assist during harvest when there is a shortage of available agriculture workers in the province. Work permits are granted for up to eight months within a 12-month period.
- One of the main differences between SAWP and other temporary foreign worker programs is the involvement of the countries supplying the workers. The source countries are responsible for recruiting the workers and are signatories to the workers' employment contracts. Source country consulates within Canada act as contact points and advocates for workers.
- B.C. employers participating in SAWP are required to pay round-trip transportation for the temporary foreign worker to the location of work, and back to the worker's country of residence. In addition, employers must ensure that SAWP participants are registered for provincial health insurance as soon as they become eligible.
- Employers must also provide housing, the costs of which may be partially deducted from temporary foreign workers' wages. Employers must provide proof that the on-farm or off-site housing is inspected annually by the appropriate provincial or municipal body, or by an authorized private inspector with appropriate certifications from the relevant level of government.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- The Ministry of Agriculture is government's lead on housing issues and farm workers, and the British Columbia Agricultural Council organizes inspections of Temporary Foreign Worker housing, using updated industry-developed housing guidelines that exceed federal program requirements in many areas. Health authorities are also involved. The Industrial Camps Regulation, which falls within the purview of the Ministry of Health, prescribes general housing conditions.
- Workers must be paid in accordance with the SAWP contract. For the 2017 season, the minimum wage rate for SAWP workers, regardless of country of origin, is at least \$10.85 per hour (effective September 15, 2017, \$11.35 per hour), higher for some categories of work. Workers doing hand-harvesting work on a piece rate basis must be paid the greater of the approved piece work rate as set out in the "Minimum wage – farm workers" provisions in B.C.'s Employment Standards Regulation, or \$10.85 per hour (\$11.35 per hour after September 15, 2017).
- ESB attends an annual SAWP (Mexico) meeting organized by the Mexican Consulate and attended by the BC Agriculture Council as well as by various federal and provincial agencies, to review program operations and to discuss issues.
- ESB provides information at educational seminars organized by the Mexican Consulate for SAWP Employers and Employees in the Lower Mainland and Interior.
- ESB attends meetings organized by the BC Fruit Growers Association with the Jamaican Liaison Office and representatives from other Caribbean countries to review program operation and to discuss issues.
- ESB works collaboratively with the Mexican Consulate and Jamaican Liaison Office to proactively address issues and resolve complaints. In addition, senior ministry officials have met on an adhoc basis with the Mexican Consul General to discuss issues and concerns within the Ministry's mandate.

Comparison with Other Jurisdictions

- Farm workers in B.C. are entitled to minimum employment standards that generally meet or exceed those in other provinces. Farm workers in B.C. are covered by most sections of the *Employment Standards Act* and Regulation, but are excluded from overtime and statutory holiday entitlements. Farm workers who harvest specified crops by hand may be paid by piece rate, but must be paid at least the minimum regulated piece rate for each crop. Vacation pay is included in the piece rates as set out in Regulation. Farm workers not paid by piece rate are entitled to vacation pay.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- Other provinces exclude at least some farm workers from significant provisions of their employment standards.
- In December 2015, Alberta passed legislation amending its occupational health and safety, workers' compensation, employment standards, and labour relations legislation to repeal the previous statutory exclusions for farm and ranch workers and provide them with the same rights and protections as all other workers. Occupational health and safety and workers' compensation provisions for farm and ranch workers came into effect on January 1, 2016, while *Labour Relations Code* and *Employment Standards Code* provisions will not come into effect until consultations with stakeholders have been completed and new regulations have been approved.
- In Saskatchewan, farm workers are generally excluded from employment standards coverage. As such, the Director of Employment Standards cannot enforce employment standards protections for farm workers, but will provide them with assistance in recovering any unpaid wages owed to them under their employment contracts.
- Many of the same exclusions—minimum wage, hours of work and eating periods, overtime pay, vacation with pay and public holidays—apply to farm workers in Ontario, Quebec, and the Maritime provinces.

Occupational Health and Safety for Farm Workers

- The WorkSafeBC Estimates binder has a separate note on this issue.

Attachment: Appendix 1 – Interagency Committee Reporting 2016 Statistics

Contact:

Bill Boyte	Executive Director	Employment Standards Branch	250 390-6225
John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 1 – Interagency Committee Reporting 2016 Statistics

Interagency Reporting 2016					
	Jan- Mar	Apr - Jun	July - Sept	Oct - Dec	TOTALS
ROADSIDE INSPECTIONS					
Total # of roadside inspections	1	5	7	0	13
Total # of vehicles inspected	8	69	88	0	165
CVSE					
Vehicles passing inspection by CVSE	7	53	67	0	127
Vehicle not passing inspection	1	16	21	0	38
# of violation tickets issued by CVSE	0	7	15	0	22
Value of tickets issued	\$0	\$ 1,314.00	\$ 3,215.00	\$0	\$4,529.00
ESB Compliance Issues (Vehicles)					
FLC's found unlicensed	1	0	0	0	1
Up-to-date vehicle reg # and/or insp. certificate	4	6	1	0	11
Vehicles without safety notice displayed	1	1	0	0	2
Vehicles without wage rate notice and/or FLC licence	3	5	1	0	9
Vehicle removed from service mechanical	0	0	0	0	0
Contraventions	8	12	3	0	23
Value of penalties issued	\$6,500.00	\$ 19,500.00	\$ 11,000.00	0	\$ 37,000.00
WorkSafeBC Compliance Orders					
Total orders issued	7	47	47	0	101
Inadequate first aid supplies/inappropriate fire extinguisher not in good working order	2	3	10	0	15
Vehicle stop use order	0	4	4	0	8
Gross vehicle weight exceeded	0	0	0	0	0
Mechanical deficiencies	1	21	15	0	37
Unsecured tools or equipment	1	8	5	0	14
Pre-trip inspection not done	1	1	3	0	5
No emergency exit or locked or inoperable	0	0	0	0	0
Seat belts missing or unserviceable	1	0	1	0	2
No safe means of entry and exit	0	0	0	0	0
Non-conforming or inadequately secured seats	0	4	4	0	8
Wrong drivers' licence	0	0	0	0	0
No Hi-Vis Vest	0	0	0	0	0
Speeding	0	0	1	0	1
No first aid attendant	1	6	2	0	9
Inspections with no violations	5	34	37	0	76
Inspections with violations	3	31	25	0	59
Total vehicle inspections	8	65	62	0	135
Warning letters issued	0	0	0	0	0
Penalties imposed	0	0	0	0	0
Penalty amounts imposed	0	0	0	0	0

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Child Employment

Revised: September 13, 2017

Issue: Child employment and employment standards

Response:

- Government has made commitments to update employment standards, and to review and develop options to increase compliance with employment laws and standards to protect the lives and safety of workers.
- Government is committed to protecting the health and safety of all workers, including younger workers, and to ensuring that British Columbia fully meets its international labour obligations.
- The BC Law Institute is currently conducting an independent review of the *Employment Standards Act*, and I expect they will be making recommendations on British Columbia's child employment provisions.

Background/Status:

- In 2003, the *Employment Standards Act* and *Regulation* were amended to set standards for workplaces that employ young people under 15 years of age:
 - Children aged 12 to 14 may work with their parent's written consent.
 - Children under 12 require a permit issued by the Director of Employment Standards in order to work.
- The changes were intended to recognize that parents are primarily responsible for their children, and that it is up to them to decide whether it is appropriate for their children to work. They were premised on the view that by requiring parents' explicit written permission, the Employment Standards Branch (ESB) knows they approve of the location of work, the hours of work and the type of work to be performed by their 12 to 14 year old child.
- Employers are legally responsible for proving a child's age and getting the required parental consent or permission in writing before employment starts.
- Employers found to have violated employment standards rules face penalties starting at \$500, and escalating to \$2,500 and \$10,000 for repeat offenses.
- ESB continues to monitor child employment. The following statistics for (fiscal) 2016 provide an overview:

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- ESB received nine child employment permit applications in (fiscal) 2016, four of which resulted in a permit being issued.
- In 2016 (fiscal), there was one contravention of Section 9 of the *Employment Standards Act* (provisions in respect of hiring children).
- In 2016 (fiscal), there were no contraventions of the provisions relating to children in the entertainment industry contained within Part 7.1 of the *Employment Standards Regulation*.

International Labour Organization (ILO) Convention 138 on Minimum Age of Employment (C138)

- For several years the federal government had been seeking formal support from all provinces and territories for Canadian ratification of C138. The goal of C138 is to ensure international standards for minimum age of employment, to reduce the harms of child labour.
- In 2015, the federal government notified the provinces that unless a formal objection was raised (as opposed to seeking formal endorsements), the Government of Canada would proceed with ratification of C138.
- B.C., along with the other provinces, did not raise a formal objection to ratification.
- In May 2015, the then federal Minister of Labour, Kellie Leitch, tabled C138 in the House of Commons as the first step toward formal ratification. The Convention came into force for Canada on June 8, 2016.
- Worker advocates, including those from First Call (a child and youth advocacy coalition) have asked whether B.C. intends to amend its child labour laws in light of Canada proceeding to ratify C138.
- The BC Law Institute is expected to comment on child labour issues as part of its review of the *Employment Standards Act*.

Cross Reference: Employment Standards – International Labour Agreements
Employment Standards – Updating Employment Standards

Contact:

Bill Boyte Executive Director Employment Standards 250 390-6225
Branch

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: *Employment Standards Act – Exclusions and Alternate Standards*

Revised: September 13, 2017

Issue: Full exclusions, partial exclusions, and alternate standards from the *Employment Standards Act*

Response:

- The *Employment Standards Act* contains provisions that allow Cabinet, by regulation, to exclude classes of persons from all or parts of the Act (such as the hours of work and overtime provisions), as well as to set alternate standards as appropriate.
- Full exclusions, partial exclusions, and alternate standards seek to accommodate the special requirements of a particular sector.
- Government has made a commitment to review and update employment standards to recognize the changing nature of the workplace.
- Details on how the review will impact exclusions and alternate standards, many of which are long standing, have yet to be determined.

Background/Status:

- The *Employment Standards Act* (Act) sets out the minimum employment standards that apply in most workplaces in British Columbia.
- The Act provides that Cabinet may, by regulation, exclude classes of persons from all or parts of the Act (e.g., hours of work and overtime provisions), as well as set alternate standards as appropriate.
- s.13

Full exclusions from the Act

- Certain professions where individuals are licensed by statute or who are self-governing by statute, including physicians, chartered professional accountants, professional engineers, architects, and lawyers are excluded from the Act in its entirety. Typically, such exclusions are long-standing and are intended to provide flexibility to accommodate the unique characteristics of the professions, as well as to facilitate economic growth and job opportunities.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- Sitters, students and other participants in certain work study or workplace training programs, newspaper carriers still in school, and players on major junior ice hockey teams entitled to receive scholarships for post-secondary education are also excluded from the Act.
 - The latter exclusion, introduced in 2016, continues to receive attention, primarily from sports-related media, as class action lawsuits against the Western Hockey League and other hockey leagues in Ontario and Quebec are currently before the courts. The claims take the position that players should be classified as employees, not amateur athletes, who should receive minimum employment standards.

Partial exclusions from the Act

- The approval of a partial exclusion is an acknowledgement that only select parts or sections of the Act create barriers for employers or workers. Except for the partial exclusion, all other provisions of the Act apply.
- Examples of workers currently subject to partial exclusions under the Act include:
 - Teachers, police officers, and firefighters, all of whom are excluded from Part 4, the hours of work and overtime provisions (including those governing meal breaks, split shifts, minimum daily pay, and hours free from work each week).
 - High technology professionals, who are excluded from Part 4, the hours of work and overtime provisions, and Part 5, the statutory holidays provisions.

Alternate Standards from the Act

- Cabinet may approve alternate employment standards when the existing employment standards requirements do not adequately address the unique working conditions of a sector, or when the intent of the Act cannot be met.
- Like full or partial exclusions, alternate standards seek to accommodate the special requirements of a particular sector.
- However, unlike full or partial exclusions, Cabinet determines the new alternate standards (e.g., it is not left to the employer to establish the working conditions without any minimum standards in place). Except for the alternate standards, all other provisions of the Act apply.
- Examples of employees subject to alternate employment standards include:
 - Truck drivers are subject to alternate overtime provisions which provide both drivers and the trucking companies with sufficient employment standards flexibility to deliver their loads to their destinations, thereby supporting the retention and development of employment within the sector.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- In recognition of the additional income earned from tips and gratuities, liquor servers receive an hourly minimum wage \$1.25 less than the general wage (this differential wage rate may be an issue for review and recommendation by the Fair Wages Commission).

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Employment Standards Branch Budget, Resources and Service Levels

Revised: September 13, 2017

Issue: The Employment Standards Branch budget and resourcing is often the subject of criticism.

Response:

- My Ministry Mandate Letter requires that I update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced. ^{s.13}
s.13
- Our government is committed to ensuring that workplaces are safe, healthy and fair so that employers and workers can prosper and contribute to B.C.'s economic growth.
- The ESB budget has been relatively stable over the past few years, totalling between \$7.8-\$7.9 million per year from 2013/14 through 2017/18. ESB makes the best use of its resources to ensure the delivery of quality, accessible programs and services to all British Columbians. For example, 89 per cent of ESB staff positions provide frontline/direct services to the public, and almost three quarters of the remaining 11 per cent provide direct services as part, although not all, of their daily work.
- It is clear that the dedicated and hardworking staff at the ESB accomplish a significant amount with the resources they receive. Some examples:
 - ESB resolves almost 5,800 complaints per year, and recovers an average of \$6.98 million per year in wages for workers (5-year averages).
 - Staff answering our 1-800 information line help over 99,000 callers per year (5-year average).
 - 90 per cent of decisions issued by ESB were upheld on appeal (5-year average).

Background/Status:

- Labour stakeholders claim that Employment Standards Branch (ESB) budget and staff reductions have led to a significant reduction in enforcement of the *Employment Standards Act* and protections for B.C. workers.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- The ESB has consistently met its service plan targets for complaints closed within 180 days (see table below).
- The ESB has focused on maximizing its existing resources by focusing on internal initiatives including:
 - More efficient staffing processes and extensive training provided in-house.
 - Centralization of some functions to free up resources for complaint resolution.
 - Reviewing, rationalizing and streamlining processes and implementing tools and procedures to increase efficiency and consistency across the branch.
 - Triage system for oldest/most complex files.

ESB Budget and Staff Positions

	2013/14	2014/15	2015/16	2016/17	2017/18
Budget Allocated	\$ 7.8M	\$7.8M	\$7.9M	\$7.9M	\$7.9M
Staff positions (includes vacancies)	96	96	96	96	96
Staffing budget (base salaries only)	\$5.8M	\$5.7M	\$5.9M	\$6.0 M	\$6.0M

ESB Service Indicators

	2013/14	2014/15	2015/16	2016/17
Individual complaints closed within 6 months (Service Plan Target is >78%)	77%	81%	86%	89%
Assignments ¹ closed per FTE	99	97	95	83
Infoline requests per Infoline FTE	12,596	12,992	10,375	10,850

¹ "Assignments" includes individual complaints, group complaints, licence requests, audits, child employment permit requests, variance requests, Labour Relations Board activities and speaking engagements.

Contact:

Bill Boyte Executive Director

Employment Standards 250 390-6225
Branch

Employment Standards Branch Fiscal Year Statistics

	2012/13	2013/14	2014/15	2015/16	2016/17	5 Year AVG.
Complaints Received (individual and group)	5,749	5,464	5,311	4,955	5,058	5,307
Complaints Closed (individual and group)	5,719	6,467	5,753	5,738	5,159	5,767
Resolution Phase: (individual only)						
Assessment/Education	36%	36%	40%	37%	36%	37%
Mediation	37%	38%	38%	43%	44%	40%
Adjudication	2%	2%	3%	3%	5%	3%
Investigation	19%	17%	12%	10%	8%	13%
Collections	6%	7%	7%	8%	8%	7%
Child Permit Applications	11	17	9	11	9	11
Audits Conducted	337	238	85	168	295	225
Variances Requested	138	127	135	144	171	143
Corporate Determinations Issued	474	467	622	607	613	557
Appeal Results:						
Determination Confirmed	91%	90%	89%	87%	91%	90%
Determination Cancelled	5%	9%	5%	9%	1%	6%
Determination Varied	4%	2%	1%	2%	3%	2%
Determination Referred Back	0%	0%	6%	2%	5%	3%
Penalties Issued on Corporate Determinations	812	773	1,227	1,090	1,175	1,015
\$\$ Value	\$457,500	\$439,500	\$686,500	\$655,000	\$764,500	600,600
Wages recovered (voluntary and paid determinations)	\$5,911,173	\$6,185,076	\$6,905,739	\$8,629,454	\$7,293,144	\$6,984,917.25
Labour Relations Assignments	218	382	199	192	N/A	
Licence Applications						
Employment Agency	289	343	370	418	443	373
Talent Agency	96	86	87	91	105	93
Farm Labour Contractor	50	47	50	40	45	46
Infoline Calls/Emails (calendar year)	111,685	101,928	106,000	90,370	85,716	99,140
Information/Education Seminars	54	54	58	46	50	52
Farm Labour Compliance (Calendar Year)	2012	2013	2014	2015	2016	
Complaints (handled by Farm Labour Team only)	17	14	27	34	29	24
Site Visits	101	84	38	37	34	59
Audits	35	26	18	30	55	33
Roadside vehicles inspected	197	181	124	106	165	155
Determinations Issued finding a contravention	57	36	13	28	25	32

2016/17 Service Plan Measures

% of Employers whose employment practices resulted in no complaints being filed	
# of Employer who had a complaint	4482
# of Business Locations in BC	195 980
Percentage of Businesses without a complaint	97.7%

% of Assignments Closed within 180	
	Grand Total
Individual Complaints	89%
Group Complaints	52%

Contact: Bill Boyte, Executive Director
250 390-6225



**Employment
Standards Branch**

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: International Labour Agreements

Revised: September 13, 2017

Issue: British Columbia's interest/involvement in international labour agreements – including International Labour Organization (ILO) conventions, and the North American Free Trade Agreement negotiations

Response:

- As a founding member and member of its governing body, Canada has played an active and constructive role since the formation of ILO in 1919. B.C. is proud to be a part of this history and will continue to review conventions and work with other jurisdictions to promote fair and equitable workplaces.
- Questions regarding North American Free Trade Agreement negotiations between Canada, the United States and Mexico, and the role of the province with respect to those negotiations should be referred to the Minister of Jobs, Trade and Technology.

Background/Status:

- While foreign affairs fall within the federal jurisdiction, labour and employment matters generally fall within provincial jurisdiction. In practical terms, this has meant that the federal government does not enter into new commitments or agreements on international labour matters unless the provinces and territories have indicated their consent.

ILO Convention on Minimum Age (C138)

- For several years the federal government had been seeking formal support from all provinces and territories for Canadian ratification of C138. The goal of C138 is to ensure international standards for minimum age of employment, to reduce the harms of child labour.
- In 2015, the federal government notified the provinces that unless a formal objection was raised (as opposed to seeking formal endorsements), the Government of Canada would proceed with ratification of C138.
- B.C., along with the other provinces, did not raise a formal objection to ratification.
- In May 2015, the then federal Minister of Labour, Kellie Leitch, tabled C138 in the House of Commons as the first step toward formal ratification. The Convention entered into force for Canada on June 8, 2017.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- The issue of the minimum age for children in the *Employment Standards Act* may be revisited by the new government as part of its mandate to review employment standards.

ILO Protocol to the Forced Labour Convention (PO29)

- PO29 is a protocol committing jurisdictions to engage in activities supportive of the ILO Forced Labour Convention. That Convention, which has been ratified by Canada, promotes international norms for protection against compulsory labour.
- In October 2014, then Minister Leitch requested that provinces engage in a review of their law and policy and to consider providing support for Canadian ratification of PO29.
- In December 2014, the former provincial Minister responsible for Labour sent a letter to then Minister Leitch confirming that staff completed their technical review of the protocol and concluded that measures set out in the protocol are consistent with the purposes of the Convention; that the protocol does not pose any new legal or policy issues or concerns; and, therefore, that B.C.'s laws and policies continue to be in full compliance with both the Convention and the protocol. Accordingly, the former provincial Minister responsible for Labour provided formal endorsement for ratification of PO29.
- The federal government has not yet initiated formal ratification.

ILO Convention on the Right to Organize and Collective Bargaining (C98)

- C98 is a convention designed to ensure workers are afforded basic rights to organize freely among themselves and to engage in collective bargaining with their employer.
- In December 2016, Canada requested that the provinces/territories formally indicate support for or opposition to Canadian ratification of C98 by February 17, 2017 (that deadline was extended into mid-March). No response from a province would be interpreted by the federal government as tacit approval for ratification.
- An internal technical review of C98 by Labour staff (and Ministry of Attorney General Legal Services staff) suggested there are no significant technical or legal barriers to ratification of C98.
- The B.C. government provided no formal response to the federal government (either endorsing or opposing ratification).
- Canada has now ratified C98 and it will be in force effective June 14, 2018.

North America Free Trade Agreement (NAFTA)

- Discussions are currently ongoing between Canada, U.S., and Mexico regarding possible amendments to NAFTA. Canada has taken a position in these

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

discussions that the agreement should include more stringent commitments to upholding the labour rights enumerated by the ILO.

- Questions regarding NAFTA and the role of the province with respect to the ongoing tripartite discussions should be referred to the Minister of Jobs, Trade and Technology.

Contact:

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Minimum Wage and the Fair Wages Commission

Revised: October 2, 2017

Issue: Minimum wage (including Liquor Server Rate and Piece Rates) and the Fair Wages Commission (Confidence and Supply Agreement Commitment)

Response:

- On August 15, 2017 the B.C. government announced a 50 cent increase to the minimum wage. Effective September 15, the minimum wage increased to \$11.35 per hour from \$10.85 per hour, giving B.C. the third-highest minimum wage among Canada's provinces—up from seventh position.
- The September 15th increase implemented what the previous government had committed to. However, we are committed to providing further meaningful increases to the minimum wage which is why we are establishing a Fair Wages Commission to lay out a pathway to achieving at least a \$15/hour minimum wage.
- The Commission will be established this fall so it can begin its work.

Background/Status:

- Government's election platform made a commitment to a \$15/hour minimum wage by 2021 with increases in each year, followed by indexing to inflation to provide certainty for the future.
- The NDP/Green Confidence and Supply Agreement (CASA) makes the following commitment with respect to minimum wage:

Immediately establish an at-arm's-length Fair Wages Commission that will be tasked with establishing a pathway to a minimum wage of at least \$15 per hour and overseeing regular rate reviews. The commission will bring forward recommendations regarding strategies to address the discrepancy between minimum wages and livable wages. The commission will make its first report on a new minimum wage within 90 days of its first meeting.

- On August 15, 2017 the B.C. government announced a 50 cent increase to the minimum wage. Effective September 15, the minimum wage increased to \$11.35 per hour from \$10.85 per hour, giving B.C. the third-highest minimum wage among Canada's provinces—up from seventh position.
- At the same time as the general minimum-wage increase, the liquor servers' wage also rose by 50 cents to \$10.10 per hour. Other minimum-wage provisions

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

in the Employment Standards Regulation also received increases in line with the general minimum-wage increase of 4.6 per cent. This includes the daily rate for live-in home support workers and live-in camp leaders, as well as the monthly rates for resident caretakers and the minimum farm-worker piece rates for harvesters of certain fruits and vegetables.

- The September 15, 2017 increase implemented what the previous government had announced in May 2016 and reconfirmed in February 2017.
- When government announced the September 15, 2017 increase it also confirmed its intention to establish a Fair Wages Commission.
- It is expected that the details of the Commission, including the membership and its terms of reference will be finalized later in the fall.

Other jurisdictions – current minimum wage rates

- B.C.'s general minimum wage is currently \$11.35/hour, which, as of October 1, 2017, is third among the 10 Canadian provinces. Minimum wage rates among Canadian provinces currently range from \$10.85/hour to \$13.60/hour.
- All Canadian jurisdictions, including B.C. now, have commitments to regular minimum wage increases based on a statistical measure (e.g., inflation) and/or a mechanism in place for a formal review (e.g., panel of experts)—see Appendix 1 for further details.
- Alberta and Ontario are committed to reaching \$15/hour by the end of 2018 and 2019 respectively. CASA makes no reference to a time frame for reaching \$15/hour in B.C., but that is something on which the Fair Wages Commission will make a recommendation to government.

Liquor Server Wage

- B.C.'s minimum wage for liquor servers is currently \$10.10/hour (\$1.25 lower than the general minimum wage).
- Alberta had a minimum wage for liquor servers of \$10.70/hour, but eliminated the liquor server wage in October 2016 (liquor servers are now subject to the general minimum wage of \$12.20/hour).
- Ontario has a minimum wage for liquor servers of \$9.90/hour, while its general minimum wage is \$11.40/hour (\$1.50/hour difference).
- Quebec has a minimum wage for employees who customarily receive gratuities of \$9.20/hour, while its general minimum wage is \$10.75/hour (\$1.55/hour difference).
- Some critics of the liquor server rate have recently pointed to research by a University of Victoria PhD student that suggests reliance on gratuities in the

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

service industry leaves workers vulnerable to sexual harassment and sexualized behaviour from customers as a “price” to be paid for a tip.

- In response, government has noted that employers have a duty under the *Workers Compensation Act* and Occupational Health and Safety (OHS) Regulations to provide safe, healthy workplaces, free from harassment. In addition to the OHS regulations, there are protections under the B.C. *Human Rights Code* to address sexual harassment.
- In addition to calling for the elimination of the lower liquor server rate, some worker advocates have called for more strict regulations governing tipping practices in the restaurant industry.
- The British Columbia Law Institute may comment on these issues as part of its review of the *Employment Standards Act*.
- The Fair Wages Commission may also be tasked with making recommendations on the *Liquor Server Rate*.

Minimum Piece Rates

- B.C. farm workers who hand harvest certain berry, fruit or vegetable crops and who are employed on a piece work basis are paid for the amount they pick, and not in relation to a minimum hourly wage. The minimum piece rates for these crops are established in the *Employment Standards Regulation*.
- This system of regulated minimum piece rates, which is unique within Canada, was established in 1981 with the intent that an average, reasonably diligent hand harvester would be able to earn at least the equivalent of the general minimum hourly wage.
- On March 16, 2011, government announced a series of staged minimum wage increases effective May 1, 2011; November 1, 2011; and May 1, 2012. It was also announced that the minimum piece rates would receive an increase on May 1, 2011, of the same proportion as the first increase in the general minimum wage (i.e., 9.375 per cent), but that any further increases would depend upon the results of a review of the piece rates.
- The review had two major components. First, government engaged Zbeetnoff Agro-Environmental Consulting (Zbeetnoff) to conduct research and analysis on the regulated piece rates. The second component of the review involved meetings between ministry staff, and producers and worker advocates.
- The decision to leave the piece rates unchanged as of May 2011 was based on the information provided by Zbeetnoff—which indicated that, on average, piece rate workers could earn the minimum wage or higher—as well as the input from stakeholders who met with senior ministry officials.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- However, the latest increases to the minimum wage starting in September 2015 have provided a corresponding increase to the piece rates.
- The Fair Wages Commission may be mandated to review the B.C. minimum piece rate system.

Attachment: Appendix 1 – General Minimum Wages in Canada (as of October 1, 2017)

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 1 – General Minimum Wages in Canada (as of October 1, 2017)

Jurisdiction	Rate (\$/hr)	Effective Date	Future Changes
Alberta	13.60	Oct 1, 2017	\$15.00 on Oct. 1, 2018
Nunavut	13.00	April 1, 2016	Mandatory review by Minister.
Northwest Territories	12.50	June 1, 2015	Independent body gives advice.
Ontario	11.60	Oct 1, 2017	Yearly changes indexed with Ontario inflation (CPI). Mandated in the Statute. On May 30, Government announced further changes which will bring min wage to \$14 on Jan 1, 2018 and \$15 on Jan 1, 2019.
British Columbia	11.35	Sept 15, 2017	Establishing Fair Wage Commission to recommend a pathway to at least \$15/hour.
Yukon	11.32	April 1, 2017	On April 1 of each year, the rate increases based on annual increase for the preceding year in the CPI for Whitehorse.
Prince Edward Island	11.25	April 1, 2017	Independent body gives advice.
Quebec	11.25	May 1, 2017	Commitments for further yearly increases with the goal of a minimum wage rate at 50% of the average wage by 2020 (expected to be roughly \$11.75 in 2018; \$12.10 in 2019; \$12.45/hour in 2020)
Manitoba	11.15	Oct 1, 2017	On May 31, 2017, government passed a Bill to index minimum wage to provincial CPI.
New Brunswick	11.00	April 1, 2017	Future changes tied to inflation. Minister review every two years.
Newfoundland and Labrador	11.00	October 1, 2017	Independent body gives advice.
Saskatchewan	10.96	Oct 1, 2017	Yearly increases based on average of increases in CPI and average hourly wage.
Nova Scotia	10.85	April 1, 2017	Yearly increase to reflect previous year changes in national CPI (indexing formula in regulation). Independent body gives advice.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Self Help Kit

Revised: September 13, 2017

Issue: Use of Employment Standards Branch Self Help Kit

Response:

- The Self Help Kit is a resource that encourages employees and employers to resolve disputes directly on an informal basis.
- The Self Help Kit provides a step-by-step guide to assist both parties and, in doing so, educates both the (potential) complainant and the employer on basic rights and responsibilities under the *Employment Standards Act*, on whether or not the Act applies, and on the process used to resolve complaints that are filed with the Employment Standards Branch.
- If the Self Help process is unsuccessful, workers may make a formal complaint to the Employment Standards Branch.
- Certain categories of employees and types of complaints are exempt from the requirement to use the Self Help Kit.
- Government has made a commitment to update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced.
- s.13

Background/Status:

- The Self Help Kit (SHK) is intended to assist employees in learning if the *Employment Standards Act* (the Act) applies to their situation, help them understand their rights, assist in calculating any wages owed and to facilitate communication with their employers to enable a prompt resolution with a mutually beneficial outcome.
- The SHK was implemented when changes to the Act introduced a requirement for employees to attempt to resolve employment disputes concerning wages with their employers directly before filing a complaint with the Employment Standards Branch (ESB).
- A SHK is not required for: complainants under the age of 19; farm workers, domestics, textile or garment workers; or those with significant language or comprehension difficulties. Exemptions also apply if: the complaint is related to a

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

leave provision of the Act; the business has closed, the landlord or bailiff has locked the doors, or there is concern that assets may be disappearing; or the complainant wishes to file a confidential complaint. Potential complainants may choose to seek resolution with their employers through means other than the SHK; in such instances, some proof that this has taken place (e.g., copies of correspondence) is sufficient to waive the requirement for completion of the SHK.

- The SHK itself requires the (potential) complainant to answer several questions to ensure that their issue(s) is covered by the Act. If covered, the (potential) complainant then fills out a “request for payment form” and sends it, along with a letter from the ESB (included in the Kit and requiring only that the complainant fill in the date) and a fact sheet describing the ESB complaint resolution process, to the employer. If this letter, form and fact sheet are not successful in resolving the complaint to the satisfaction of the (potential) complainant, or a response from the employer is not received within 15 days from when the letter was sent to the employer, a complaint may be filed with the ESB.
- Prior to the 2002 changes to the Act, complaint volumes were about 12,000 per year. Since that time, volumes dropped dramatically and have remained at about 6,000 per year for the past several years. While there were a number of changes that likely contributed to this drop, including a reduction in the time limit within which a complaint may be filed, the introduction of the SHK is likely to have contributed to this decline.
- s.13

- There are conflicting views from stakeholders on the Self Help Kit. Some assert that the reduction in complaints since the introduction of the Kit is proof of the effectiveness of the self-help process in resolving disputes directly. Others take the position that it is a barrier which effectively discourages individuals from filing a complaint to pursue their statutory entitlements. There is no conclusive empirical evidence to support either view. While the number of SHK downloads from the ESB website may be tracked, it is unknown how many of the kits are actually utilized, and of those, how many are successful.

The SHK and Temporary Foreign Workers

- Some stakeholders advocate for SHK exemption for all Temporary Foreign Workers (TFWs) because they are “vulnerable workers.” However, not all TFWs could accurately be labelled “vulnerable.”
- TFWs as a group are not exempt from the SHK process. TFWs, like any other worker in B.C., may be exempt from the SHK process by virtue of other factors,

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

such as language difficulties or being a farm worker or domestic, but not simply because of their participation in the federal TFW program.

Contact:

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Temporary Foreign Workers and a Temporary Foreign Worker Registry

Revised: September 13, 2017

Issue: Protections for temporary foreign workers and creating a temporary foreign workers registry (mandate letter commitment)

Response:

- Government has made a commitment to create a Temporary Foreign Worker (TFW) registry to help protect these vulnerable workers from exploitation, and to track the use of temporary workers in British Columbia's economy.
- In the coming weeks and months, the Ministry of Labour will be working with the Ministries of Advanced Education, Skills and Training and Jobs, Trade and Technology to develop options for creating the TFW registry.
- In delivering on this commitment, government will help ensure compliance with employment laws and standards, including those that have been put in place to protect the lives and safety of workers.

Background/Status:

TFW Registry

- The Premier's July 2017 mandate letter to the Minister of Labour included the following priority: "Create a Temporary Foreign Worker (TFW) registry to help protect vulnerable workers from exploitation and to track the use of temporary workers in our economy".
- The media have reported that, with respect to the TFW Registry, the Premier has also indicated that it is important to know where we have labour-market shortages and where we need to increase our training opportunities.¹
- While the Ministry of Labour has responsibility for creating the TFW registry and for the worker protection function that it will serve, other ministries also have a role.
 - The Ministry of Jobs, Trade and Technology (JTT) is responsible for B.C.'s immigration policy and tracking the use of TFWs in the province's economy (see Estimates Note from JTT, "Temporary Foreign Workers (TFWs)").

¹ "B.C. plans temporary-foreign-worker registry", *Globe and Mail*, August 7, 2017, page S01.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- The Ministry of Advanced Education, Skills and Training (AEST) oversees B.C.'s skills training needs, which may be identified when TFWs are required to fill provincial labour shortages.
- The Ministry of Labour will be working closely with JTT and AEST on the development and implementation of a TFW registry.
- In the coming weeks, options for the Minister of Labour's consideration will be developed, including those regarding the scope of the registry and the data to be collected.
- In developing options, consideration will be given to developments concerning TFW registries in other jurisdictions, including Saskatchewan and Manitoba.
- The unique circumstances of TFWs makes some of them vulnerable to unscrupulous employers. In creating a registry and tracking the use of temporary workers in B.C., government will help ensure compliance with employment laws and standards, including those that have been put in place to protect the lives and safety of workers.

Existing TFW Protections

- Under B.C.'s current labour laws, TFWs have the same rights and protections as other employees in the province.
- The Employment Standards Branch (ESB) works to ensure that workers, regardless of their nationality or immigration status, receive the basic standards of compensation and conditions of employment to which they are entitled under the *Employment Standards Act*. Whether a complainant is a TFW is irrelevant to the application of the *Employment Standards Act*. As a result, accurate data on the number of complaints filed with the ESB by TFWs is not available.
- B.C. provides assistance regarding employee rights to workers, including TFWs, in person, on-line, or through a toll-free number. Written information is available in English, French, Chinese (simplified and traditional), Punjabi, Hindi, Filipino, Korean, Japanese, Vietnamese and Spanish.
- The ESB undertakes a number of activities, including education seminars, presentations in schools and to groups of workers and employer associations, networking through community groups and appearances on ethnic media radio programs, to raise both worker and employer awareness of employment standards.
- Section 10 of the *Employment Standards Act* specifically prohibits charging fees in exchange for employment in B.C. TFWs cannot be required to:
 - Pay for immigration assistance as a condition of being placed in a job.
 - Post a bond or pay a deposit to ensure they will finish a work term or employment contract, or to pay a penalty if they do not.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- Pay back any costs the employer paid to an employment agency or anyone else to recruit the worker.
- Employment Agencies operating in B.C. must be licensed by the Director of Employment Standards. An agency charging fees to workers, or prospective workers, violates the *Employment Standards Act* and may have its license suspended or cancelled.
- The ESB is largely unable to act upon reports of recruiting agencies in other countries charging workers, or potential workers, a fee for securing employment. The *Employment Standards Act* applies only where employees are charged fees in, or by, B.C.-based recruiters.
- With regard to health and safety, the *Workers Compensation Act* and the Occupational Health and Safety Regulation apply to TFWs, as they do to all workers in B.C. Employers have the same obligations and responsibilities for training and supervision, and the same general duty to protect TFWs as other permanent and temporary employees. A TFW is compensated the same as any other injured worker in the province (see Estimates Note, “Workers’ Compensation”).

Cross Reference: JTT – Workforce, Immigration and Major Investments – Temporary Foreign Workers (TFWs)
Labour Policy and Legislation Branch – Workers’ Compensation

Contact:

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Updating Employment Standards

Revised: September 13, 2017

Issue: Updated employment standards and effective enforcement (mandate letter commitment) (including the BC Law Institute review)

Response:

- Government has made a commitment to update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced.
- The BC Law Institute (BCLI) is currently conducting an independent review of the *Employment Standards Act* with a view to ensuring that it is appropriate for the modern world of work.
- The Ministry of Labour supports the BCLI review and looks forward to seeing the final report, expected by mid-2018.
- s.13

Background/Status:

- The Premier's July 2017 mandate letter to the Minister included the following priority: "Update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced." In the coming weeks and months, a work plan will be developed that will detail the specific actions that will be undertaken to deliver on this priority.
- Major reviews of the *Employment Standards Act* (the Act) occurred in 1993 (conducted by consultant Mark Thompson) and in 2002 (as part of the previous government's core review). In addition, comprehensive changes to the Act were made in 2002 (see Appendix 1).
- In general, employers have indicated support for the amendments B.C. made in 2002, while workers' groups have expressed the view that they went too far, particularly in relation to vulnerable and precariously employed workers.
- Since 2014, the British Columbia Law Institute (BCLI), a not-for-profit law reform agency, has been conducting an independent review of the Act with the goal of identifying the contemporary needs and circumstances of B.C.'s workplaces. The Ministry is supporting the project by having a ministry staff member participate as

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

an observer and liaison and by contributing \$30,000 over two fiscal years (\$15,000 most recently in 2017/18) towards the project's costs.

- In early 2018, the BCLI Project Committee is expected to publish tentative recommendations for improvements to the Act, followed by a three-to-four month public consultation process.
- The BCLI anticipates releasing its final report on the Act, including recommendations for modernizing the Act for current workplace realities, by mid-2018.

• s.13

- In addition, the Ministry is continuing to monitor developments in other Canadian jurisdictions to ensure B.C. remains responsive to the changing needs of workers and employers in the 21st century.

Attachment: Appendix 1 – *Employment Standards Act* – Legislative Amendments since 2001

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 1 – *Employment Standards Act* – Legislative Amendments Since 2001

Year	Legislative Amendments
2002	<ul style="list-style-type: none"> Requirement for employers to keep payroll records reduced from five to two years. Minimum daily call-in reduced from four to two hours. Liability for unpaid wages reduced from two years to six months. Daily overtime changed to double-time after 12 instead of 11 hours. Statutory holiday pay requirements simplified.
2002	<ul style="list-style-type: none"> Averaging agreements (permitting hours of work to be averaged over a period of one, two, three, or four weeks) introduced.
2002	<ul style="list-style-type: none"> Self-Help Kit and mediation/adjudication conflict resolution processes added.
2002	<ul style="list-style-type: none"> Introduction of mandatory employer financial penalties.
2002	<ul style="list-style-type: none"> Approval process for hiring employees between the ages of 12 and 14 changed.
2002	<ul style="list-style-type: none"> Requirement for farm workers to be paid in Canadian currency and by direct deposit added.
2002	<ul style="list-style-type: none"> Parties to a collective agreement permitted to negotiate alternative provisions with regard to certain sections of the Act. Requirement for parties to a collective agreement to use grievance procedures to resolve disputes regarding the application of standards added.
2006	<ul style="list-style-type: none"> Introduction of compassionate care leave.
2008	<ul style="list-style-type: none"> Introduction of Reservists' leave.
2008	<ul style="list-style-type: none"> Requirement added that farm producers only engage farm labour contractors who are licenced. Provision added allowing for the cancellation or suspension of a farm labour contractor's license when relevant WorkSafeBC and motor vehicle laws and regulations are violated. Provision added enabling government to charge farm labour contractors the costs paid to provide alternative transportation for stranded workers when a vehicle is taken out of service during roadside inspections.

Note that changes to the minimum wage have occurred by way of Order-in-Council.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: B.C. Labour Relations Board Update

Revised: September 13, 2017

Issue: Update on the Labour Relations Board, including staffing, members, timelines for decisions and proposed rule changes

Response:

- **Staffing:** As a result of the Tribunal Transformation Initiative, effective April 1, 2017, Labour Relations Board (LRB) appointments now fall under the responsibility of the Attorney General. However, as Minister of Labour, I will continue to provide input and advice to government, ensuring a strong and effective LRB that supports a stable and productive labour relations environment.
- I am confident that the LRB is staffed to meet the needs of the labour relations community in 2017/18.
- The recent appointment of an acting LRB Chair was an important step, taken by the Minister of Attorney General, towards a change in leadership at the Board. Government is currently conducting a merit-based recruitment process to find a new permanent Chair.
- I'd like to thank Mr. Brent Mullin, former Chair of the LRB, for 16 years of service to the people of the province, especially the labour relations community.
- **Members:** With the implementation of the Tribunal Transformation Initiative, the appointment of members also falls under the responsibility of the Attorney General. However, I appreciate that there is interest among some in the labour relations community in seeing members re-introduced on panels at the LRB. My staff continue to be available to the Ministry of Attorney General to assist with exploring options for the possible reintroduction of members.

Background/Status:

Staffing

- The Labour Relations Board (LRB) is responsible for mediating and adjudicating disputes between employers and unions, and in some cases between unions and employees, that arise under the *Labour Relations Code* (the Code). The LRB is a quasi-judicial administrative tribunal with a chair and vice chairs appointed by the Lieutenant Governor in Council (LGIC) after a merit-based process.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- As of September 13, 2017, the LRB is staffed with the following Order in Council (OIC) appointments, (one chair, one associate chair and five vice chairs):
 - Jacquie de Aguayo – Acting Chair (appointed August 24, 2017 for six months while a permanent Chair is recruited. Her Vice-Chair appointment expires March 14, 2018).
 - Bruce Wilkins – Associate Chair (Adjudication Division) (expires May 25, 2018).
 - James Carwana (expires May 31, 2018).
 - Leah Terai (expires May 31, 2018).
 - Koml Kandola (expires September 1, 2018) – appointed as acting Registrar for the term of Jacquie de Aguayo's acting Chair role.
 - Jennifer Glougie (expires June 1, 2019).
 - Elena Miller, on an acting capacity to replace Peter Archibald who retired July 31, 2017 (her base position is a staff lawyer at the LRB).
- Historically, vice chairs are appointed in equal number from the employer and union communities to ensure a measure of balanced representation at the LRB. There is a history of consultation with the labour relations community prior to the appointment and/or re-appointment of vice-chairs.
- The LRB also employs staff lawyers, mediators and administrative/support staff.
- In recent years, the Minister has heard concerns from both sides of the labour relations community about the LRB vice chair appointment process, including whether it is merit-based. This issue was reviewed by the Board Resourcing and Development Office (BRDO) in 2014, which resulted in the Minister of the day accepting that the appointment process is indeed merit-based.
- Effective April 1, 2017, the Attorney General assumed responsibility for the appointment provisions of the *Labour Relations Code*. However, the Minister of Labour and ministry staff will continue to provide advice on the appointments and will engage directly with labour and employer stakeholders regarding concerns about LRB staffing.

LRB Chair

- On August 24, 2017, Brent Mullin's appointment was rescinded and Jacquie de Aguayo was appointed acting chair of the BC Labour Relations Board and the Employment Standards Tribunal.
- De Aguayo is appointed as acting chair for both boards for six months while the Board Resourcing and Development Office leads a broad and comprehensive merit-based search to fill the position. De Aguayo was appointed to the Labour

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Relations Board in March 2014, where she has since served as vice-chair and registrar.

Members

- The Code provides, in addition to vice chairs, for the appointment of as many members equal in number representative of employers and employees as the LGIC considers proper. The primary role of members has been to provide policy input to the LRB and to assist in the mediation and settlement of disputes. Members are full-time employees in the labour relations community who act on an infrequent basis at the LRB (and are paid a per diem). In 2006, the terms of appointments of all members expired. No new appointments have been made, resulting in no use of members in any form in over a decade.
- In 2007, the Committee of Special Advisors (established under Section 3 of the Code) stated that members have an important role to play in the proper functioning of the LRB. In addition, there has been pressure from some in the labour relations community to re-introduce members. B.C. is the only jurisdiction in Canada (including the federal jurisdiction) that does not currently have members actively participating in its LRB. On December 31, 2014, in its core review report on the LRB, the Committee confirmed its view that members should be added to the LRB. This initiative has not proceeded as a result of:
 - Funding¹.
 - The previous LRB chair was not supportive of the re-introduction of members.
 - There is opposition to the re-introduction of members from some in the employer community.
- Effective April 1, 2017, the Attorney General assumed responsibility for the legislative provision under which members are appointed to the LRB. Labour staff remain engaged with the Ministry of Attorney General to provide any needed support and advice regarding the use of members.

Timelines for decisions

- The timeliness of LRB decisions had been a concern for some LRB stakeholders since the middle of the last decade. It was the subject of a 2004 report by a labour relations lawyer, as well as a further review by Lee Doney in 2005, which recommended legislation that would enable the Minister to set timelines by regulation. In 2008, amendments to the Code introduced a requirement for the

¹ The financial costs associated with the reintroduction of Members would depend on the degree to which Members are utilized at the LRB. Historically, Members were paid on a per diem basis. In 2004 (prior to the phasing out of members), the per diem rate was \$250 and Members were used for an equivalent of 351.6 single usage days (e.g., roughly \$90,000 in per diem costs for the year).

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

LRB to issue its decisions on applications and complaints within time periods to be prescribed by ministerial regulation.

- A regulation setting out the details respecting specific timelines and the types of decisions governed by those timelines was established in March 2012 with an effective date of September 1, 2012. Consultation with stakeholders on a draft regulation occurred in the fall of 2010.
- The regulation has been in place for approximately five years. Based on the LRB annual reports and discussions with the previous Chair, the regulation appears to have been implemented with considerable success. The Ministry is not aware of any complaints/concerns about the regulation from the labour and employer communities. The success of the regulation is attributable to the efforts of the LRB adjudicators and staff working together with employers, unions and their counsel.
- Connected to timeliness is a concern from the community about the conduct of votes under the Code. Since the 1970s, votes under the Code (for certification and decertification) have been delegated to and conducted by the staff of the Employment Standards Branch (ESB). One of the primary reasons for the ESB doing this function is that they are geographically dispersed across B.C., while LRB staff are located only in Vancouver. Over the past couple of years, the votes process has been challenged by the balance between access to ESB staff who are pursuing full caseloads under their *Employment Standards Act* and the statutory time limit in the Code (10 days) for the conduct of certification votes. This resulted in the LRB ordering more votes by mail ballot in place of in-person secret ballot votes. The labour relations community complained about this to the Ministry and to the former Minister. In response, the Ministry worked with the LRB and the ESB to make changes to the process which now appear to be better serving the community and working for both the ESB and LRB. However, with the departure of the previous Chair, the acting Chair is reviewing opportunities to improve the services of the LRB to the labour relations community.

Contact:

Trevor Hughes	Deputy Minister	Ministry of Labour	250 356-1346
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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Collective Bargaining

Revised: September 13, 2017

Issue: How the BC Labour Relations Board and the Ministry assist in bargaining disputes to facilitate resolution and protect the public interest

Response:

- The Ministry monitors collective bargaining disputes, including those that might have a negative impact on the public interest, whether in the public or private sector. Where possible, we encourage parties to utilize the services of the Mediation Division of the Labour Relations Board (LRB) to assist them in resolving disputes. In addition, prior to a strike or lockout, where appropriate, the LRB will establish essential service levels to protect the health, safety or welfare of the residents of the province.
- In the event that there are collective bargaining disputes, I am confident that the LRB has the resources needed to assist the parties in mediation and adjudication. The Ministry is also prepared to assist the parties and to do whatever is necessary to protect the public interest.
- The Ministry is not involved in the establishment of bargaining mandates for the public sector and is, in fact, neutral in collective bargaining. The mandate can be addressed by my colleague, the Honourable Carole James, Minister of Finance.

If asked about the status of the Fire and Police Services Collective Bargaining Act:

- The Ministry continues to monitor the operation and impact of this legislation, as it does with all labour legislation. However, there are no plans to amend the Act at this time.

Background/Status:

- As collective agreements expire in the private and public sectors, there is a risk of work stoppages (either strikes or lockouts) that may require the involvement of the Ministry. There may be pressure from the public, the parties involved and line ministries, or there may be political pressure to intervene in a particular dispute. The issue for the Ministry is identifying when and how to intervene, if at all.
- The Ministry is neutral with respect to collective bargaining. That is, the Ministry takes no position in collective bargaining or in any dispute other than to protect the public interest. The Ministry is not involved in public sector bargaining or the establishment of the public sector collective bargaining mandate.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- The services of the Mediation Division of the Labour Relations Board (LRB) may be needed to assist employers and unions resolve disputes during collective bargaining. Generally, those services are accessed by one or both parties making an application to the LRB. Disputes may include establishing the services and staffing to ensure the provision of essential services to protect the health, safety or welfare of the residents of the province prior to a union being able to engage in a legal strike (or an employer in a legal lockout).
- The Ministry of Labour monitors all disputes that could have an impact on the public interest. Ministry staff provide advice to the Minister about when and how government may need to intervene in a dispute in order to protect the public interest. The Ministry may get involved informally or formally to assist the parties to facilitate collective bargaining. Further, the *Labour Relations Code* provides formal mechanisms for the Minister to assist in disputes if requested by the parties, or if the Minister determines it to be necessary and in the public interest (e.g., appointing a Special Mediator or an Industrial Inquiry Commission with specific terms of reference).
- At times, there is public or media pressure for the Minister to direct the parties in a collective bargaining dispute to proceed to binding arbitration to resolve the dispute. There is no mechanism for the Minister to do that, including under the Code, except in police and fire fighter collective bargaining, due to the specific provisions of the *Fire and Police Services Collective Bargaining Act*.
- The Ministry is in touch with the parties in disputes to offer assistance, where possible, and to be as informed as possible of developments. The Ministry's objective is to try to assist parties to achieve a voluntary end to their collective bargaining dispute while minimizing the negative impact of a work stoppage on the public.
- Generally, other jurisdictions in Canada have similar statutory mechanisms for intervention in collective bargaining disputes and for protecting the public interest.
- The *Fire and Police Services Collective Bargaining Act* recognizes that there is no real right to strike or lockout with respect to police and fire fighters due to their high essential services nature and that an alternative mechanism is necessary to end bargaining deadlocks. The Act establishes a framework for resolving collective bargaining disputes by binding interest arbitration. Either the union or the employer may apply to the Minister for direction that a dispute be resolved by arbitration if the parties fail to reach agreement on their own. Recently and in the past, municipal employers have raised concerns about the specific requirements for the arbitrator set out in the Act. Some municipalities have argued that arbitrators have not placed sufficient emphasis on local economic conditions and other local collective agreement settlements, municipal financial capacity, local recruitment issues, and the size of various municipalities in determining an

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

appropriate economic adjustment. Municipalities and the Union of BC Municipalities (UBCM) have sought amendments to the Act and a broad-based review of whether the Act is meeting its objectives. Over the past few years, government has indicated to municipalities, UBCM, and to the BC Professional Fire Fighters Association that there are no plans to review the Act, as the Act is achieving the objectives for which it was established. Most recently, the former Minister of Community, Sport and Cultural Development engaged UBCM in a discussion about whether government and UBCM can partner on a review of local government compensation, including (but not limited to) the Act.

BC Bargaining Database

- In 2008, the Ministry launched the BC Bargaining Database in partnership with the BC Federation of Labour, the Business Council of BC and the BC Labour Relations Board to provide data and trends on collective bargaining.
- The database provides important information about collective bargaining to the public. It is particularly valuable because it provides objective data to employers and unions about other collective bargaining settlements so that they do not have disputes about this information at the bargaining table. A new website for the database was unveiled in late 2013.
- As of April 1, 2016, a two-year shared cost-funding arrangement between the Ministry and the Business Council of BC has been put in place to keep the database in operation to March 31, 2018. The current two-year contract is based on a cost-sharing model in which the Business Council makes an equivalent monetary contribution. The Ministry has provided \$48,750 for each of the two years. There is no financial contribution from the BC Labour Relations Board or the BC Federation of Labour.

Contact:

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: *Labour Relations Code Review*

Revised: September 13, 2017

Issue: Review of the *Labour Relations Code* to ensure workplaces support a growing, sustainable economy with fair laws for workers and businesses (mandate letter commitment)

Response:

- Government has made a commitment to review the *Labour Relations Code* to ensure workplaces support a growing, sustainable economy with fair laws for workers and businesses.
- Over the coming weeks and months, the Ministry will be developing specific plans to deliver on this priority.

Background/Status:

- The Premier's July 2017 mandate letter to the Minister included the following: "Ensure British Columbians have the same rights and protections enjoyed by other Canadians by reviewing the Labour Code to ensure workplaces support a growing, sustainable economy with fair laws for workers and businesses"
- Although the details of a *Labour Relations Code* review has not yet been announced, the Ministry expects to undertake the following activities over the next several months:
 - Union and employer stakeholders will continue to meet with the Minister and ministry officials to express views on the province's labour relations laws.
 - Ministry staff will review labour relations laws in other provinces and identify key areas where gaps exist in British Columbia statutes.
 - A committee of special advisors established under Section 3 of the Labour Relations Code will be engaged to provide advice and analysis on addressing those gaps.

Attachment: Appendix 1 – *Labour Relations Code* Amendments Since 2001

Contact:

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 1 – *Labour Relations Code* Amendments Since 2001

Year	Legislative Amendments
2001/ 2002	<ul style="list-style-type: none">• Addition of new duties for the Labour Relations Board and for others with responsibilities under the Code, with the stated goal of fostering the employment of workers in economically viable businesses and to recognize the rights of employees, trade unions, and employers.• The right of employers and unions to communicate with employees about unionization matters clarified.• Mandatory secret ballot vote in the union certification process reintroduced.• Education made an essential service.• Mandatory sectoral bargaining in the construction sector repealed.
2008	<ul style="list-style-type: none">• Introduction of a requirement for the Labour Relations Board to issue its decisions on applications and complaints within time periods prescribed by ministerial regulation. (The timeline was established by Regulation in 2012.)

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Asbestos

Revised: September 13, 2017

Issue: Action of government and WorkSafeBC to address the safe use, handling, abatement, transfer and disposal of asbestos materials and products

Response:

- This Government is committed to making British Columbia the safest jurisdiction for workers in all of Canada.
- The Government of British Columbia is keenly aware of the extent to which asbestos is a significant health and safety issue for B.C. workplaces and B.C. workers.
- Given the dangerous nature of asbestos, the safe use, handling, abatement and disposal of asbestos-containing materials is important from several perspectives including worker safety, safety during home and apartment renovations and demolitions, consumer and public awareness, and environmental protection. Asbestos safety is a matter of significant concern to the Government of British Columbia, worker and employer stakeholders, WorkSafeBC, public health officials and the general public.
- A cross-ministry Asbestos Working Group, consisting of representatives from the Ministry of Labour along with the Ministries of Health, Environment and Climate Change Strategy, Municipal Affairs and Housing and WorkSafeBC, is working to ensure that British Columbians are adequately protected from the dangers of asbestos.
- I have directed the working group to continue in the fall with stakeholder consultations and to report back to me by the end of the year.

Background/Status:

- Exposure to asbestos can cause serious long-term health issues and even death. Until the early 1990s, asbestos was widely used in B.C. as a building material and can be present in many areas of older buildings.
- Anyone who repairs, renovates or demolishes older buildings in B.C. is at risk of inhaling asbestos fibres.
- Workers with the highest risk of inhaling the fibres include demolition and renovation contractors, carpenters, plumbers, electricians, building owners, home inspectors, insurance adjusters and real estate agents.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- If asbestos is found, the *Occupational Health and Safety Regulation* requires employers to hire a qualified abatement contractor to remove the material. A qualified person must also certify that the worksite air is safe, following the completion of the asbestos removal work. The *Occupational Health and Safety Regulation* defines a qualified person as a person who has knowledge of the management and control of asbestos hazards through education and training and has experience in the management and control of asbestos hazards.

Asbestos Working Group

- The cross-ministry Asbestos Working Group's mandate is "to identify, review and report on outstanding risks that asbestos poses for British Columbians and the environment and additional strategies and initiatives that the British Columbia government and its agencies could undertake to further protect people and the environment from the dangers of asbestos."
- Since its creation in February 2017, the working group reviewed available evidence to identify the nature and magnitude of outstanding asbestos risks for British Columbians and the province's natural environment, and identified a number of initiatives that ministries and agencies are currently undertaking or are considering going forward.
- The working group will consult on the identified issues and potential initiatives with relevant outside stakeholders. These stakeholders will include business and employer representatives, the BC Federation of Labour, the BC Building Trades and other worker representatives, asbestos contractors, the Union of BC Municipalities, selected local governments and other appropriate stakeholders identified by the working group.

WorkSafeBC's Estimates Binder

- The WorkSafeBC 2017/18 Estimates Binder has detailed notes on a number of asbestos related topics, including enforcement activities, homeowner responsibilities, disposal issues and others.

Contact:

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Bullying, Harassment and Mental Disorders

Revised: September 13, 2017

Issue: Actions to address bullying and harassment in the workplace

Response:

- The *Workers Compensation Act* provides that mental disorders resulting from one or more traumatic events, as well as mental disorders primarily caused by significant work related stressors including bullying and harassment, are compensated.
- Government believes that it is important to treat job-related mental disorders the same way physical illness and injuries are treated. Mental disorders have a significant impact on workers, their families and the workplace.
- WorkSafeBC has developed a policy on bullying and harassment under the existing *Occupational Health and Safety Regulation* to prevent and address this behaviour in the workplace.
- WorkSafeBC has provided resources on its website in a Workplace Bullying and Harassment Tool Kit.
- Government encourages all employers and workers to review this important material and to be fully aware of their responsibilities and duties to ensure that bullying and harassment have no place in British Columbia's workplaces.

Background/Status:

- The previous government introduced Bill 14, *Workers Compensation Amendment Act, 2011*, in November 2011 and passed it in May 2012. The primary change was to amend the mental stress provisions of the *Workers Compensation Act*, which previously compensated acute reactions to a single sudden and traumatic event, but excluded chronic stress conditions arising from the workplace. The exclusion of chronic stress was the subject of legal challenges of discrimination under the *Human Rights Code*.
- With Bill 14, the *Workers Compensation Act* now provides that:
 - Mental disorders resulting from one or more traumatic events, as well as mental disorders resulting from significant work related stressors such as bullying and harassment (i.e., chronic stress), are now compensated.
 - For significant work-related stressors, including bullying or harassment, the stressor must be the predominant cause of the mental disorder. The

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

predominant cause requirement recognizes the unique characteristics of mental disorders that can involve work-related and non-work stressors. As such, requiring that a mental disorder be predominantly caused by a significant work-related stressor arising out of employment supports the objectives and financial integrity of the workers' compensation system.

- There is explicit recognition in the legislation of bullying or harassment as significant work-related stressors that can result in a compensable mental disorder. The intent of this provision was to express a clear position on bullying and harassment to the effect that these destructive behaviours are simply not acceptable in the workplace.
- In order for a compensation claim to be accepted, a psychiatrist or psychologist must have diagnosed a mental disorder. Non-traumatic claims are more complex, and psychiatrists and psychologists have the necessary training to diagnose recognized mental disorders. The intent was that having a psychiatrist or psychologist as the first point of contact would mean a quicker diagnosis.
- The terminology in the legislation was changed from "mental stress" to "mental disorder" to make clearer that compensation always requires a diagnosed mental disorder. It is not available just for experiencing some stress at work.
- Mental disorder claims that result from termination, discipline and other decisions related to a worker's employment continue to be excluded.
- On July 1, 2012, Bill 14 coverage for mental disorders came into effect.
- To handle the new and complex working of mental disorder claims, WorkSafeBC has been working closely with employer, union, worker and mental health groups in the establishment and evolution of this program. It has been doing the same with psychology and medical communities including the BC College of Psychologists, the BC Psychologist's Association and the BC Medical Association.
- WorkSafeBC has developed a policy on bullying and harassment under the existing *Occupational Health and Safety Regulation* which came into effect on November 1, 2013. WorkSafeBC also introduced the resources that are now available in a Workplace Bullying and Harassment Tool Kit.
- Please see WorkSafeBC's Estimates binder for further details and statistics on WorkSafeBC's management and administration of the Bill 14 amendments.

Contact:

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Forest Safety Issues Including Resource Roads

Revised: September 13, 2017

Issue: Action taken by government and WorkSafeBC on forest safety issues including resource roads

Response:

- In 2016, there were 13 fatal workplace incidents involving forestry workers. Fifty-two work related deaths occurred between 2011 and 2015.
- As set out in the Premier's July 2017 mandate letter to me, over the coming months, I will be reviewing and developing options with WorkSafeBC to increase compliance with legislation and standards that are in place to protect the lives and safety of workers. In particular, I expect to be paying special attention to high risk sectors such as forestry, health care and construction.
- As the Minister of Labour, I intend to make British Columbia the safest jurisdiction in Canada for workers.
- I would refer any questions regarding government's plans to standardize resource road safety rules to the Minister of Forests, Lands, Natural Resource Operations and Rural Development.

Background/Status:

Forest Safety

- In 2004, the previous government committed to cutting the number of deaths and serious injuries by half within three years. Several months later, the goal was revised to zero deaths and serious injuries.
- On January 23, 2008, the Office of the Auditor General released the report Preventing Fatalities and Serious Injuries in B.C. Forests – Progress Needed.
- This report focused on the role of the provincial government and its agencies involved in forest worker safety. It concluded that government still had significant challenges to overcome if it is to meet the goal set in 2003 to radically decrease deaths and injuries in the forest industry.
- The report contains 15 recommendations for improving forest worker safety.
- The Auditor General subsequently reported that four of the 15 recommendations had been fully implemented, five had been substantially implemented, one had been partially implemented and five had been addressed by alternative action.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- See WorkSafeBC's Estimates Binder for details on WorkSafeBC's actions to support forest worker safety.

Resource Roads

- In October 2012, the previous government approved an Order in Council (OIC) that amended the Occupational Health and Safety Regulation (OHSR) to clarify the *Workers Compensation Act* (WCA) definition of "workplace" and its application to resource roads. Specifically, the regulation states that a resource road is not a "workplace", and therefore, it establishes that resource roads will be treated much the same as public highways for the purpose of occupational health and safety enforcement.
 - This regulation addresses concerns that FLNR and other government ministries and agencies had long had with the enforcement approach established under the WCA and OHSR. Specifically, it was their view that WorkSafeBC's enforcement approach, which considered a resource road as a whole to be a single workplace, was untenable because it was impossible for government to have knowledge of, and control over, all of the activities that occur on these roads.
 - Subsequent to the enactment of the regulation, WorkSafeBC developed, in consultation with stakeholders, a guideline which provides more detail and insight into the application of the regulation. In addition, FLNR and WorkSafeBC are continuing to work closely with each other under this policy approach in the interest of safety.
 - s.13
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- Questions regarding government's plans to standardize resource road safety rules should be referred to the Minister of Forests, Lands, Natural Resource Operations and Rural Development.

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Lakeland and Babine Sawmill Explosions

Revised: September 13, 2017

Issue: Actions taken following the Lakeland and Babine sawmill explosions

Response:

- As a government, we want to make sure that all of the events leading up to the mill explosions and WorkSafeBC's investigations of those explosions are looked at even more rigorously so that no one is subjected to that kind of horrific explosion that those workers faced and serious lifelong injuries they were left with.
- In the wake of the tragedies at the Babine and Lakeland sawmills, the previous government took steps aimed at ensuring that tragedies like this do not happen again.
- Government has made a commitment to review and develop options with WorkSafeBC to increase compliance with employment laws and standards to protect the lives and safety of workers.
- As part of this commitment, I will be reviewing the steps that were taken in the wake of the tragedies to see what more needs to be done.

Background/Status:

- On January 10, 2014, Crown Counsel announced that no charges would be approved against Babine Forest Products in relation to the January 20, 2012, explosion and fire in Burns Lake that killed two workers and injured many others.
- On April 14, 2014, Crown Counsel announced that no charges would be approved in the April 23, 2012, fire and explosion at Lakeland Mills in Prince George.
- Problems with how WorkSafeBC conducted the investigations were cited as part of the reason why charges were not approved in both cases.
- On April 14, 2014, the previous government announced that the chair and board of directors of WorkSafeBC agreed to appoint Mr. Gordon Macatee as Administrator at WorkSafeBC to ensure that necessary reforms are undertaken.
- The previous government and WorkSafeBC accepted all 43 recommendations contained in Gordon Macatee's *WorkSafeBC Review and Action Plan*, released in July 2014.
- Mr. Macatee delivered his final report to government and WorkSafeBC on April 6, 2016. The report concluded that all of the 43 recommendations had been

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

implemented, with a few minor adjustments that were based on stakeholder consultations and that Mr. Macatee also supported.

- On February 11, 2015, the previous government introduced Bill 9, the *Workers Compensation Amendment Act, 2015*, which addresses 12 of Mr. Macatee's recommendations that warranted a legislative response. All provisions in Bill 9 are in effect, with the final provisions having come into force on September 15, 2015.
- On May 14, 2015, a coroner's jury issued the formal verdict respecting the Lakeland sawmill explosion. The jury made 33 recommendations aimed at both government and non-government organizations.
- On July 31, 2015, a second inquest jury issued its verdict into the Babine sawmill explosion. The Babine inquest made 41 recommendations, also aimed at both government and non-government organizations.
- Of the 74 recommendations flowing from the two inquests, 40 were directed to the provincial government or provincial government agencies.
- Bill 35, *Workers Compensation Amendment Act (no. 2)* acted on the five recommendations from the Coroner Inquests which called for amendments to the *Workers Compensation Act*.
- In addition to acting on the coroner jury recommendations aimed at it, WorkSafeBC underwent a consultation and regulatory process in order to develop amendments to the Occupational Health and Safety (OHS) regulations which support Bill 35.
- A class-action lawsuit has been launched by a group of workers and family members involved in the 2012 explosion at the Babine and Lakeland sawmills.
- Ten plaintiffs are seeking general, special and punitive damages, as well as declarations from WorkSafeBC admitting inspections and investigations into the explosions were negligent.

WorkSafeBC Estimates Notes

- See also WorkSafeBC's note on the status of implementation of the Macatee recommendations, including the implementation of WorkSafeBC regulations and policies that have given effect to the legislative changes in Bill 9.

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Occupational Health and Safety Harmonization Under the New West Partnership and the Council of the Federation

Revised: September 13, 2017

Issue: New West Partnership and Council of Federation (the premiers') commitments to identify opportunities to liberalize trade, particularly in the area of occupational health and safety (OHS)

Response:

- The Minister of Jobs, Trade and Technology can answer questions regarding the New West Partnership and the Canada Free Trade Agreement, and the Premiers' commitments to determine if there are other possible improvements to liberalize trade.
- With respect to the review of occupational health and safety, I am advised that occupational health and safety officials from the provinces, territories and the federal government have been looking at potential opportunities to harmonize rules in situations where those rules could create unnecessary barriers to trade.
- One example is first aid kits. The jurisdictions are looking at adopting compatible cross-jurisdiction standards for first aid kits, with a view to helping make trade across provincial and territorial boundaries easier.

Background/Status:

- On August 28, 2014, the premiers of Saskatchewan, Alberta and British Columbia agreed to review the list of exceptions to the New West Partnership Trade Agreement (NWPTA) to make trade in the New West even more open.
- Specifically, the premiers directed their ministers responsible for NWPTA to "review exceptions to determine if there are other possible improvements to liberalize trade, particularly in the area of occupational health and safety (OHS)".
- Overall responsibility for this initiative resides with the Ministry of Jobs, Trade and Technology (JTT) in B.C., and with JTT's trade ministry counterparts in Alberta and Saskatchewan.
- All three jurisdictions (B.C., Alberta and Saskatchewan), however, have engaged their OHS regulatory/enforcement agencies and labour ministries to undertake the review of OHS regulations, standards and practices to identify opportunities to reconcile differences that prevent workers, businesses and other organizations from operating efficiently across jurisdictions.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- To this end, the three jurisdictions have established a New West Partnership – Occupational Health and Safety (NWP-OHS) Committee to oversee the review. WorkSafeBC and the Ministry of Labour represent B.C. on this Committee.
- The trade ministries have specifically directed the NWP-OHS Committee to develop an action plan (OHS Action Plan) to reconcile certain OHS measures relating to personal protective equipment, fire extinguishers, radiation or chemical exposure limits, among others. Where a difference in provincial standards is maintained with respect to any measure identified in the OHS Action Plan, the rationale for maintaining that difference will be documented.
- On December 1, 2014, the NWP-OHS Committee met in Edmonton with key business and labour stakeholders from the three jurisdictions that have a particular interest in cross border issues, including: the Canadian Association of Petroleum Producers; Canadian Federation of Independent Business; representatives from British Columbia, Alberta and Saskatchewan construction and roadbuilding associations; and representatives from the British Columbia, Alberta and Saskatchewan federations of labour.
- Also on December 1, 2014, the British Columbia, Alberta and Saskatchewan federations of labour issued a news release criticizing this initiative for potentially leading to a “race-to-the bottom” on workplace health and safety rules, and promising an “unprecedented political battle” if this initiative results in the three jurisdictions harmonizing their OHS regulations and practices to the lowest standard.
- This initiative is intended to make it easier for workers and businesses to operate more efficiently between jurisdictions. In cases where harmonization of standards is being considered to achieve this objective, the three jurisdictions have committed to harmonizing to the standard that is deemed the highest in the three jurisdictions.
- The NWP-OHS Committee’s work is continuing, and is now focused on supporting the Council of the Federation initiative.

Council of the Federation Initiative

- On September 23, 2015, former Newfoundland and Labrador Premier, Paul Davis, as then Chair of the Council of the Federation, wrote to the other premiers confirming their commitment to reviewing OHS regulations and practices with a view to reducing technical barriers to trade.
- Specifically, premiers directed their ministers responsible for OHS to explore opportunities for mutual recognition or harmonization in the following areas:
 - Personal Protective Equipment Requirements, such as hard hats, safety vests, first aid kits, etc., that could be reconciled.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- Standards/Training, including opportunities to align training requirements between jurisdictions.
- Information-Sharing and Reporting, to make OHS information more readily available.
- Administrative/Work Processes and Practices, such as reviewing rule differences and considering mutually recognizing common cross-border requirements.
- This review is proceeding under the auspices of the Canadian Association of Administrators of Labour Legislation (CAALL), which is the secretariat that supports the federal, provincial and territorial ministers responsible for labour.
- On September 9, 2016, during their meeting in Prince George, federal, provincial and territorial ministers responsible for labour agreed on an action plan which:
 - Identifies concrete areas for harmonization.
 - Will help improve occupational health and safety for Canadian workers.
 - Will make it easier for companies working in multiple provinces and territories to support their employees from a health and safety standpoint.

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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Post-Traumatic Stress Disorder and First Responders

Revised: September 13, 2017

Issue: Post-traumatic stress disorder (PTSD) and first responders

Response:

- Government recognizes the important, challenging and sometimes dangerous work that first responders do every day to serve and protect British Columbians.
- Government also appreciates the time that first responders have taken to express the challenges regarding Post-Traumatic Stress Disorder (PTSD) and the need for adequate support for the mental health injuries they may suffer as a result of performing their work.
- Government is keenly aware of the difficult circumstances many first responders have faced and the toll this can take on them.
- As Minister of Labour, I am committed to ensuring that British Columbia has a fair, effective and respectful WorkSafeBC system.
- The *Workers Compensation Act* provides for compensation coverage for B.C. workers who experience work-related mental disorders, including PTSD. All B.C. workers, including first responders, are covered for mental disorders caused by a larger array of traumatic events or work-related stressors.
- WorkSafeBC accepts first responders' compensation claims for PTSD and other mental disorders when it is established that the cause arose out of work.
- The Ministry of Labour is working with WorkSafeBC, the Ministry of Health, employers, first responders and their unions to better support first responders' mental health.
- WorkSafeBC has established a first responders' mental health steering committee, with participation from government, employers and unions representing first responders, to look at ways to reduce incidents of work-related mental health issues, including PTSD.
- The Ministry of Labour is in discussions with the Ministry of Health to determine if there are areas for improving mental health supports for first responders through the public health system and through employer programs and practices.
- The Federal, Provincial and Territorial Ministers Responsible for Labour have agreed to work together to reduce the stigma associated with mental health

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

issues in the workplace, explore ways to enhance supports through employers and workers' compensation boards, and share information on best practices and research across provinces and territories.

Background/Status:

First Responders' Concerns

- A number of first responder stakeholders, including the BC Professional Fire Fighters' Association and the Ambulance Paramedics of British Columbia, have expressed their concerns to government on how PTSD is addressed by the *Workers Compensation Act*.
- These and other stakeholders have raised concerns that the changes made to the *Workers Compensation Act* in 2012 by Bill 14 do not go far enough. Some believe that it is necessary to broaden the range of mental health injuries accepted by WorkSafeBC and to provide presumptive coverage for mental health injuries for first responders. There are also concerns about the immediacy of service for those in need, the location of treatment, and the role of the health care system and employers when a worker is denied coverage by WorkSafeBC.
- The Paramedic Association of Canada conducted a survey that determined that:
 - Thirty per cent of the paramedic respondents have contemplated suicide.
 - Ninety-seven per cent of respondents indicated that paramedics and dispatchers need support for the cumulative impact of multiple traumatic calls over their careers.

Workers' Compensation for PTSD and Mental Disorders

- The *Workers Compensation Act* was amended in 2012 to expand coverage for workers who experience work-related mental disorders, including PTSD. The change means that all B.C. workers, including paramedics and other first responders, are covered for mental disorders caused by a larger array of traumatic events or stressors.
- B.C. has broad workers' compensation legislation for mental disorders.
- At this time, B.C. has no presumption for PTSD or other mental disorders. WorkSafeBC requires evidence that a claim is work-related.
- WorkSafeBC accepts first responders' compensation claims for mental disorders, including PTSD, when it can be established that the cause arose out of work.
- Accepted claimants can receive supports like psychological counselling, occupational therapy and social work support.
- WorkSafeBC also provides immediate clinical treatment and referral services to all workers regardless of their claim status.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Actions to Support First Responders

- The Ministry has worked with the Ministry of Health, WorkSafeBC, employers, unions and first responders to step up efforts to prevent PTSD and other mental disorders in first responders, and to provide proper support through the employers, WorkSafeBC and the public health system to those who do succumb to such conditions.
- Specific initiatives include the following.
 - In 2015, WorkSafeBC struck the *Supporting Mental Health in First Responders Steering Committee*, a multi-agency body with senior worker and employer representatives from fire, police and ambulance services, along with a senior government representative (Deputy Minister Trevor Hughes). The committee's goals have included:
 - Researching, sharing, and promoting current best practices and relevant studies to support positive mental health amongst first responders.
 - Developing and maintaining a relevant inventory of current mental health resources for first responders.
 - Developing a tool kit of best practices and resources for employers, supervisors and workers to support mental health in the workplace.
 - Specific membership includes:
 - The first responders on the Committee: labour/management, paid/volunteer, urban/rural and First Nations from police, fire fighters and ambulance services.
 - Law Enforcement: BC Municipal Chiefs of Police, BC Police Association, Canada Border Services, Transit Police and RCMP.
 - Fire Fighters: BC Professional Fire Fighters' Association, Fire Chief's Association of BC, Greater Vancouver Fire Chiefs and Volunteer Firefighters' Association of BC.
 - Ambulance: Ambulance Paramedics of BC and BC Emergency Health Services.
 - First Nations: First Nations Emergency Services.
 - Canada Border Services Agency has also attended some of the meetings.
 - Actions to date:

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- Creation of a website dedicated to BC First Responders' Mental Health.
 - The Committee has developed a best practice document outlining 'Recommended Practices for Supporting Mental Health in First Responders'.
 - At the end of 2016, the Committee had in place an inventory of relevant research for use by all first responder agencies.
 - The Committee is developing an anti-stigma campaign for first responders.
 - Work is underway to evaluate the Alberta's Paramedics Association's Standards for Mental Health website.
 - The Committee is working on a 'Mental Health app' for first responders.
- WorkSafeBC has sponsored several first responder initiatives, which has contributed to improved knowledge and awareness within the community of WorkSafeBC's role in prevention. These include:
 - BC Professional Fire Fighters' Association conference on mental health.
 - Paramedics conference on mental health.
 - "Honour House" provincial tour.
 - Funding to evaluate a custom firefighters' resilience course developed by Canadian Mental Health Association.

Recent Meetings of Federal, Provincial and Territorial Ministers Responsible for Labour

- At the September 2016 meeting in Prince George, the ministers:
 - Examined the issue of workplace mental health, including PTSD.
 - Highlighted the importance of this matter in a joint statement, agreeing to take steps to reduce the stigma associated with mental health issues in the workplace and to encourage workers to seek help when they need it.
 - Expressed interest in contributing to the development of a coordinated national action plan on PTSD.

Presumption for PTSD and Other Mental Disorders

What is Meant by a Presumption?

- A presumption under the *Workers Compensation Act* presumes that a certain disease or disorder is work-related for a specified occupation.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- The presumption thereby establishes a worker's eligibility for workers' compensation benefits without requiring specific evidence that the disease or disorder arose out of work.
- Presumptions are rebuttable if there is evidence that the cause of the disease or disorder was not the worker's employment.

First Responders' Presumption Requests

- First responders have been requesting a presumption under the *Workers Compensation Act* that PTSD, and possibly other mental disorders, arise from the work of being a first responder.
- The presumption would establish a first responder's eligibility for workers' compensation benefits without requiring specific evidence that the PTSD (or other mental disorder) arose out of work. It would thus support first responders to have a workers' compensation claim accepted more quickly.
- The BC Professional Fire Fighters' Association formally requested a first responders' presumption for mental disorders in its policy submission for the 5th annual Robert E. Hall Legislative Conference March 7 – 8, 2016.
- In September 2015, The Ambulance Paramedics of BC provided a written submission to the then Minister of Jobs, Tourism and Skills Training and Responsible for Labour and to the Minister of Health.

Other Jurisdictions

- **Alberta** provides a PTSD presumption for specified first responders.
- **Ontario** provides a PTSD presumption for first responders, which came into force on April 6, 2016.
- **Manitoba** has a very broad PTSD presumption for any worker, not just first responders. Manitoba's presumption thus covers workers such as nurses who may face traumatic incidents but are not generally considered first responders. Manitoba requires there be a traumatic event recognized as a cause of PTSD.
- **Saskatchewan**, on October 25, 2016, introduced and passed legislation entitled *The Workers' Compensation Amendment Act, 2016*, which provides a presumption covering all workers suffering psychological injuries that result from exposure to a traumatic event. It also provides a presumption for workers in a prescribed occupation even if they were not exposed to a traumatic event.
- **New Brunswick** provides a presumption for firefighters, paramedics and police officers who are diagnosed with PTSD, which received Royal Assent in June 2016.
- These presumptions require a PTSD diagnosis by a physician or psychiatrist (depending on the province) or by a psychologist.

2017/18 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- Besides these five provinces, no other Canadian jurisdiction provides presumptions for PTSD or other mental disorders.
- **Nova Scotia** introduced amendments to its *Workers' Compensation Act* on April 28, 2017, that would provide presumptive benefits to corrections officers, firefighters, nurses, paramedics, police officers and persons in health-services occupations prescribed by the regulations who are diagnosed with work-related post-traumatic stress disorder. The Bill has only progressed to First Reading.

Costs for a Presumption for PTSD and possibly other mental disorders

- One consideration of a new presumption is the cost, although cost is not the first and only consideration.
- A presumption for PTSD would result in WorkSafeBC providing compensation to more first responder claims because the requirement for establishing work causation would be removed.
- A very rough estimate of the additional workers' compensation costs for a PTSD presumption in British Columbia is about \$4.7 million dollars annually. WorkSafeBC provided this estimate in January 2017 based on Alberta's experience and the same first responder groups covered by Alberta's legislation (paramedics, fire fighters, police and sheriffs).
- Municipal employers would generally bear the additional costs for fire fighter and police claims, while the provincial government would pay for the paramedic and sheriff claims.
- The costs would be higher if other mental disorders were included or other workers covered, such as emergency dispatchers, corrections officers and nurses. As the employer or funder of these other workers, the provincial government would bear the additional costs.

UBCM Resolution

- At the 2015 UBCM Annual Convention, Resolution B73, *Workers Compensation Act Presumptive Clause for First Responders*, was endorsed. This resolution called on government to amend the *Workers Compensation Act* to add a presumptive clause for mental health injuries sustained by all first responders.
- At the 2016 UBCM Annual Convention, Coquitlam introduced Resolution B43 which resolved to award financial benefit and treatment immediately to a worker who has submitted a mental health injury claim, with the worker, their specialist and WorkSafeBC agreeing that if it is proven that the injury is not a result of duties of their employment, there will be a repayment for costs.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

WorkSafeBC's Estimates Binder

- See also WorkSafeBC's notes on: mental disorder claims and WorkSafeBC's policies on bullying/harassment; mental disorder claims by first responders and paramedics; and suicide ideation tracking and measurement.

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2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Protecting the Lives and Safety of Workers

Revised: September 13, 2017

Issue: Review and develop options with WorkSafeBC to protect the lives and safety of workers (mandate letter commitment)

Response:

- The Premier's July 2017 mandate letter made it clear that he expects the Minister of Labour to review and develop options with WorkSafeBC to increase compliance with employment laws and standards put in place to protect the lives and safety of workers.
- As Minister responsible for WorkSafeBC, I intend to make British Columbia the safest jurisdiction in Canada for workers.
- Most employers in the province take worker health and safety seriously, but there is more that needs to be done to ensure workers are safe.
- As the Minister of Labour, it is one of my priorities that B.C. has a rigorous enforcement regime for worker safety.
- Following my direction, over the coming weeks and months, my ministry will be working with WorkSafeBC on developing plans to deliver on this important priority.

Background/Status:

- WorkSafeBC's mandate includes promoting the prevention of workplace injuries, diseases, mental disorders and deaths while ensuring sound financial management for a viable workers' compensation system.
- As Minister responsible for British Columbia's workers' compensation system, the Minister can influence or direct WorkSafeBC's activities in several ways:
 - Ongoing dialogue and feedback.
 - The *Workers Compensation Act* provides some scope for the Minister or Cabinet to direct WorkSafeBC to do things in relation to occupational health and safety.
 - The Minister may direct WorkSafeBC to consider making, repealing or amending its occupational health and safety regulations in accordance with the recommendations of the Minister.

2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- The Minister will be meeting with the Chair of WorkSafeBC to discuss actions that should be undertaken to ensure that the Premier's mandated actions for the Minister are realized.
- These discussions will be undertaken in an environment that recognizes that emerging safety issues and accidents can highlight areas where more work needs to be done, including legislative, regulatory, policy and program actions.
- There is also the consideration that new or amended legislation, regulations, policies and programs adequately protect workers but do not impose inappropriate requirements on employers.

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2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Workers' Compensation

Revised: September 13, 2017

Issue: Ensuring that workers and surviving dependents receive fair compensation, effective services and respectful treatment for injuries or fatalities experienced in the workplace

Response:

- I can assure you that having a fair, effective and respectful WorkSafeBC system is of utmost importance to this government.
- This includes ensuring that injured workers and surviving dependants receive fair and timely compensation.
- At this time, we do not have specific plans for reviewing the existing level of compensation benefits, but I remain open to looking at this issue. My immediate priority is on worker health and safety and having B.C. be the safest jurisdiction in Canada for workers.
- One of my other priorities is respectful care for workers with work-related injuries and illnesses, and for surviving dependants.
- Over the coming weeks and months, the ministry will be looking at what more WorkSafeBC can do to support this priority.

Background/Status:

Compensation

- WorkSafeBC's mandate includes providing fair wage-loss compensation to workers while recovering from work-related injuries and rehabilitating those who are injured on the job.
- In addition, WorkSafeBC's mandate provides that these services be undertaken while ensuring the sound financial management of the workers' compensation system so that it can remain viable.
- In 1999 there was a comprehensive independent review of the workers' compensation system in British Columbia that was undertaken by a Royal Commission.
- In 2001, as a follow up to the 1999 Royal Commission, the previous government established a core service review of workers' compensation law and policy in British Columbia. This review, conducted by Alan Winter, was completed in March 2002.

2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- As a result of the recommendations of these reviews and other policy decisions, the previous government made substantial amendments to the compensation provided to injured workers and the surviving dependents of workers killed in the workplace.
- Although neither the Premier's July 2017 mandate letter to the Minister of Labour, nor the NDP's election platform directly calls for amendments to the *Workers Compensation Act*, government may be considering such action as part of its broader goal of bringing greater fairness.
- This aligns with the Confidence and Supply Agreement provision that commits to improve fairness for workers, ensure balance in workplaces and improve measures to protect the safety of workers at work so that everyone goes home safely and that workers and families are protected in cases of death or injury. Changes to the level of compensation benefits require a legislative amendment to the *Workers Compensation Act*.
- s.13

- See Appendix 1 for a summary of legislative amendments to the *Workers Compensation Act* since 2001.

Effective and Respectful Services for Workers and Surviving Dependents

- The previous government undertook a second core review study of WorkSafeBC in 2001 that focused on service delivery. This report was completed by Allan Hunt in March 2002.
- WorkSafeBC made a number of changes following the 2002 service delivery review and continues to review its program delivery from a service quality perspective.
- Despite these efforts, some clients continue to report to government and to WorkSafeBC about the quality of services provided at WorkSafeBC. This is particularly so for complex cases that can present challenges for the system and for the affected workers and dependants.
- These concerns are important to the WorkSafeBC executive and to government. Generally, service quality issues can be addressed directly by WorkSafeBC without legislative amendment.
- Over the coming weeks and months, the Ministry of Labour will be exploring with WorkSafeBC what more the agency can do in the service delivery area to ensure

2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

all workers, dependents and employers receive services in a way that treat them with fairness and respect.

Attachment: Appendix 1 – *Workers Compensation Act* – Legislative Amendments Since 2001

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2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 1 – *Workers Compensation Act* – Legislative Amendments Since 2001

Year	Legislative Amendments
2002	<ul style="list-style-type: none"> • New governing body (Board of Directors) for WorkSafeBC introduced. • Changes made to the rate upon which benefits are calculated. • Changes made to the method of indexing compensation benefits for inflation. • Pensions no longer provided for life, but instead end at age 65. • Lump sum retirement benefit introduced.
2003	<ul style="list-style-type: none"> • Appeals streamlined and Workers' Compensation Appeal Tribunal created. • Compensation for surviving dependants of workers who die as a result of workplace injuries or illnesses amended. • Provision added for lay advocates (non-lawyers) to advise employers and employees interacting with the workers' compensation system.
2005	<ul style="list-style-type: none"> • Occupational disease presumptions associated with employment as a firefighter first introduced (additional cancers, heart injury, and heart disease added in subsequent years through legislative amendments or by regulation).
2012	<ul style="list-style-type: none"> • Compensation for diagnosed work-related mental disorders expanded. • Compensation payable to injured apprentices and learners amended.
2015	<ul style="list-style-type: none"> • New safety enforcement tools introduced. • Process shortened for finalizing financial penalties. • Provision introduced to ensure timely employer investigations of workplace incidents and reports. • Enhancements made to workplace safety expertise on the WorkSafeBC Board of Directors. • Provision added for employers to immediately report to WorkSafeBC all workplace fires or explosions that have the potential to cause serious injury. • Provision added requiring employer investigation reports to be provided to the workplace health and safety committee or worker health and safety representative, or to be posted at the worksite. • Provision added requiring meaningful participation for worker and employer representatives in employer accident investigations. • Provision added for workplace health and safety committees to provide advice to the employer on significant proposed equipment and machinery changes that may affect worker health and safety. • Provision added for WorkSafeBC to proactively assist workplace health and safety committees in resolving disagreements over health and safety matters. • Due dates for WorkSafeBC's annual report and service plan amended.

2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Improving Labour Laws and Measures

Revised: September 13, 2017

Issue: Improving fairness for workers, ensuring balance in workplaces and improving measures to protect the safety of workers (Confidence and Supply Agreement commitment)

Response:

- Government is fully committed to this item from our Confidence and Supply Agreement with the Green Party.
- As the Minister of Labour, I support labour laws and labour programs that are fair for workers, that ensure balance in the workplace and that protect the safety of workers.
- In fact my vision is that British Columbia is the safest jurisdiction in Canada for workers.
- Over the coming weeks and months, the ministry will be developing specific plans to deliver on this commitment and the related commitments in my mandate letter from the Premier.
- This includes updating employment standards laws and service delivery, reviewing the *Labour Relations Code*, and working with WorkSafeBC to increase compliance with worker safety laws and standards.

Background/Status:

- The Confidence and Supply Agreement (CASA) between the Green Party Caucus and the New Democrat Caucus contains the following commitment:
 - *Improve fairness for workers, ensure balance in workplaces, and improve measures to protect the safety of workers at work so that everyone goes home safely and that workers and families are protected in cases of death or injury (pg. 5, S3, 2d).*
- Government can improve fairness for workers, balance in workplaces, worker health and safety, and support for workers and their dependants in injury or death with changes to the *Employment Standards Act* (ESA), *Labour Relations Code* (Code) and *Workers Compensation Act* (WCA). The agencies that administer these statutes can also support this initiative with program changes.
- The ESA is intended to ensure that employees in BC receive at least minimum standards of compensation and conditions of employment. The Code governs all

2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

aspects of collective bargaining between employers and employees. The WCA sets BC's legal framework for workers' compensation and occupational health and safety.

- Alberta and Ontario recently introduced proposed, far-reaching reforms to their employment standards and labour relations laws, impacting such issues as overtime pay, vacation, leave, and union certification. Canada may also be making amendments to the *Canada Labour Code* soon that could have implications for provincial employment laws.
- In BC, the last comprehensive changes to the ESA, Code, and WCA occurred in 2001-2003, although significant WCA enhancements were made in 2012 and 2015 (See Attachments 1-3).
- In general, employers have indicated support for BC's amendments made in 2001-2003, while workers' groups express the view that they went too far in removing protections for workers, particularly in relation to vulnerable and precariously employed workers.
- The British Columbia Law Institute (BCLI) is currently conducting a review of the ESA, with a final report expected to be released in mid-2018 (see Attachment 4).
- With regard to the Code, in light of Alberta's and Ontario's proposed changes to their employment and labour laws, labour and union groups may have a strong interest in changes that would better facilitate the organization of workers, particularly in sectors that have not traditionally been represented by unions. A committee of special advisors is available to assist government regarding any significant changes that affect labour relations in BC (see Attachment 5).
- Employers and workers support the principle of worker safety, with varying views on the nature and extent of regulation and enforcement, as well as the need for change. Workers would like to see amendments to the WCA to increase benefits and services and to better ensure worker safety.

Attachments: Appendix 1 – *Employment Standards Act* – Legislative Amendments Since 2001
Appendix 2 – *Labour Relations Code* – Legislative Amendments Since 2001
Appendix 3 – *Workers Compensation Act* – Legislative Amendments Since 2001
Appendix 4 – BC Law Institute – ESA Review
Appendix 5 – *Labour Relations Code* – Section 3 Committee

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2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 1 – *Employment Standards Act* – Legislative Amendments Since 2001

Year	Legislative Amendments
2002	<ul style="list-style-type: none"> Requirement for employers to keep payroll records reduced from five to two years. Minimum daily call-in reduced from four to two hours. Liability for unpaid wages reduced from two years to six months. Daily overtime changed to double-time after 12 instead of 11 hours. Statutory holiday pay requirements simplified.
2002	<ul style="list-style-type: none"> Averaging agreements (permitting hours of work to be averaged over a period of one, two, three, or four weeks) introduced.
2002	<ul style="list-style-type: none"> Self-Help Kit and mediation/adjudication conflict resolution processes added.
2002	<ul style="list-style-type: none"> Introduction of mandatory employer financial penalties.
2002	<ul style="list-style-type: none"> Approval process for hiring employees between the ages of 12 and 14 changed.
2002	<ul style="list-style-type: none"> Requirement for farm workers to be paid in Canadian currency and by direct deposit added.
2002	<ul style="list-style-type: none"> Parties to a collective agreement permitted to negotiate alternative provisions with regard to certain sections of the Act. Requirement for parties to a collective agreement to use grievance procedures to resolve disputes regarding the application of standards added.
2006	<ul style="list-style-type: none"> Introduction of compassionate care leave.
2008	<ul style="list-style-type: none"> Introduction of Reservists' leave.
2008	<ul style="list-style-type: none"> Requirement added that farm producers only engage farm labour contractors who are licenced. Provision added allowing for the cancellation or suspension of a farm labour contractor's license when relevant WorkSafeBC and motor vehicle laws and regulations are violated. Provision added enabling government to charge farm labour contractors the costs paid to provide alternative transportation for stranded workers when a vehicle is taken out of service during roadside inspections.

Note that changes to the minimum wage have occurred by way of Order-in-Council.

2016/17 Estimates Note

Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 2 – *Labour Relations Code* – Legislative Amendments Since 2001

Year	Legislative Amendments
2001/ 2002	<ul style="list-style-type: none">• Addition of new duties for the Labour Relations Board and for others with responsibilities under the Code, with the stated goal of fostering the employment of workers in economically viable businesses and to recognize the rights of employees, trade unions, and employers.• The right of employers and unions to communicate with employees about unionization matters clarified.• Mandatory secret ballot vote in the union certification process reintroduced.• Education made an essential service.• Mandatory sectoral bargaining in the construction sector repealed.
2008	<ul style="list-style-type: none">• Introduction of a requirement for the Labour Relations Board to issue its decisions on applications and complaints within time periods prescribed by ministerial regulation. (The timeline was established by Regulation in 2012.)

2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 3 – *Workers Compensation Act* – Legislative Amendments Since 2001

Year	Legislative Amendments
2002	<ul style="list-style-type: none"> • New governing body (Board of Directors) for WorkSafeBC introduced. • Changes made to the rate upon which benefits are calculated. • Changes made to the method of indexing compensation benefits for inflation. • Pensions no longer provided for life, but instead end at age 65. • Lump sum retirement benefit introduced. • Appeals streamlined and Workers' Compensation Appeal Tribunal created.
2003	<ul style="list-style-type: none"> • Compensation for surviving dependants of workers who die as a result of workplace injuries or illnesses amended. • Provision added for lay advocates (non-lawyers) to advise employers and employees interacting with the workers' compensation system.
2005	<ul style="list-style-type: none"> • Occupational disease presumptions associated with employment as a firefighter first introduced (additional cancers, heart injury, and heart disease added in subsequent years through legislative amendments or by regulation).
2012	<ul style="list-style-type: none"> • Compensation for diagnosed work-related mental disorders expanded. • Compensation payable to injured apprentices and learners amended.
2015	<ul style="list-style-type: none"> • New safety enforcement tools introduced. • Process shortened for finalizing financial penalties. • Provision introduced to ensure timely employer investigations of workplace incidents and reports. • Enhancements made to workplace safety expertise on the WorkSafeBC Board of Directors. • Provision added for employers to immediately report to WorkSafeBC all workplace fires or explosions that have the potential to cause serious injury. • Provision added requiring employer investigation reports to be provided to the workplace health and safety committee or worker health and safety representative, or to be posted at the worksite. • Provision added requiring meaningful participation for worker and employer representatives in employer accident investigations. • Provision added for workplace health and safety committees to provide advice to the employer on significant proposed equipment and machinery changes that may affect worker health and safety. • Provision added for WorkSafeBC to proactively assist workplace health and safety committees in resolving disagreements over health and safety matters. • Due dates for WorkSafeBC's annual report and service plan amended.

2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 4 - BC Law Institute – ESA Review

The British Columbia Law Institute (BCLI), incorporated in 1997 under the provincial *Society Act*, is a not-for-profit law reform agency dedicated to the improvement and modernization of the law. It carries out law reform projects by conducting scholarly research, analysis, and consultation with experts, stakeholders, and the general public. The BCLI also collaborates with government and other entities, publishes its consultative documents and reports, and generates material for public outreach and public information.

The BCLI's "*Employment Standards Act Reform Project*", begun in the fall of 2014, is an independent review of BC's employment standards. The project, undertaken by the BCLI on its own initiative, is led by an expert volunteer Project Committee chosen carefully to attain a balance between employer and employee interests. The ministry provides support to the project by having a ministry staff member participate as a project observer and liaison and by contributing \$30,000 towards costs.

Goals of the BCLI's "*Employment Standards Act Reform Project*":

By the conclusion of the project, BCLI will have:

- (a) carried out a thorough analysis of the ESA and its regulations in light of the current realities of the workplace in BC and the foreseeable future evolution of employment;*
- (b) published a consultation paper to collect input from the public on issues and problems in the area of employment standards and proposed ways of addressing them;*
- (c) with the aid of the Project Committee, identified the changes to the ESA that are needed or desirable to address contemporary and foreseeable future circumstances and conditions;*
- (d) formulated concrete recommendations for amendment or replacement of the current ESA; and*
- (e) published a detailed report on its examination of the ESA and recommendations for its reform.*

The project's final report is expected to be released in early- to mid-2018.

2016/17 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Appendix 5 - *Labour Relations Code* – Section 3 Committee

Section 3 of the Code provides the minister with the authority to appoint a committee of special advisers (Section 3 committee) to undertake a continuing review of the Code and labour management relations.

The Section 3 committee may be directed to provide the minister with annual evaluations of the functioning of the Code, as well as to make recommendations with respect to potential legislative amendments or to any specific matter referred to the Section 3 committee by the minister.

Section 3 was introduced into the Code following a set of recommendations put forward by a sub-committee of special advisors in 1992. The sub-committee recommended that the government put into place a mechanism for an ongoing review of labour relations legislation with a view to ensuring that future changes to the law would be both incremental and measured. This recommendation was largely motivated by the sub-committee's concern with the destabilizing effects of past legislative changes that favoured one side or the other, creating a kind of "pendulum" of labour law in BC.

The first Section 3 committee was established in 1997. The second Section 3 committee was established in 2002 and was still in place as of the end of the 2016/17 fiscal year, although one of the employer representatives resigned and has not yet been replaced. While the Section 3 committee has not regularly met with the Minister in several years, it has been engaged with the Assistant Deputy Minister of Labour on an as-needed basis.

As of March 31, 2017, the members of the Section 3 committee are:

- Daniel Johnston, chair.
- David Vipond, union representative.
- Bruce Laughton, union representative.
- Eric Harris, employer representative.
- [Vacant], employer representative.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Oversight of B.C.'s Labour Tribunals

Revised: September 13, 2017

Issue: Ministry of Attorney General has responsibility for the Labour Relations Board and Employment Standards Tribunal budgets and certain provisions of the *Labour Relations Code* and the *Employment Standards Act*

Response:

- The Minister of Attorney General is responsible for the budgets of the Labour Relations Board (LRB) and the Employment Standards Tribunal (EST), along with certain legislative provisions relating to the administration of these tribunals.
- As the Minister of Labour, I am responsible for the labour policy reflected in the *Labour Relations Code* and the *Employment Standards Act*, which the LRB and the EST interpret and apply.
- The Ministry of Labour and the Ministry of Attorney General share an interest in having labour tribunals that function effectively. The two ministries consult and cooperate with each other on administrative matters, including appointments to the LRB and EST.
- The Ministry of Attorney General does not have budget and administrative oversight of the Workers' Compensation Appeal Tribunal (WCAT) because WCAT is funded by WorkSafeBC and not by government.

Background/Status:

- The Employment Standards Tribunal (EST) and the Labour Relations Board (LRB) were included in an Order in Council under the authority of the *Constitution Act* that transferred responsibility for certain sections of the relevant legislation to the Ministry of Attorney General (AG), effective April 1, 2017.
- The Ministry of Attorney General assumed responsibility for the administrative justice and certain other tribunal-related sections of the relevant legislation (for example, establishment of the tribunal, appointments, and issues that may fall under the *Administrative Tribunals Act*).
- The Ministry of Labour retains responsibility for matters related to reviews, appealable decisions, compliance, enforcement and sector-specific policies.
- Both tribunals were included in the budget transfer from LBR to AG, also effective April 1, 2017.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- Staff at both ministries have established a “Roles, Responsibilities and Accountabilities” document, under which staff consult each other and work cooperatively on matters of mutual interest regarding the LRB and EST.
- The budget and administrative oversight of the Workers’ Compensation Appeal Tribunal did not transfer to the Ministry of Attorney General because WCAT is funded by WorkSafeBC and not by government.

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Direct Award Contracts

Revised: September 5, 2017

Issue: Summary of Direct Awards

Response:

The following information is for direct award operating contracts (STOB 60, 61 and 63) issued for the fiscal year ended March 31, 2017 and updated for new awards for the first four months of fiscal year 2017/18 (April – July).

- The Ministry is committed to maintaining a fair and transparent procurement process, in line with the policies established by the Ministry of Finance.
- In most cases, opportunities to contract with the Ministry are part of a public competition process delivered through BC BID.
- In limited circumstances, the Ministry will directly award contracts to contractors. Such direct awards are limited to the following circumstances:
 - The contract is with another government organization.
 - The ministry can strictly prove that only one contractor is qualified, or is available, to provide the required goods and/or services.
 - The subject matter is of a confidential or privileged nature and disclosure through an open bidding process could reasonably be expected to compromise government confidentiality.
 - There is an unforeseeable emergency and the goods and/or services could not be obtained in time through a full competitive process.
 - When the cost of a competitive procurement process exceeds the benefits, which is generally the case for contracts under \$25,000.
- In October 2015, the Ministry created a new policy that all direct award contracts must be **pre-approved** by both the branch Assistant Deputy Minister and the Executive Financial Officer (EFO).
- As of March 31, 2017, the Ministry issued two direct award contracts in fiscal 2016/17 for a total value of \$7,182.
- The Ministry did **not** issue any direct award contracts for the first four months of fiscal 2017/18.

Attachment: Appendix 1 – Ministry of Labour Direct Awards 2016/17

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Contact:

Lori Cyr	A/Manager	Procurement and Contracts	778 698-3365
Carla Critchley	Manager	Budgets and Reporting	778 698-3361

Appendix 1

**Ministry of Labour
Direct Awards 2016/17**

Client	Start Date	Contract Reference Number	STOB	Service Line And Desc	Name of the Contractor	Description	Procurement Process	PO Amount
127	2016/10/04	SC17WAO02	6020	53300 Workers Adviser	FREEDOM MOVEMENT INC.	Delivery of presentation on compensation system/provide communication tools/telephone communication skills	Direct Award under 25K	\$ 3,200
127	2016/10/05	SC17WAO01	6020	53300 Workers Adviser	JUSTICE INSTITUTE OF BRITISH COLUMBIA	Customized & targeted training for up to 53 staff, suicide prevention/understanding post traumatic stress disorder/how to assist families with their WorkSafe BC claims	Direct Award Public Sector	\$ 3,982
2 New Direct Award Contracts STOB 60								\$ 7,182

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Operational Contracts

Revised: September 8, 2017

Issue: Summary of Operational Contracts

Response:

Operational contracts include professional services (stob 60/61) and information systems (stob 63).

- The Ministry is committed to maintaining a fair and transparent procurement process, in line with the policies established by the Ministry of Finance.
- The following are the Ministry's objectives for the procurement of goods and services:
 - purchases are managed consistent with requirements of trade agreements
 - government receives the best value for money spent on contracts
 - vendors have fair access to information on procurement opportunities, processes and results
 - opportunities are competed, wherever practical
 - ministries only engage in a competitive process with the full intent to award a contract at the end of that process
 - ministries are accountable for the results of their procurement decisions and the appropriateness of the processes followed
 - the cost of the procurement process, to both vendors and ministries, is appropriate in relation to the value and complexity of each procurement
 - assets that are surplus to the needs of government are disposed of in a coordinated way to maximize the dollar return to government, and to minimize the risk to the environment
- The Ministry issued two new operational contracts, with a total value of \$7,182 in 2016/17.
- The Ministry did **not** issue any new operational contracts for the period April 1, 2017 to June 30, 2017.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Background/Status

Professional Services (stob 60/61)

- The Ministry issued two new professional services contracts totalling \$7,182 in fiscal 2016/17:

	Vendor	Project	Value
1	FREEDOM MOVEMENT INC.	Delivery of presentation on compensation system/provide communication tools/telephone communication skills	\$3,200
2	JUSTICE INSTITUTE OF BRITISH COLUMBIA	Customized & targeted training for up to 53 staff, suicide prevention/understanding post-traumatic stress disorder/how to assist families with their WorkSafeBC claims	\$3,982

Information Systems (stob 63)

- The Ministry did **not** issue any new information systems contracts in fiscal 2016/17 or during the period April 1, 2017 and June 30, 2017.

Contact:

Lori Cyr	Acting Manager, Procurement and Contracts	Financial Services Branch	778 698-3365
Carla Critchley	Manager, Budgets & Reporting	Financial Services Branch	778 698-3361

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Vendor Complaint Review Process (VCRP)

Revised: September 6, 2017

Issue: Report on the Vendor Complaints Received in Fiscal Year 2016/17 and 2017/18 year to date

Response:

Vendor Complaints

- Labour programs and services did not receive any vendor complaints in fiscal year 2016/17.
- As at August 31, 2017, Labour programs and services had not received any vendor complaints for fiscal year 2017/18.

Background/Status:

- The Ministry's Vendor Complaint Review Process (VCRP) is designed to ensure that there is a process for the review of vendor complaints about its procurement process.
- The intent of the VCRP is to assist the Ministry in identifying and responding to problems in the establishment and application of government procurement policy and procedures.
- If necessary, the Ministry will implement changes required to its procurement processes identified through the complaint review process.
- This VCRP requires that ministries and vendors provide full access to all information pertinent to complaints. All information under this VCRP is subject to the *Document Disposal Act* and the access and privacy provisions of the *Freedom of Information and Protection of Privacy Act*.

Contact:

Lori Cyr	A/Manager	Procurement and Contracts	778 698-3365
Carla Critchley	Manager	Budgets and Reporting	778 698-3361

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Deputy Minister's Office – Budget

Revised: August 30, 2017

Issue: Deputy Minister's Office Budget in 2017/18

Response:

- The Deputy Minister's Office was created in fiscal 2017/18 with the establishment of the Ministry of Labour.
- The budget for the Deputy Minister's Office is \$530,000.
- The budget includes funding to support the salary and benefits for the Deputy Minister and two support staff, travel, information systems and general office expenses.

Background/Status:

Budget Detailed Explanations

Estimates Budget	FY18 Estimates (\$)
Salaries and Benefits	447,000
Travel	43,000
Information Systems	20,000
Office and Business	20,000
Other Expenses	3,000
Recoveries	(3,000)
TOTAL	\$530,000

- Deputy Minister's Office spending is forecasting to come in on budget this year.

Contact:

Carla Critchley Manager Budgets and Reporting 778 698-3361

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Executive Compensation (Agencies, Boards and Commissions)

Revised: September 11, 2017

Issue: Executive Compensation in Ministry Agencies, Boards and Commissions reported by PSEC

Response:

- B.C. has high standards for reporting, requiring annual public disclosures of total compensation for executives of Crown agencies, boards and commissions.
- Taxpayers deserve to know how their money is spent – this is why it is mandatory to disclose the salaries of executives from Crown agencies, boards and commissions.
- The disclosure process includes all compensation – base pay, pensions and other benefits including health and insurance plans.
- We work to ensure that Executive compensation is fair and we believe that they do great work on behalf of British Columbians.
- WorkSafeBC is covered by the Executive Compensation rules and reporting requirements established by PSEC.
- Providing fair and competitive compensation ensures we can continue to attract and retain highly skilled people who can effectively deliver quality services to British Columbians.

Background/Status:

- In 2008, amendments were made to the *Public Sector Employers Act* (PSEA) requiring employers to disclose their senior executive compensation within six months of their fiscal year end in a form and manner directed by the CEO of PSEC.
- Since 2008, government has publically disclosed executive compensation for public sector employers on an annual basis.
- The compensation that is disclosed includes holdbacks, benefits, perquisites, allowances, pension, severances, salary continuance, and any other payments.
- The requirements to disclose apply to all public sector employers', CEOs/Presidents, and the top four executives earning \$125,000 or more in base salary.
- Since 2008, executive bonuses have been transitioned to holdbacks.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- When new staff or newly-promoted staff move to an executive position which had bonus pay available to it, a hold back up to a maximum of 20 per cent of maximum base salary will be employed in place of bonuses.
- In addition, a reduction in the total base salary for senior executives of 10 per cent has been applied. The reduction reflects a reduced amount of pay at risk and compression with CEO compensation.
- Increases in total compensation may be due to legitimate vacation payouts, retirement allowances or other payments.
- To support the principles of fiscal restraint, this government:
 - Provides direction to public sector entities on standards of conduct, including post-employment restrictions.
 - Ensures direction for Crown agencies, boards and commissions that is intended to strengthen accountability, promote cost control, and ensure public sector entities operate in the best interest of taxpayers.
 - Maintains an effective and transparent executive compensation framework for Crown agencies, boards and commissions.

Contact:

Tracy Campbell	Assistant Deputy Minister	Management Services	250 387-8705
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2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Ministry Fees

Revised: September 6, 2017

Issue: Ministry Fees in 2017/18

Response:

- The Ministry of Labour collects the following fees:
 - **Farm Labour Contractor Licenses** (\$150 fee) – Farm Labour Contractors must obtain a license before commencing work in the province of British Columbia.
 - **Employment Agency Operating Licenses** (\$100 fee) – An Employment Agency must be licensed under the *Employment Standards Act*.
 - **Talent Agency Operating License** (\$100 fee) – A person must be licensed under the *Employment Standards Act* in order to operate a talent agency in the province of British Columbia.
 - **Fee to search director's records** (\$35 fee) – A person or company may request the director conduct a search of records maintained by the director for information, in respect of a person named in the request, related to contraventions of the *Employment Standards Act* or the regulations or complaints or investigations under the *Employment Standards Act*.
 - **Fines and Penalties** – Penalties are issued where an employer has contravened a section of the *Employment Standards Act* or Regulation. Penalties are as follows:
 - First contravention: \$500.
 - Contravention of the same requirement at the same location within three years of the first contravention: \$2,500.
 - Contravention of the same requirement at the same location within three years of the second contravention: \$10,000.

If asked about the Labour Relations Board:

- In 2016/17, the Ministry collected fees associated with the Labour Relations Board. Effective April 1, 2017 the Labour Relations Board transferred to the Ministry of Attorney General and Labour is no longer responsible for the collection of these fees.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Background/Status

What are Fees?

- Fees charged by government generally have their basis in legislation. Often the relevant statute contains a provision which says the Lieutenant Governor in Council (or sometimes the Minister) may make regulations or orders establishing fees, lease payments, royalty rates or other charges.

Contact:

Carla Critchley Manager Budgets and Reporting 778 698-3361

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Minister's Office – Budget

Revised: August 30, 2017

Issue: Minister's Office Budget in 2017/18

Response:

- The Minister's Office budget for 2017/18 is \$591,000

Background/Detail

Minister's Office Budget Detailed Explanations

Minister's Office	
Expenditure Type	FY18 Estimates (\$)
Salaries	339,000
Benefits	104,000
Legislative Salaries	54,000
Travel	50,000
Information Systems	14,000
Office and Business	9,000
Other Expenses	27,000
Recoveries	(6,000)
TOTAL	\$591,000

- Salaries budget of \$339,000 supports the following Minister's Office Staff Complement:
 - One Senior Ministerial Assistant.
 - One Ministerial Assistant.
 - One Executive Assistant.
 - One Administrative Coordinator.
 - One Administrative Assistant.
- Benefits Budget:
 - Benefits are calculated as a fixed percentage of employee salaries.
 - The percentage is established by the Ministry of Finance on an annual basis.

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

- In 2016/17, the benefit charge was 24.3 per cent of salaries, in 2017/18 the Ministry of Finance revised the charge upward to 24.34 per cent.
 - Benefits budget also accommodates the charge for the ministerial pension adjustment.
 - The charge is a fixed percentage of the Minister's executive salary.
 - The percentage is determined by the Ministry of Finance and is approximately \$20,000 a year (39.4 per cent of the Minister's executive salary).
- Legislative Salaries Budget:
 - Legislative salaries budget accommodates the Minister's executive salary.
 - Ministers receive an additional salary that corresponds to 50 per cent of their basic MLA compensation.
 - Only the Minister's executive salary is reported against the Minister's Office budget.
 - MLA basic compensation (\$105,882) is reported against the Legislative Assembly's budget.
 - The Minister's executive salary is determined by the *Members' Remuneration and Pensions Act*.
- Travel:
 - Travel budget accommodates the travel for ministerial staff and Minister travel (e.g. travel for trade missions and other ministry business).
 - Travel to and from the Minister's constituency is reported separately under the budget of the Legislative Assembly.
- Information Systems:
 - Information systems budget accommodates data communications charges (e.g. email cell phone charges).
- Office and Business:
 - Office and Business budget accommodates printing charges, shipping, and office supplies.
- Other Budget:
 - Other Budget accommodates Ministry of Finance charges for VIP computer support (24 hour).

Contact:
Carla Critchley Manager Budgets and Reporting 778 698-3361

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Minister's Office – Travel

Revised: August 30, 2017

Issue: Minister's Office Travel Expenditures

Response:

- Minister's Office budget for travel in 2017/18 is \$50,000
- Minister Bains' travel expenses will be made available on a quarterly basis on the government's Open Information website.
- There is currently no travel published for Minister Bains as the most recent publication of Ministerial travel expenses is for the fiscal quarter ending June 30, 2017.

How does Minister's Travel compare to Other MLAs?

- Travel Expenses for all MLA's are published on a quarterly basis on the Legislative Assembly's website. The public is free to review this information and perform comparisons.
- Travel requirements are assessed throughout the year to ensure fiscally prudent management practices are adhered to.
- The Minister's ranking against other MLA's is not a performance metric used by the Ministry.

Contact:

Carla Critchley Manager Budgets and Reporting 778 698-3361

2017/18 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
Minister Responsible: Hon. Harry Bains

Title: Transfers

Revised: August 30, 2017

Issue: What are government transfers?
What expenses are reported by the Ministry as government transfers?

Response:

- Government transfers are transfers of monetary assets from the Province to an individual, a business or other entities.
- They are non-exchange transactions where the Province is not the direct beneficiary of any goods or services, repayment, or investment.
- Government transfers fall under the following expenditure categories: Grants, Entitlements, Shared Cost Arrangements and Transfers to Crown Corporations.
- Labour's 2017/18 government transfers budget is \$50,000, no change from 2016/17 restated Estimates.

Background/Status

- The budget allocation supports transfers to the Business Council of BC to enhance and continue to operate, maintain, and update the online B.C. bargaining database website. The database provides publicly available reports on the status of public and private sector collective bargaining, summaries of collective agreement settlements, and a calendar of expiring collective agreements.

Contact:

Carla Critchley Manager Budgets and Reporting 778 698-3361

2017/18 – 2019/20 Service Plan (Update) Questions & Answers

Contents

1.	What are the Ministry's goals?	2
2.	What are the Ministry's objectives and performance measures?	2
3.	Where are the Performance Measures that were previously published in the February 2017 Service Plan and 2016-17 Annual Service Plan Report? .	3
4.	Will you continue to monitor the Performance Measures that were previously published in the February 2017 Service Plan and 2016-17 Annual Service Plan Report?	3
5.	Will each Minister's Letter accountability be completed by March 31 st ?	3
6.	What about other work not captured in the mandate letter accountabilities – Will the other ongoing portfolio work continue to be delivered for the remainder of 2017/18?	4

Ministry of Labour

1. What are the Ministry's goals?

The Ministry's goals are to help government achieve the following three commitments to British Columbians:

- The first commitment is to make life more affordable. British Columbians are counting on government to make their lives easier by containing costs and service fees.
- The second commitment is to deliver the services that people count on. Government services touch the lives of British Columbians every day, and there is so much more that we can - and must - do to provide these services where and when people need them. Additionally, in many cases, critical programs and services are delivered by Crown Corporations, and our Ministry will work with Board Chairs to improve levels of service to citizens.
- The third commitment is to build a strong, sustainable, innovative economy that works for everyone. Our government believes that all ministries and public sector organizations have a role to play in supporting broad-based economic growth, developing poverty reduction strategies, and helping create good-paying jobs in every region of the province.

2. What are the Ministry's objectives and performance measures?

The Ministry has been tasked in its mandate letter to achieve the following specific objectives and performance targets:

- Establish a Fair Wages Commission to support the work of implementing the \$15-per-hour minimum wage and to bring forward recommendations to close the gap between the minimum wage and livable wages. The commission will make its first report within 90 days of its first meeting.
- Begin work to create a Temporary Foreign Worker registry to help protect vulnerable workers from exploitation and to track the use of temporary workers in our economy.
- Update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced.
- Review and develop options with WorkSafeBC to increase compliance with employment laws and standards put in place to protect the lives and safety of workers.
- Ensure British Columbians have the same rights and protections enjoyed by other Canadians by reviewing the Labour Code to ensure workplaces support a growing, sustainable economy with fair laws for workers and businesses.

Our Ministry will continue to develop specific objectives and performance measures for inclusion in our 2018/19 - 2020/21 Service Plan, which will be released with Budget 2018.

Ministry of Labour

3. Where are the Performance Measures that were previously published in the February 2017 Service Plan and 2016-17 Annual Service Plan Report?

This is a new ministry with a new mandate – We are supporting government as a whole's goals of:

- Making life more affordable,
 - Delivering the services that people count on, and
 - Building a strong, sustainable, innovative economy that works for everyone.
-
- You can see from our Minister's Mandate Letter that we also have a number of specific objectives which we are advancing as well. For example, we're establishing a Fair Wages Commission to support implementation of a \$15-per-hour minimum wage and make recommendations on closing the gap between minimum wage and livable wages.
 - You can imagine the daunting task of creating a new ministry and shifting the focus to support priorities that British Columbians care about.
 - Moving forward, our Ministry will continue to develop specific objectives and performance measures for inclusion in our 2018/19 - 2020/21 Service Plan, which will be released with Budget 2018.

4. Will you continue to monitor the Performance Measures that were previously published in the February 2017 Service Plan and 2016-17 Annual Service Plan Report?

Yes, until we develop a revised performance framework with new measures, we will be monitoring the measures that were in place in the February Service Plans for this portfolio.

Measures from former Jobs, Tourism and Skills Training:

PM 5: Percentage of employers whose employment practices resulted in no complaints being registered with the Employment Standards Branch – **We will continue tracking this**

PM 6: Percentage of Employment Standards Branch complaints resolved within 180 days – **We will continue tracking this**

5. Will each Minister's Letter accountability be completed by March 31st?

- We have set the direction broadly and I anticipate that ***we will be able to report out that we've made significant progress on each of these objectives and targets*** for the period that this Service Plan is intended to capture – up to March 31st 2018.
- Some of the specific accountabilities are going to require a major shift in focus for teams within this ministry – and we anticipate that a number of the objectives will be longer term
- For example, we'll be working to *"update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced"*.

Ministry of Labour

- This is a significant piece of work involving consultation and collaboration with a variety of stakeholders. For example, an external independent review of the *Employment Standards Act* is being conducted by the BC Law Institute (with a final report planned for spring 2018).
- We'll be making significant strides in advancing this priority up to March 31st 2018, however some of the changes are likely to be implemented after March 31st, after government has had a chance to review the BC Law Institute recommendations.
- Looking at all of our mandate priorities, moving forward, you can rest assured that our Ministry will continue to develop specific objectives and performance measures. We'll include these in our 2018/19 Service Plan, which will be released with Budget 2018.

6. What about other work not captured in the mandate letter accountabilities – Will the other ongoing portfolio work continue to be delivered for the remainder of 2017/18?

We've outlined a plan to reflect the vision that we heard from British Columbians:

1. We are working to make life more affordable;
 2. We want to deliver quality services that are available and effective; and
 3. We are committed to building a strong, sustainable, innovative economy that works for everyone.
- Our ministry's programs **all** contribute to these broad goals.
 - In the coming months, we'll be taking a closer look at how all of our portfolio can best support and align with this new vision.
 - When we've had a chance to do some of that important work, we'll table a Service Plan in February that details our ministry's plan and targets in support of what matters most to British Columbians: affordability, good jobs, a strong, sustainable economy and quality services that are there when people need them.

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2017/18 – 2019/20 SERVICE PLAN

September 2017



For more information on the Ministry of Labour, contact:

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Minister Accountability Statement



The *Ministry of Labour 2017/18 - 2019/20 Service Plan* was prepared under my direction in accordance with the *Budget Transparency and Accountability Act*. I am accountable for the basis on which the plan has been prepared.

A handwritten signature in dark ink, appearing to read 'Bains', written over a faint, larger outline of the signature.

Honourable Harry Bains
Minister of Labour
August 30, 2017

Table of Contents

Minister Accountability Statement	3
Purpose of the Ministry	5
Ministry Goals, Objectives and Performance Measures	5
Resource Summary	7
Appendix A: Ministry Contact Information	8

Purpose of the Ministry

To build a better British Columbia, the [Ministry of Labour](#) promotes fair, healthy, and safe labour and employment relationships in support of a strong, sustainable and innovative economy.

In this context, the Ministry has overall responsibility for British Columbia's labour and employment statutes – including the *Labour Relations Code*, the *Employment Standards Act*, and the *Workers Compensation Act* – and for the effective administration and enforcement of those statutes. The Ministry has legislative responsibility for [WorkSafeBC](#), the [Labour Relations Board](#), the [Employment Standards Tribunal](#) and the [Workers' Compensation Appeal Tribunal](#).

The Employment Standards Branch and the Ministry's three administrative tribunals are involved in managing complaints and issues that have been brought before them. In all cases, timely and accurate disposition of those complaints or issues is an essential component of a fair and balanced system of labour and employment laws that is readily accessible to all stakeholders.

For more information about the Ministry's areas of responsibility and key initiatives, visit the [Ministry of Labour](#) website.

Ministry Goals, Objectives and Performance Measures

The Ministry of Labour's goals are to help government achieve the following three commitments to British Columbians:

- The first commitment is to make life more affordable. British Columbians are counting on government to make their lives easier by containing costs and service fees.
- The second commitment is to deliver the services that people count on. Government services touch the lives of British Columbians every day, and there is so much more that we can – and must – do to provide these services where and when people need them. Additionally, in many cases, critical programs and services are delivered by Crown Corporations, and our Ministry will work with Board Chairs to improve levels of service to citizens.
- The third commitment is to build a strong, sustainable, innovative economy that works for everyone. Our government believes that all ministries and public sector organizations have a role to play in supporting broad-based economic growth, developing poverty reduction strategies, and helping create good-paying jobs in every region of the province.

Integrating with these priorities is government's commitment to true, lasting reconciliation with First Nations in British Columbia, as we move towards fully adopting and implementing the United Nations Declaration on the Rights of Indigenous Peoples and the Calls to Action of the Truth and Reconciliation Commission.

Beyond our work in supporting these commitments, the Minister of Labour has been tasked in the mandate letter to achieve the following specific objectives and performance targets:

- Establish a Fair Wages Commission to support the work of implementing the \$15-per-hour minimum wage and to bring forward recommendations to close the gap between the minimum wage and livable wages. The commission will make its first report within 90 days of its first meeting.
- Begin work to create a Temporary Foreign Worker registry to help protect vulnerable workers from exploitation and to track the use of temporary workers in our economy.
- Update employment standards to reflect the changing nature of workplaces and ensure they are applied evenly and enforced.
- Review and develop options with WorkSafeBC to increase compliance with employment laws and standards put in place to protect the lives and safety of workers.
- Ensure British Columbians have the same rights and protections enjoyed by other Canadians by reviewing the Labour Code to ensure workplaces support a growing, sustainable economy with fair laws for workers and businesses.

Our Ministry will continue to develop specific objectives and performance measures for inclusion in our 2018/19 – 2020/21 Service Plan, which will be released with *Budget 2018*.

Resource Summary

Core Business Area	2016/17 Restated ¹	2017/18 Estimates	2018/19 Plan	2019/20 Plan
Operating Expenses (\$000)				
Labour Programs¹	9,653	10,001	10,086	9,836
Executive and Support Services	1,523	1,523	1,532	1,532
Total	11,176	11,524	11,618	11,368
Ministry Capital Expenditures (Consolidated Revenue Fund) (\$000)				
Labour Programs	3	3	3	3
Total	3	3	3	3

¹ For comparative purposes, amounts shown for 2016/17 have been restated to be consistent with the presentation of the 2017/18 Estimates.

Appendix A: Ministry Contact Information

Minister's Office

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To learn more about the numerous programs and services provided by the Ministry of Labour, please visit the [Ministry website](#).

To find a specific person or program in the Ministry of Labour, you can use the [B.C. Government Directory](#).