

Ministry of Labour
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Budget 2018/19 Questions and Answers

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

The Ministry of Labour's 2018/19 budget of **\$12.638M** provides for the programs, operations and other activities under the following core businesses: Labour Programs, and Executive and Support Services.

Labour Programs (2018/19 Budget of \$11.106M)

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 (2018/19 Budget of \$2.360M)

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 (2018/19 Budget of \$8.745M)

This budget provides for the administration of the Employment Standards Act and Regulation, which set minimum standards for wages and working conditions in most workplaces.

WorkSafeBC Funded Services (2018/19 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 (2018/19 Budget of \$1.532M)

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 (2018/19 Budget of \$589,000)

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 (2018/19 Budget of \$943,000)

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 \$1.114M in 2018/19?

The Ministry of Labour's 2018/2019 budget is **\$12.638** million, an increase of **\$1.114** million from the 2017/18 restated estimates budget of **\$11.524** million

The net budget increase of \$1,114,000 is due to:

An increase of **\$750,000** is due to new funding in Employment Standards Branch to respond to the upcoming BCLI review recommendations, and engage in planning activities for the modernization of the branch.

An increase of **\$250,000** is due to new funding in Labour Policy and Legislation Branch for preliminary planning activities for the development of a Temporary Foreign Worker Registry. The Minister of Labour's Mandate letter directs the Minister to make substantive progress to creating a Temporary Foreign Worker registry to help protect vulnerable workers from exploitation and to track the use of temporary workers in our economy.

An increase of **\$104,000** in salaries and benefits for BCGEU staff to reflect negotiated increases and employee benefit adjustment.

An increase of **\$10,000** was provided to the existing \$240,000 budget for the Fair Wages Commission in 2018/19 for a total of \$250,000 for ongoing operations of the Commission.

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 towards establishing 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.

3. Does Budget 2018 include funding for the creation of a Temporary Foreign Worker Registry?

The Ministry of Labour received a budget lift of \$250,000 in 2018/19 to support preliminary planning activities for the development of a Temporary Foreign Worker Registry.

The Minister of Labour's mandate letter directs the Minister to make substantive progress to creating a Temporary Foreign Worker registry to help protect vulnerable workers from exploitation and to track the use of temporary workers in our economy.

s.12,s.13

4. Does Budget 2018 provide for any other changes in funding for the Ministry of Labour?

An additional \$3 million in annual funding will go to the Workers' Advisers Office (WAO) and the Employers' Advisers Office (EAO) to enhance their capacity to provide independent advice and advocacy to workers and employers in matters related to WorkSafeBC.

The Costs are funded from WorkSafeBC, and as such are not reflected as a net increase to the Ministry's bottom line budget. Expenses associated with this increase in service to workers and employers are offset funding from by WorkSafeBC's Accident Fund which, in turn, is funded by employer premiums.

5. Does Budget 2018 include funding for the Fair Wage Commission? What is the Commission's mandate? What has the commission produced to date, and what are the expectations for the commission going forward? Is the budget sufficient for the delivery of this mandate?

Budget 2018 includes an additional \$10,000 for the Fair Wage Commission, increasing the budget to \$250,000 from the original budget of \$240,000 in 2017/18.

The Commission is committed to three main tasks:

1. To develop recommendations for a pathway forward to raise the minimum wage to \$15-an-hour and on a process for how the minimum wage should be regularly reviewed and increased once \$15-an-hour is achieved.
2. To consider and make recommendations about other wage rates under the Employment Standards Regulation, for agricultural workers, liquor servers, live-in home support workers, resident caretakers, and live-in camp leaders.
3. To advise the government on ways to begin to address the discrepancy between the minimum wage and a living wage in our province.

In November and December 2017, the Fair Wages Commission undertook a public engagement process that included in-person consultations in eight communities as well as asking citizens to email in their views or research beliefs.

The Commission's first report, detailing comments and feedback from this consultation, and containing recommendations on a schedule for increasing the general minimum wage was released publicly on February 8, 2018 and is posted on the Commission's website.

In March, 2018 the Commission is expected to deliver a second report, containing recommendations about other wage rates under the Employment Standards Regulation.

Looking ahead to the next year, the Commission will conduct further consultation and research to provide recommendations on how to address the discrepancy between the living wage and the minimum wage.

The Budget of \$250,000 in 2018/19 is sufficient to support research costs, meeting locations for public consultation, and modest remuneration and travel expenses for commission members.

Ministry of Labour 2018/19 Estimates Summary

MINISTRY ESTIMATES BUDGET OVERVIEW

2018/19 Estimate Budget: \$12.638M (up 9.7% or \$1.114M from Restated Estimates 2017/18 of \$11.524M)

** Note: \$1.114M Increase due to the following:*

- \$1.000M increase to update the employment standards act to reflect the changing nature of workplaces and ensure that they are applied evenly and enforced.
- \$104K net salary and benefit increase for BCGEU staff as per the current collective agreement.
- \$10K increase for the 2nd year of the Fair Wages Commission

CORE BUSINESS SUMMARY

Labour Programs \$11.106M

\$11.106M (\$1.105M increase from Estimates 2017/18 - attributed to a budget lift of \$10K for the Fair Wages Commission, \$95K for BCGEU wage increases and benefits adjustments and \$1M for Labour Program strategic initiatives).

Executive and Support Services \$1.532M

\$1.532M (\$9K increase for BCGEU wage increases and benefits adjustments)

- Minister's Office \$589K (\$2K decrease from Restated 2017/18 Estimates)
- Corporate Services \$943K (\$11K increase from Restated 2017/18 Estimates)

CAPITAL BUDGET

- \$3K Office Furniture and Equipment (no change from Estimates 2017/18).
 - Budgets are placeholders that give the Ministry legal authority to acquire furniture and equipment if required.

2018/19 Estimates Note Advice to the Minister

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

Title: Agriculture Sector Compliance

Revised: February 10, 2018

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 or motor vehicle laws and regulations.

2018/19 Estimates Note

Advice to the Minister

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

- Charge farm labour contractors the costs paid by government to provide safe alternative transportation for stranded workers when an unsafe 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 2017 statistics on interagency committee reporting relating to roadside vehicle checks).
- In 2007, the percentage of vehicles failing inspection was 32 per cent. In 2017, the percentage of vehicles failing inspection was 21 per cent (24 of the 111 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

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.

2018/19 Estimates Note Advice to the Minister

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

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 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 2017)

- 24 Site Visits.
- 79 Audits.
- 20 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

2018/19 Estimates Note

Advice to the Minister

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provincial or municipal body, or by an authorized private inspector with appropriate certifications from the relevant level of government.

- 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.
- A cross-ministry working group, with representation from Labour, Agriculture and Health is looking at the housing problem as it pertains to workers under the Seasonal Agricultural Worker Program, and will be bringing forth recommendations.
- 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, was at least, \$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 rate as set out in the "Minimum wage – farm workers" provisions in B.C.'s Employment Standards Regulation, or \$11.35 per hour. . These minimum rates will increase with the minimum wage increases recommended by the Fair Wages Commission and announced by the Premier in February of 2018.
- 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 ad hoc 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

2018/19 Estimates Note Advice to the Minister

Ministry: Ministry of Labour
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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.

- 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. On January 1, 2018, changes regarding farm workers to the *Alberta Employment Standards Code* came into effect. The 2018 Alberta changes narrow the exclusions for farm and ranch workers so that only family members will be exempt from Employment Standards Code provisions. All other farm workers are subject to employment standards rules.
- 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

- s.13

Attachment: Appendix 1 – Interagency Committee Reporting 2017 Statistics

Contact:

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

2018/19 Estimates Note Advice to the Minister

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

Interagency Reporting 2017					
	Jan- Mar	Apr - Jun	July - Sept	Oct - Dec	TOTALS
ROADSIDE INSPECTIONS					
Total # of roadside inspections	1	4	8	0	13
Total # of vehicles inspected	7	20	84	0	111
CVSE					
Vehicles passing inspection by CVSE	7	18	62	0	87
Vehicle not passing inspection	0	2	22	0	24
# of violation tickets issued by CVSE	0	2	15	0	17
Value of tickets issued	\$0	\$449.00	\$4,505.00	\$0	\$4,954.00
ESB Compliance Issues (Vehicles)					
FLC's found unlicensed	0	0	0	0	0
Up-to-date vehicle reg # and/or insp. certificate not	0	7	2	0	9
Vehicles without safety notice displayed	0	2	0	0	2
Vehicles without wage rate notice and/or FLC	0	5	1	0	6
Vehicle removed from service mechanical	0	0	0	0	0
Contraventions	0	14	0	0	14
Value of penalties issued	\$0	\$9,000.00\$	\$2,000.00\$	\$0	\$11,000.00
WorkSafeBC Compliance Orders					
Total orders issued	9	42	82	0	131
Inadequate first aid supplies/inappropriate fire extinguisher not in good working order	3	12	10	0	25
Vehicle stop use order	0	3	10	0	13
Gross vehicle weight exceeded	0	0	0	0	0
Mechanical deficiencies	5	10	33	0	48
Unsecured tools or equipment	1	5	7	0	13
Pre-trip inspection not done	0	3	8	0	11
No emergency exit or locked or inoperable	0	0	0	0	0
Seat belts missing or unserviceable	0	2	0	0	2
No safe means of entry and exit	0	0	0	0	0
Non-conforming or inadequately secured seats	0	1	1	0	2
Wrong drivers' licence	0	1	3	0	4
No Hi-Vis Vest	0	0	0	0	0
Speeding	0	0	0	0	0
No first aid attendant	0	0	3	0	3
Inspections with no violations	1	10	35	0	46
Inspections with violations	6	24	52	0	82
Total vehicle inspections	7	34	87	0	128
Warning letters issued	0	0	1	0	1
Penalties imposed	0	0	0	0	0
Penalty amounts imposed	0	0	0	0	0
Education Presentations	0	1	0	0	1

2018/19 Estimates Note Advice to the Minister

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

Title: Child Employment

Revised: February 13, 2018

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 2017 (calendar) provide an overview:

2018/19 Estimates Note Advice to the Minister

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- ESB received four child employment permit applications in 2017, two of which resulted in a permit being issued.
- In 2017, there were no contraventions of Section 9 of the *Employment Standards Act* (provisions in respect of hiring children).
- In 2017, there were no contraventions of the provisions relating to children in the entertainment industry contained within Part 7.1 of the *Employment Standards Regulation*.

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

Contact:

Bill Boyte	Executive Director	Employment Standards Branch	250 390-6225
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2018/19 Estimates Note Advice to the Minister

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

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

Revised: February 19, 2018

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 workplaces.
- Once the review is completed, government will consider implications on exclusions and alternate standards.

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.
- While there are no “set” criteria by which Cabinet makes these decisions, Cabinets of previous governments have historically exercised its authority when there is a good public policy reason for the exclusion or alternate standard and where it does not undermine the purposes of the Act.

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.

2018/19 Estimates Note Advice to the Minister

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- Sitters (such as babysitters or senior care 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.

2018/19 Estimates Note Advice to the Minister

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- 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 is an issue for review and recommendation in the next report of the Fair Wages Commission, expected in March 2018).

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 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: February 13, 2018

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. This will involve a review of the Employment Standard Branch's (ESB) program delivery and service targets and consultation with stakeholders.
- I'm pleased that Employment Standards Branch will receive a budget increase of \$750,000 in 2018/19 to engage in planning activities for the modernization of the branch.
- 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% of ESB staff positions provide frontline/direct services to the public, and almost three quarters of the remaining 11% 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 5,700 complaints per year, and recovers an average of \$7.23 million per year in wages for workers (5-year averages).
 - Staff answering our 1-800 information line help over 94,000 callers per year (5-year average).
 - 87% of decisions issued by ESB were upheld on appeal (5-year average).

2018/19 Estimates Note Advice to the Minister

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

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.
- 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.
- The ESB is also engaged in planning to modernize its operations to meet an enhanced mandate to effectively and evenly enforce employment standards.

ESB Budget and Staff Positions

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Budget Allocated	\$ 7.8M	\$7.8M	\$7.9M	\$7.9M	\$7.9M	\$8.70
Staff positions (includes vacancies)	96	96	96	96	96	99
Staffing budget (base salaries only)	\$5.8M	\$5.7M	\$5.9M	\$6.0 M	\$6.0M	\$6.5M

ESB Service Indicators

	2013/14	2014/15	2015/16	2016/17	2017 YTD
Individual complaints closed within 6 months (Service Plan Target is >78%)	77%	81%	86%	89%	91%

Contact:

Bill Boyte Executive Director

Employment Standards 250 390-6225
Branch

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2018/19 Estimates Note Advice to the Minister

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

Title: Family Day

Revised: February 19, 2018

Issue: Moving the Family Day statutory holiday to the third Monday of February

Response:

- Starting in 2019, British Columbia's Family Day will be moved to the third week in February so families across the country can celebrate together.
- The Family Day statutory holiday was established in 2013 to give British Columbians a time to rest and spend quality time with their families and friends.
- The government of the day decided to establish Family Day on the second Monday of February, even though it was inconsistent with other Canadian provinces and the United States.
- Moving this holiday to the third Monday will mean it is better aligned for businesses and families. It will give families an opportunity to schedule and spend more time with loved ones from other provinces, upholding the intent of the holiday.

Background/Status:

- Family Day was established in British Columbia in 2013 following a consultation process that had recommended the holiday be on either the second or third Monday of February.
- The government of the day decided on the second Monday, even though it was inconsistent with other Canadian provinces and the United States.
- The Surrey Board of Trade has noted that the misalignment of Family Day has caused inconvenience, increased costs, and lost opportunity for businesses of all sizes and in various industries.
- In announcing the change for 2019, Premier Horgan stated that Family Day will now be better aligned for businesses and families.
- The February statutory holiday applies to employees in B.C. within the scheme of the provincial *Employment Standards Act*.

2018/19 Estimates Note Advice to the Minister

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

- It should be noted that some sectors of the B.C. economy do not fall within provincial jurisdiction, and are instead covered by the federal government's labour standards. For example, employees in the following sectors are covered by federal labour standards:
 - Government of Canada
 - Armed Forces
 - Banks (not including Credit Unions)
 - Trucking that goes across B.C.'s border
 - Federal Crown Corporations (such as Canada Post)
 - Airlines and Railways (except BC Rail)
 - Television, Telephone, Radio and Cablevision (such as Telus)
 - Marine Shipping, Longshoring, Grain elevators
- Employees who are covered by the federal government's labour standards are entitled to the federal statutory holidays as provided for in federal legislation or, in unionized workplaces, the statutory holidays as set out in the applicable collective agreement.

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

Title: International Labour Agreements

Revised: February 19, 2018

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 the ILO in 1919.
- B.C. is proud to be a part of this history and will continue to review conventions and to 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 my colleague, 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 concerning Labour Inspection in Industry and Commerce (C81)

- In 2017, the federal government requested that the provinces and territories offer formal support for Canada to ratify C81.
- The key provisions of C81 aim to ensure that states have effective and robust systems in place for the enforcement of labour laws through government inspection of commercial and industrial establishments. This includes maintaining a system of labour inspection that, among other things:
 - serves to enforce labour laws dealing with workplace conditions and worker safety;
 - is controlled by a “central authority”;
 - co-operates with other agencies as appropriate;

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- includes adequately trained inspection staff that are public employees with stable income and job security, eligible to both men and women; and
- has the powers necessary to adequately carry out its responsibilities.
- Ministry staff have not identified any significant barriers in B.C. to ratification of C81 based on B.C.'s existing system of inspection in the province.
- In early February 2018, the Minister of Labour sent a letter to his federal counterpart formally indicating B.C.'s support for Canada to ratify C81.

ILO Convention on Minimum Age (C138)

- For several years the federal government had been seeking formal support from all provinces and territories for Canada to ratify 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.
- 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 (C29). 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

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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 by mid-March 2017, the provinces/territories formally indicate support for or opposition to Canada ratifying C98. Canada indicated that 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 identified no significant 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 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:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

Title: Istuary & Purewal

Revised: February 19, 2018

Issue: Employment Standards Branch – files in the media

Response:

- 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 Employment Standards Branch (ESB) operates within its statutory mandate to ensure that workers are paid fairly for the work they do.
- In the past year, the Employment Standards Branch has been investigating two files involving hundreds of employees who were not paid their wages.
- Both of these files continue to be investigated, and the Employment Standards Branch is working to collect wages on behalf of employees

Istuary Innovation:

- The ESB has recovered a portion of the wages owed (approximately \$70,000 of \$2.9M) and continues collection efforts against the company and director.
- Action includes a judgement on the property of Istuary's director.

Purewal Blueberry Farm:

- The ESB Branch has commenced collections activities against the operators of Purewal for \$1.1 million in unpaid wages.

Background/Status:

Istuary:

- A high-tech employer failed to pay wages to employees after venture financing did not come through.
- The employer made continual representations to his employees that wages would be forthcoming, but never delivered on this promise.
- Eventually, the business closed its doors.
- The Employment Standards Branch began an investigation of Istuary Innovation Group in late June after receiving notification of numerous individuals being unpaid.

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- The Director of Employment Standards determined that approximately \$2.9 million dollars in wages were owed for the period December 2016-August 2017.
- The Director also determined that the primary director of Istuary was personally liable for \$2.5 million in wages. Note: under the Employment Standards Act, directors are only personally liable for two months wages, whereas the recovery period for wages goes back six months. The director is liable for the maximum amount under the ESA.
- The Branch will also soon be issuing a decision on the wages owed to employees from August 2017-October of 2017 when Istuary closed its doors at its main Vancouver location.
- To date, the Branch has been able to recover a small portion (2.5%) of the full amount owed – about \$70,000 from asset auctions and seized funds. A judgement has been placed on a multi-million-dollar property owned by the primary director, Ethan Sun.

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Purewal Blueberry Farms:

- In late 2016 and early 2017, ESB received numerous complaints of non-payment of wages to farm workers. ESB opened a group investigation file for these complaints. Given the number of complaints for this employer, in the spring of 2017 the director of Employment Standards initiated an investigation into the non-payment of numerous other farm workers employed by the three companies.
- After receiving numerous complaints the Employment Standards Branch audited this employer and found that they owed \$1.1 million in unpaid wages.
- On Nov. 24, 2017, ESB issued a decision regarding unpaid wages owed to employees of Purewal Blueberry Farms Ltd. and two of its associated numbered companies: 0740656 B.C. Ltd., and 0178429 B.C. The decision determines that the employer owes \$1,115,849.36 million in unpaid wages to 180 employees who worked from 2016 to early 2017. The decision also levied \$1,500 in administrative penalties for contraventions of the Employment Standards Act.
- The Branch has commenced collections activities against the operators of Purewal and continues to seek payment for the employees who were not paid.

Contact

Bill Boyte	Executive Director	Employment Standards Branch	250 390-6225
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2018/19 Estimates Note Advice to the Minister

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

Title: Minimum Wage and the Fair Wages Commission

Revised: March 12, 2018

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

Response:

- On February 8, 2018, government announced four increases to the minimum wage, starting in June 2018, to bring the minimum wage to at least \$15.20 an hour in 2021.
- These increases are based on recommendations provided by the Fair Wages Commission, which was appointed in October of 2017, and conducted consultations in communities around the province.
- Specifically, the four increases to the general minimum wage (currently at \$11.35/hour) are as follows:
 - June 1, 2018: \$12.65 an hour (\$1.30 increase)
 - June 1, 2019: \$13.85 (\$1.20 increase)
 - June 1, 2020: \$14.60 (\$0.75 increase)
 - June 1, 2021: \$15.20 (\$0.60 increase)
- Depending on economic conditions, the commission recommended that government consider an additional hourly increase of up to \$.20, to \$15.40 an hour in 2021.
- The Fair Wages Commission's next task is to develop further recommendations around other specified minimum wage rates under the Employment Standards Regulation – including the minimum wage rate for liquor servers and piece rates for the hand harvesting of certain crops.
- In the final phase of its mandate, the commission has been directed to work with economists, workers, the technology sector, small businesses, youth and others from all regions of the province to make recommendations to address the discrepancy between the minimum wage and living wages in BC.
- With respect to the process for establishing increases after 2021, government is committed to establishing a more regular and predictable method for future minimum wage increases, rather than the historical *ad hoc* approach.
- We support an ongoing role for the Fair Wages Commission that takes into account evidence such as changing economic and labour market conditions.
- We appreciate the advice from the commission on this matter and will work with them to ensure such a process is in place post 2021.

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Background/Status:

September 2017 increase

- Effective September 15, 2017, the minimum wage increased by 50 cents to its current rate of \$11.35 per hour. That increase implemented what the previous government had committed to prior to the election.
- 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 in the Employment Standards Regulation, including the farm worker piece rates, also received increases in line with the general minimum-wage increase of 4.6 per cent.

Fair Wages Commission and commitment to reach at least \$15

- 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.

- The Fair Wages Commission was established in October 2017 as an independent body to provide expert advice on how B.C. should achieve a \$15 an hour minimum wage, and also the timeline for implementation. The commission is chaired by Dr. Marjorie Griffin Cohen and includes two members – Ivan Limpricht representing labour and Ken Peacock representing business.
- In a report delivered to government in January 2018, following public consultations and receipt of research and submissions, the commission recommended the following four minimum wage increases over four years.
 - June 1, 2018: \$12.65 an hour (\$1.30 increase)
 - June 1, 2019: \$13.85 (\$1.20 increase)
 - June 1, 2020: \$14.60 (\$0.75 increase)
 - June 1, 2021: \$15.20 (\$0.60 increase)

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- The commission also recommended that, depending on economic conditions, government consider an additional hourly increase of up to \$.20, to \$15.40 an hour in 2021.
- The commission also provided recommendations and advice with respect to the ongoing role of a commission after 2021. This includes recommendations to:
 - Establish a permanent commission with a staff to examine issues related to low-wages in BC and to give advice on increases to the minimum wage.
 - Provide for a permanent research function for the commission so that it can examine the changing nature of the labour market and how well new forms of work are protected with existing minimum wage coverage.
 - Have the permanent commission establish predictable indicators to guide future increases to the minimum wage, such as the CPI (or some other relationship such as between the minimum wage and the poverty level or average wage levels).
 - Establish an advisory committee to the commission that is representative of the diversity of British Columbians.

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- The commission conducted online and in-person consultations across the province. 178 people presented at one of eight public consultations held in different cities¹ throughout the province in November and early December 2017. 77 written submissions as well as over 3,000 emails were sent to the commission.
- It is noteworthy that the commission reported hearing concerns and ideas from those who are traditionally marginalized in the labour force and are over-represented among low-wage workers. These included women, young people, immigrants, visible minorities, temporary foreign workers, those who identify with the LGBTQ community, those with disabilities, and those who identify as Indigenous.

¹ In person consultations occurred in Abbotsford (Nov. 16), Nanaimo (Nov. 17), Kelowna (Nov. 21), Vancouver (Nov. 23), Prince George (Nov. 28), Victoria (Nov. 29), Surrey (Nov. 30), and Cranbrook (Dec. 7)

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Other jurisdictions – current minimum wage rates

- B.C.'s general minimum wage is currently \$11.35/hour, which, as of February 13, 2018, is third among the 10 Canadian provinces. Minimum wage rates among Canadian provinces currently range from \$10.85/hour to \$14.00/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 will reach \$15/hour in October 2018 and Ontario will reach \$15/hour on January 1, 2019.

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 \$12.20/hour, while its general minimum wage is \$14.00/hour (\$1.80/hour difference).
- Quebec has a minimum wage of \$9.45/hour for employees who customarily receive gratuities, while its general minimum wage is \$11.25/hour (\$1.80/hour difference).
- In addition to calling for the elimination of the lower liquor server rate, some worker advocates have called for stricter 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 is tasked with making recommendations on the liquor server rate and is expected to provide those recommendations to government in March 2018.

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*.

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- 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.
- The Fair Wages Commission is mandated to review the B.C. minimum piece rates and is expected to provide recommendations in March, 2018.

Attachment: Appendix 1 – General Minimum Wages in Canada
Appendix 2 – Fair Wages Commission Terms of Reference

Contact:
John Blakely Executive Labour Policy and 250 356-9987
Director Legislation Branch

2018/19 Estimates Note Advice to the Minister

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

Appendix 1 – General Minimum Wages in Canada (as of February 13, 2018)

Jurisdiction	Rate (\$/hr)	Effective Date	Notes on Future Changes
Ontario	14.00	Jan 1, 2018	\$15 on Jan 1, 2019 followed by annual increases based on CPI
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	\$13.46 effective April 1, 2018. Independent body gives advice.
British Columbia	11.35	Sept 15, 2017	\$12.65 on June 1, 2018 \$13.85 on June 1, 2019 \$14.60 on June 1, 2020 \$15.20 on June 1, 2021
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	\$11.55 on April 1, 2018. Independent body gives advice.
Quebec	11.25	May 1, 2017	\$12 on May 1, 2018. 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 \$12.50 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	\$11.00 effective April 1, 2018. Yearly increase to reflect previous year changes in national CPI (indexing formula in regulation). Independent body gives advice.

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Appendix 2 – Fair Wages Commission Terms of Reference

FINAL Terms of Reference **FAIR WAGES COMMISSION**

Whereas the general minimum wage in British Columbia is \$11.35/hour and the liquor server minimum wage is \$10.10/hour as of September 15, 2017;

And whereas among Canadian provinces, minimum wages range from \$10.72 to \$12.20/hour as of August 2017, although Alberta has announced a commitment to be at \$15/hour by October 2018 while Ontario has plans to reach \$15/hour by January 2019;

And whereas with the cost of living in BC, a person working full-time in a minimum wage job cannot make ends meet or support a family;

And whereas in contrast to the minimum wage, a living wage is designed to reflect what earners in a family need to bring home based on the actual costs of living in a specific community;

And whereas government intends to increase the minimum wage to \$15/hour as part of a plan to create good jobs, fair wages and build a sustainable economy in every sector and in every corner of the province, including indexing it to inflation in the future so as not to fall behind;

And whereas the Confidence and Supply Agreement from May 2017 contains the following commitment at Section 2 (e): “*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.*”

Now, therefore, the Minister directs the establishment of an impartial Fair Wages

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Ministry: Ministry of Labour
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Commission as follows:

1. The Commission will consist of a Chair, one representative of employer interests and one representative of worker interests. These three Commission members will be appointed by the Minister of Labour. The Minister may add two members (one who represents employer interests and one who represents worker interests) to the Commission if needed after the first report is submitted (as per item 4 below) to address the complexities of the discrepancy between minimum wages and living wages.
2. The budget for the Commission will come from the Ministry of Labour. Payment for the Commission Chair and its members will be in accordance with government policy. The Ministry will provide administrative support for the Commission, including research and website support.
3. The Commission will determine its own procedures, including the format for reporting to the Minister and communications. It is expected that the Commission will engage in consultations with and receive submissions from interested stakeholders from all regions of the province including but not limited to representatives of economists, trade unions, the technology sector, small business, and youth.
4. The Commission will make its first report on a new minimum wage within 90 days of its first meeting. The first meeting of the Commission will take place on or before October 1, 2017 to enable a first report no later than December 31, 2017. The report should be in writing to the Minister of Labour and address the issues in items 5 to 7, inclusive, below. The timing for items 8 and 9 are for discussion with the Minister but are not required to be included in the first report to the Minister.
5. The Commission must prepare recommendations on the general minimum wage that will result in a series of increases over time to reach a \$15/hour minimum wage. Where possible, the recommendations should support the principles of regular, measured, and predictable increases over time to allow employers an appropriate notice period to plan for the changes on the way to a \$15/hour minimum wage.
6. The Commission should consider the impact of minimum wage increases in other jurisdictions including those jurisdictions that have committed to achieving \$15/hour. Consideration should be given to the prevailing views on the impact of minimum wage increases on employment.

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7. The Commission must consider and make recommendations on the other minimum wage rates under the *Employment Standards Regulation*.
8. The Commission must prepare recommendations related to regular rate reviews once the \$15/hour minimum wage is achieved, including the Commission's role in overseeing regular rate reviews. The Commission should give consideration to the BC consumer price index and other factors (e.g., economic and labour market conditions), and provide recommendations on when and how the increases beyond the \$15/hour minimum wage should be determined.
9. The Commission will review the issue of what constitutes a "living wage" and the elements that make up determining a "living wage", including a jurisdictional scan of the issue in BC and across Canada. Recognizing rapid changes occurring in the economy, the Commission will make recommendations regarding strategies to address the discrepancy between the minimum wage and a "living wage".
10. The Minister of Labour will make the Commission's reports public after a reasonable period of time to review and consider them. The Minister will also provide the reports to Cabinet.

Given under my hand this 29th day of September, 2017.



Honourable Harry Bains, Minister of Labour

2018/19 Estimates Note Advice to the Minister

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

Title: Self Help Kit

Revised: February 19, 2018

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*. This includes 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.
- As part of this, the Ministry is reviewing B.C.'s employment standards administration, budget, and enforcement processes (such as the use of the Self-Help Kit) with an eye to supporting reform and streamlining processes.

Background/Status:

- The Self Help Kit 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 Self Help Kit 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.

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

- A Self Help Kit 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 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 Self Help Kit; 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 kit.
- The Self Help Kit 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 Employment Standards Branch (included in the kit and requiring only that the complainant fill in the date) and a fact sheet describing the Employment Standards Branch 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 Employment Standards Branch.

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2018/19 Estimates Note Advice to the Minister

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

The Self Help Kit and Temporary Foreign Workers

- Some stakeholders advocate for Self Help Kit exemption for all Temporary Foreign Workers (TFWs) because they are “vulnerable workers.”^{s.13}
- TFWs as a group are not exempt from the Self Help Kit process. TFWs, like any other worker in B.C., may be exempt from the process by virtue of other factors, such as language difficulties or being a farm worker or domestic, but not simply because of their participation in the federal TFW program.

Contact:

Bill Boyte	Executive Director	Employment Standards Branch	250 390-6225
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2018/19 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: February 15, 2018

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.
- The Ministry of Labour is working in coordination with the Ministry of Advanced Education, Skills and Training and the Ministry of Jobs, Trade and Technology on the development of a model for a TFW registry.
- The intent of the model is to focus on worker protection and ensuring compliance with employment laws and standards, including those that have been put in place to protect the lives and safety of workers.
- The Ministry of Labour received a budget lift of \$250,000 in 2018/19 to support planning activities for the development of the TFW registry.
-

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."
- TFWs are potentially at risk for exploitation by unscrupulous employers due to factors such as language barriers, low financial resources and dependence on employers.
- In creating a registry and tracking the use of TFWs 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.

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- 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 s.13
 - 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 has coordinated with JTT and AEST on the development of a model related to the TFW registry.
 - s.13,s.14
-
- The legislation and experiences of Saskatchewan and Manitoba (both of which already have TFW registries) are helping to inform the development of B.C.'s legislation.

Existing TFW Protections

- Under B.C.'s existing labour laws, TFWs have the same rights and protections as other employees in the province.
- The Employment Standards Branch 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 Act. As a result, accurate data on the number of complaints filed with the the Employment Standards Branch by TFWs is not available.
- B.C. provides assistance regarding employee rights to workers, including TFWs, in person, online, or through a toll-free number. Written information is available in

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

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English, French, Chinese (simplified and traditional), Punjabi, Hindi, Filipino, Korean, Japanese, Vietnamese and Spanish.

- The Employment Standards Branch 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.
 - 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.
- s.13

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

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

Title: Updating Employment Standards

Revised: February 19, 2018

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 British Columbia Law Institute (BCLI) is currently conducting an independent review of the *Employment Standards Act* with a view to ensuring that it reflects the realities of today's patterns of work and employment.
- No comprehensive independent review of the Act has been carried out in nearly 25 years.
- The Ministry of Labour supports the BCLI review and looks forward to seeing the final report, expected mid- 2018.
- The ministry is also reviewing B.C.'s employment standards' administration, budget, operations and enforcement processes with an eye to supporting reform and streamlining processes.

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." The ministry is developing a work plan and has begun to take action to deliver on this priority.
- Major reviews of the *Employment Standards Act* (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

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Ministry: Ministry of Labour
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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 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 spring 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, including recommendations for modernizing the Act for current workplace realities, by mid-2018.
- Prior to the Ministry of Labour finalizing its work plan and the release of the BCLI report, the ministry is reviewing B.C.'s employment standards administration, budget and enforcement processes (such as the use of the Self-Help Kit) with an eye to supporting reform and streamlining processes.
- 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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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.

2018/19 Estimates Note Advice to the Minister

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

Title: B.C. Labour Relations Board Update

Revised: February 15, 2018

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 appointments now fall under the responsibility of the Attorney General.
- As Minister of Labour, I will continue to provide input and advice to government, ensuring a strong and effective Labour Relations Board that supports a stable and productive labour relations environment.
- I am confident that the Labour Relations Board is staffed to meet the needs of the labour relations community in 2018/19, and I know that a recruitment process is currently underway to fill two vacant vice-chair positions.
- The recent appointment of a permanent Labour Relations Board Chair was an important step, taken by the Minister of Attorney General, for renewed leadership at the Board.
- I'd like to thank Mr. Brent Mullin, former chair of the Board, 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.
- I appreciate that there is interest among some in the labour relations community in seeing members re-introduced on panels at the Board. Ministry 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 after a merit-based process.

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Ministry: Ministry of Labour
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- As of February 17, 2018, the LRB is staffed with the following Order in Council (OIC) appointments, (one chair, one associate chair, a registrar and three vice chairs):
 - Jacquie de Aguayo – chair, appointed February 5, 2018, for a four year term
 - Bruce R. Wilkins, associate chair (Adjudication Division), expiry date May 25, 2018
 - James P. Carwana, vice chair, expiry date May 31, 2018
 - Jennifer Robin Sarah Glougie, vice chair, expiry date June 1, 2019
 - Koml Kandola, vice chair and registrar, expiry date September 1, 2018
 - Leah D. Terai, vice chair, expiry date May 31, 2018
- There are currently two vacancies for vice chairs to bring the total complement of OIC appointees up to eight. The process to fill these vacancies is currently underway.
- 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.
- 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 was appointed as acting chair for both boards for six months while the Crown Agencies and Board Resourcing Office undertook a comprehensive merit-based search to fill the position.
- On February 5, 2018, de Aguayo was appointed permanent chair for both boards for a four year term.

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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, a 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. ^{s.13}

s.13

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

s.13

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- 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. ^{s.13}
s.13
- 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 around 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. In addition, in 2016, the Ministry transferred some resources to the LRB from the ESB to assist their ability to address challenges in the conduct of votes. However, with the departure of the previous chair, the new 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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2018/19 Estimates Note Advice to the Minister

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

Title: Collective Bargaining

Revised: February 26, 2018

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

Response:

- The Ministry of Labour 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 to assist them in resolving disputes. In addition, prior to a strike or lockout, where appropriate, the Labour Relations Board will establish essential service levels to protect the health, safety or welfare of British Columbians.
- In the event that there are collective bargaining disputes, I am confident that the Labour Relations Board 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. ^{s.13}

s.13

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- 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.
- 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 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.

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- 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 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.

BC Bargaining Database

- In 2008, the BC Bargaining Database was launched 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 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. The Ministry is currently working with the Business Council of BC on a contract to continue the operation of the database for a proposed three-year period (through to March 2021).

Contact:

Trevor Hughes Deputy Minister Ministry of Labour 250 356-1346

2018/19 Estimates Note Advice to the Minister

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

Title: *Labour Relations Code* Review

Revised: February 19, 2018

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.
- On February 6, 2018, I announced the appointment of a *Labour Relations Code* review panel.
- The panel is tasked with consulting interested stakeholders from all regions of the province, and reporting back to me by August 2018, with recommendations on any amendments to the Code that will better support a growing, sustainable economy and reflect the changing nature of workplaces.

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."
- On February 6, 2018, the Minister of Labour announced the establishment of a *Labour Relations Code* review panel. The panel is established as a committee of special advisors under Section 3 of the *Labour Relations Code* (the Code).
- The panel is tasked with consulting interested stakeholders from all regions of the province, and reporting back to the Minister by August 2018, with recommendations on any amendments to the Code that will better support a growing, sustainable economy. The panel will also review any recent changes in labour laws in other Canadian jurisdictions to ensure B.C.'s Code is consistent with best practices elsewhere.
- The panel will be chaired by Michael Fleming, a mediator/arbitrator and former associate chair of the BC Labour Relations Board. Two labour and employment lawyers will round out the panel, with Sandra Banister representing union interests, and Barry Dong sitting on behalf of employer interests.

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- The last comprehensive reviews of B.C.'s *Labour Relations Code* took place in 1992 and 2003, and the last substantive amendments were made in 2001 and 2002.

Attachments: Appendix 1 – *Labour Relations Code* Amendments Since 2001
Appendix 2 – *Labour Relations Code* Review Panel Members
Appendix 3 – Review Panel Terms of Reference

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 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.)

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Minister Responsible: Hon. Harry Bains

Appendix 2 – *Labour Relations Code* Review Panel Members

Chair: Michael Fleming

Fleming was called to the bar in 1989. He has over 20 years of experience as an impartial third party, adjudicating and resolving disputes in a wide range of sectors in B.C. and the Yukon, including the public service, Crown corporations, education, transportation, construction, television and film, forestry, pulp and paper, and manufacturing. He has extensive experience in designing and implementing dispute resolution processes involving multiple parties. Fleming has held a number of positions with the Labour Relations Board, including vice-chair from 1997 to 2002 and associate chair of both adjudication and mediation between 2002 and 2012.

Panel member and representative of union interests: Sandra Banister, QC

Banister has practised labour law and civil litigation for over 35 years. She has represented clients from both the public and private sectors and has appeared at all levels of court in British Columbia, labour arbitrations, the British Columbia Labour Board and the Human Rights Tribunal. In 2011, her ability and achievements in the legal profession were acknowledged when she was designated Queen's counsel, and she is recognized in the Best Lawyers peer review. Banister regularly volunteers with organizations providing ongoing legal education. She is a speaker at many seminars and conferences and designed the British Columbia labour law course at the Canadian Labour Congress winter school, where she has taught it since 1985.

Panel member and representative of employer interests: Barry Dong

Dong practises exclusively in the areas of labour, employment, human rights and administrative law, representing clients before federal and provincial labour and administrative tribunals, arbitration boards and panels, in court and in collective bargaining and negotiations. Dong also represents clients in a number of sectors, including the transportation, technology, construction, film and TV, and service industries. In addition to his advocacy practice, Dong's representation of clients includes providing practical labour and employment business advice, and presenting seminars and training workshops.

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Minister Responsible: Hon. Harry Bains

Appendix 3 – Review Panel Terms of Reference

Whereas the *Labour Relations Code* (the Code) provides for employee access to representation by a trade union, collective bargaining, dispute resolution, and many other aspects of the relationship between employers, their employees, and trade unions;

And whereas the last comprehensive reviews of the Code took place in 1992 and in 2003 by a Committee of Special Advisors appointed by the Minister of Labour under Section 3 of the Code;

And whereas the last amendments to the Code took place in 2001 and 2002;

And whereas there have been significant changes in the workplaces, economy and workforce of British Columbia over the past several decades.

And whereas some other jurisdictions (Canada, Alberta, and Ontario) have undertaken a review of their labour relations legislation in the past 2 years;

And whereas the Premier's July 2017 mandate letter to the Minister of Labour includes the following direction:

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

And whereas the Confidence and Supply Agreement from May 2017 contains the following commitment at Section 2 (d):

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.

Now, therefore, the Minister directs that a review of the Code be undertaken by a Code Review Panel (the "Panel") as follows:

1. The Panel will consist of a Chair, one representative of employer interests, and one representative of the interests of trade unions. The three panel members will

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be appointed by the Minister of Labour as a Committee of Special Advisers under Section 3 of the Code. The Panel will approach the review in an independent, impartial, and balanced manner.

2. The budget for the Panel will come from the Ministry of Labour. Payment for the Chair and its members will be in accordance with government policy. The Ministry will provide administrative support for the Panel, including research and website support.
3. The Panel will determine its own procedures, including the format for reporting to the Minister and communications. It is expected that the Panel will engage in consultations with and receive submissions from interested stakeholders, including the BCLRB, from all regions of the province.
4. The Panel will provide a written report to the Minister on or about August 1, 2018 outlining its processes, observations, and any recommendations for amendments or updates to the Code. In the review and analysis of each issue, the Panel should consider relevant developments in other Canadian jurisdictions.
5. The Panel must assess each issue canvassed from the perspective of how to “ensure workplaces support a growing, sustainable economy with fair laws for workers and business” and promote certainty as well as harmonious and stable labour/management relations.
6. The Minister of Labour will make the Panel report public after a reasonable period of time to review and consider it. The Minister will also provide the report to Cabinet.

Given under my hand this Xth day of February, 2018.

Honourable Harry Bains, Minister of Labour

2018/19 Estimates Note Advice to the Minister

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

Title: Asbestos

Revised: February 20, 2018

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.
- The working group finished consulting with stakeholders in February, and I am expecting the working group to report to me in the coming weeks.

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.

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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 has consulted on the identified issues and potential initiatives with relevant outside stakeholders. These stakeholders have included 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.
- The working group is in the process of preparing a report on its findings and recommendations for the Minister's review.

WorkSafeBC's Estimates Binder

- s.13

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

Title: Bullying, Harassment and Mental Disorders

Revised: February 20, 2018

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 illnesses 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 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 *Workers Compensation Act* 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 compensated.
 - For significant work-related stressors, including bullying or harassment, the stressor must be the predominant cause of the mental disorder. The 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.

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

- The legislation explicitly recognizes bullying and 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 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.
- Mental disorder claims that result from termination, discipline and other decisions related to a worker's employment are excluded.
- Since the existing mental disorder provisions came into effect in July 2012, WorkSafeBC has been working closely with employer, union, worker and mental health groups to establish and evolve its program for administering mental disorder claims. It has been doing the same with psychology and medical communities including the BC College of Psychologists, the BC Psychological 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.
- s.13

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

Title: Forest Safety Issues Including Resource Roads

Revised: February 20, 2018

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, 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 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.

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Minister Responsible: Hon. Harry Bains

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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.
- 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 the Ministry of Forests, Lands, Natural Resource Operations and Rural Development and other government ministries and agencies had long had with the enforcement approach established under the WCA and OHSR.
- It was their view that WorkSafeBC’s enforcement approach, which considered a resource road as a whole to be a single workplace, was flawed 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.
- The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNR) and WorkSafeBC are continuing to work closely with each other under this policy approach in the interest of safety.
- FLNR undertook another stakeholder engagement in late fall 2017, and work on this file continues.
- 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.

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

Title: Lakeland and Babine Sawmill Explosions

Revised: February 20, 2018

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 the kind of horrific explosion that those workers faced and the serious lifelong injuries they were left with.
- In the wake of the tragedies at the Lakeland and Babine sawmills, the previous government took steps to ensure 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, we will see what more needs to be done to ensure sawmills are safe for B.C. workers.

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.

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Ministry: Ministry of Labour
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- 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 implemented, with a few minor adjustments that were based on stakeholder consultations, 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.

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Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/198 Estimates Note Advice to the Minister

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

Title: Mental Disorders, including Post-Traumatic Stress Disorder (PTSD) and First Responders

Revised: February 20, 2018

Issue: Mental Disorders, including 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 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 workers' compensation system. This includes ensuring that injured workers and surviving dependents are the central focus.
- Ministry staff are currently looking into the matter of a presumption for first responders related to workplace mental health.
- The Ministry of Labour is also 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 federal, provincial and territorial ministers responsible for labour have agreed to work together to reduce the stigma associated with mental health 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. B.C. is a leader in this work.

Background/Status:

First Responders' Concerns

- A number of first responder stakeholders, including the BC Professional Fire Fighters' Association and the Ambulance Paramedics of BC, have expressed their concerns to government on how work-related mental disorders, including PTSD, are addressed by the *Workers Compensation Act*.

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- These and other stakeholders have raised concerns that coverage for mental disorders under the *Workers Compensation Act* does 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.

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.
- At this time, B.C. has no presumption for PTSD or other mental disorders. WorkSafeBC requires evidence that a claim is work-related, although Ministry staff have been working on this issue and it is the Minister's intention to bring this matter forward for the Legislature's consideration.
- 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.

Actions to Support First Responders

- The Ministry of Labour has worked with other ministries, 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.
- 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).
 - See WorkSafeBC's estimates binder for details on the committee's goals, membership and accomplishments, and on other WorkSafeBC initiatives.

Meetings of Federal, Provincial and Territorial Ministers Responsible for Labour

- At the September 2016 meeting in Prince George, the ministers:

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- 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.
- At the January 2018 meeting in Ottawa, the ministers agreed to continue to work collaboratively on initiatives aimed at reducing the stigma associated with mental health, exploring ways to enhance supports through employers and workers' compensation boards among others, and sharing information on best practices and research.

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.
- 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 BC Professional Fire Fighters' Association and the Ambulance Paramedics of BC have formally requested a presumption for mental disorders.

Other Jurisdictions

- Currently seven Canadian jurisdictions have legislated mental disorder presumptions.
- Of these seven jurisdictions, five have presumptions for PTSD, while two others (Alberta and Saskatchewan) have presumptions that include PTSD and other mental disorders.
- Four jurisdictions limit their presumptions to specific occupations, while three (Alberta, Saskatchewan and Manitoba) provide them to any worker who has experienced a traumatic event at work.

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Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

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

Revised: February 20, 2018

Issue: Council of Federation (the Premiers') commitment 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 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 and 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.
- At a January 2018 meeting of federal, provincial and territorial ministers responsible for labour in Ottawa, my counterparts and I agreed on an approach for occupational health and safety harmonization, starting with personal protective equipment.
- Harmonization will help to protect the health and safety of all workers, while removing barriers that exist between provinces and territories. It will provide much-needed predictability for employees and employers, as well as regulators, and will also simplify compliance efforts for employers operating in different locations across the country.

Background/Status:

- 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.

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- 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 consideration of 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 (FPT) 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.
- On January 25, 2018, during their meeting in Ottawa, FPT ministers responsible for labour reviewed the progress that had been made on the action plan, particularly with respect to Personal Protective Equipment, and directed that the work continue and be expanded to standards/training, information sharing and reporting, and administrative/work processes and practices (i.e., the remaining areas that were outlined in the Council of the Federation's direction in 2015).

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

Title: Protecting the Lives and Safety of Workers

Revised: February 20, 2018

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 me 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, my ministry is working with WorkSafeBC on developing plans to deliver on these important priorities.

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.

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Minister Responsible: Hon. Harry Bains

- Ralph McGinn has been appointed the new board chair for WorkSafeBC for a four-year term. Mr. McGinn was WorkSafeBC's president and CEO from 1998 to 2003 and was WorkSafeBC's vice-president, prevention, from 1993 to 1998.
- Discussions have been undertaken with Mr. McGinn that recognize 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.

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 Estimates Note Advice to the Minister

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

Title: Workers' Compensation

Revised: February 13, 2018

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

Response:

- A fair, effective and respectful workers' compensation system is of utmost importance to this government.
- This includes ensuring that injured workers and surviving dependants receive fair and timely compensation.
- One of my priorities is respectful care for workers with work-related injuries and illnesses, and for surviving dependants. This is something that I have discussed with Mr. Ralph McGinn, the new chair for WorkSafeBC.
- At my request, Mr. McGinn has asked an external reviewer, Mr. Paul Petrie, to review WorkSafeBC's Rehabilitation and Claims Services policies with a view to assessing, in relation to other Canadian jurisdictions, whether the current WorkSafeBC benefit levels fully reflect the financial losses suffered by injured workers.
- Mr. Petrie has also been asked to review the *Workers Compensation Act* more broadly to ensure it reflects the needs of workers and employers in today's changing workplace.

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 B.C. workers' compensation system that was undertaken by a Royal Commission.

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

- In 2001, as a follow up to the 1999 Royal Commission, the previous government established a core services review of workers' compensation law and policy in British Columbia. This review, conducted by Alan Winter, was completed in March 2002.
- 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 dependants 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 consider such action as part of its broader goal of bringing greater fairness.
- See Appendix 1 for a summary of legislative amendments to the *Workers Compensation Act* since 2001.

Effective and Respectful Services for Workers and Surviving Dependants

- While WorkSafeBC takes service quality very seriously and has implemented a number of improvements over the years, 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.
- The Minister has written Mr. Ralph McGinn, the new chair for WorkSafeBC to advise him that he expects WorkSafeBC to ensure that the workers' compensation system in British Columbia is more "worker centred."
- At the Minister's request, Mr. McGinn has asked an external reviewer, Mr. Paul Petrie, to review WorkSafeBC's Rehabilitation and Claims Services policies with a view to assessing, in relation to other Canadian jurisdictions, whether the current WorkSafeBC benefit levels fully reflect the financial losses suffered by injured workers. Mr. Petrie has also been asked to review the *Workers Compensation Act* more broadly to see if it reflects the needs of workers and employers in today's changing workplace.
- This review aligns with the Minister's mandate commitment to develop options, with WorkSafeBC, to increase compliance with employment laws and standards put in place to protect the lives and safety of workers.

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Minister Responsible: Hon. Harry Bains

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

Contact:			
John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987

2018/19 Estimates Note Advice to the Minister

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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.

2018/19 Estimates Note Advice to the Minister

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

Title: Improving Labour Laws and Measures

Revised: February 13, 2018

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.
- The ministry has begun to deliver on this commitment and the related commitments in my mandate letter from the Premier.
- This includes appointing a Fair Wages Commission and setting a pathway for raising the minimum wage, looking at how we can update employment standards laws and service delivery, initiating a review of the *Labour Relations Code*, and working with WorkSafeBC to increase compliance with worker safety laws and standards including a review of the *Workers Compensation Act*.

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.

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Ministry: Ministry of Labour
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- The ESA is intended to ensure that employees in B.C. receive at least minimum standards of compensation and conditions of employment. The Code governs all aspects of collective bargaining between employers and employees. The WCA sets B.C.'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 B.C., 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 Appendix 1-3).
- In general, employers have indicated support for B.C.'s amendments made in 2001-2003, while workers' groups express the view that these earlier amendments went too far in removing protections for workers, particularly in relation to vulnerable and precariously employed workers.
- The British Columbia Law Institute is currently conducting a review of the ESA, with a final report expected to be released in mid-2018 (see Appendix 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. The Minister recently appointed a committee of special advisors to review the *Labour Relations Code* (see note on *Labour Relations Code* Review).
- 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 that increase benefits and services and better ensure worker safety. The Minister has asked WorkSafeBC to conduct a review of the *Workers Compensation Act* and produce a report on the findings (see note on Workers' Compensation).

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

2018/19 Estimates Note Advice to the Minister

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

Contact:

John Blakely	Executive Director	Labour Policy and Legislation Branch	250 356-9987
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2018/19 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.

2018/19 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).

2018/19 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.

2018/19 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 B.C.'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 a total of \$30,000 towards costs in previous fiscal years.

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 B.C. 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 mid-2018.

2018/19 Estimates Note Advice to the Minister

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

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

Revised: February 13, 2018

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 and the Employment Standards Tribunal, 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 Labour Relations Board and the Employment Standards Tribunal 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 Labour Relations Board and Employment Standards Tribunal.
- For example, the two ministries worked closely together on the recent appointment and announcement of a new permanent chair for the Labour Relations Board and Employment Standards Tribunal.
- The Ministry of Attorney General does not have budget and administrative oversight of the Workers' Compensation Appeal Tribunal because that 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, 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.

2018/19 Estimates Note Advice to the Minister

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

- Both tribunals were included in the budget transfer from LBR to the Ministry of Attorney General, also effective April 1, 2017.
- 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 the Workers’ Compensation Appeal Tribunal 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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2018/19 Estimates Note Advice to the Minister

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

Title: Direct Award Contracts

Revised: April 3, 2018

Deleted: February 26, 2018

Issue: Summary of Direct Awards

Response:

The following information is for direct award operating contracts (STOB 60, 61 and 63) issued for the period April 1, 2017 to February 28, 2018 of fiscal year 2017/18

Deleted: 6

- 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 at February 28, 2018, the Ministry issued 9 direct award contracts in fiscal 2017/18 for a total value of \$47,675.

Deleted: 26

Attachment: Appendix 1 – Ministry of Labour Direct Awards 2017/18

Contact:

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

LABOUR 17/18 Direct Awards as at February 28, 2018

Client	Start Date	Contract Reference Number	Office, division or branch procuring the service	STOB	Name of the Contractor	Description	Procurement Process	PO Amount
127	2017/09/20	SC18WAO02	Workers Advisers Office	EB60 Prof Serv-Oper and Reg	MEAD-WESCOTT, LARISSA	Education on the phenomenology of mild traumatic brain injuries, concussion and somatic symptom disorder.	Under \$25,000	400.00
127	2017/10/26	SC18WAO03	Workers Advisers Office	EB60 Prof Serv-Oper and Reg	MEDIATE BC SOCIETY	Presentation to WAO and EAO regarding practices and perspectives mediating discriminatory action disputes.	Under \$25,000	900.00
127	2017/11/06	C18FWC002	DMO Labour	EB60 Prof Serv-Oper and Reg	MASOOD, RIDA	Support Services for the Fair Wage Commission	Under \$25,000	2,375.00
127	2017/09/19	SC18WAO01	Workers Advisers Office	EB60 Prof Serv-Oper and Reg	STAND UP FOR MENTAL HEALTH INC.	To raise awareness and insight on working with individuals with mental health concerns in a positive manner.	Under \$25,000	3500.00
127	2017/12/31	C18SCFWC001	DMO Labour	EB60 Prof Serv-Oper and Reg	GREEN, DAVID ALAN	Provide a paper analyzing the existing research on the impact of minimum wages on employment & the economy	Under \$25,000	5,000.00
127	2018/02/15	C18SCFWC004	DMO Labour	EB60 Prof Serv-Oper and Reg	STRAUSS, KENDRA, DR	Provide a paper analyzing the existing research on the impact of minimum wages on employment & the economy	Under \$25,000	5,000.00
127	2018/02/15	C18SCFWC003	DMO Labour	EB60 Prof Serv-Oper and Reg	THOMPSON, MARK	Provide a paper analyzing the existing research on the impact of minimum wages on employment & the economy	Under \$25,000	5,000.00
127	2018/02/15	C18SCFWC002	DMO Labour	EB60 Prof Serv-Oper and Reg	MACPHAIL, FIONA	Provide a paper analyzing the existing research on the impact of minimum wages on employment & the economy	Under \$25,000	5,000.00
127	2018/03/31	C18FWC005	DMO Labour	EB60 Prof Serv-Oper and Reg	KNOWLER, JESSICA	Provide project coordination tasks, research & written tasks to the Fair Wages Commission	Under \$25,000	20,500.00
							9 Contracts	47,675.00

2018/19 Estimates Note Advice to the Minister

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

Title: Vendor Complaint Review Process (VCRP)

Revised: February 15, 2018

Issue: Report on the Vendor Complaints Received in Fiscal Year 2017/18 and 2018/19 year to date

Response:

Vendor Complaints

- Labour programs and services did not receive any vendor complaints in fiscal year 2017/18.
- As at February 28, 2018, 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
Shawna Wilson	A/Manager	Budgets and Reporting	778 698-8401

2018/19 Estimates Note Advice to the Minister

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

Title: Deputy Minister's Office – Budget

Revised: February 15, 2018

Issue: Deputy Minister's Office Budget in 2018/19

Response:

- The budget for the Deputy Minister's Office is \$532,000.
- 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	FY19 Estimates (\$)
Salaries and Benefits	449,000
Travel	43,000
Information Systems	20,000
Office and Business	20,000
Other Expenses	3,000
Recoveries	(3,000)
TOTAL	\$532,000

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

Contact:

Shawna Wilson A/Manager Budgets and Reporting 778 698-8401

2018/19 Estimates Note Advice to the Minister

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

Title: Executive Compensation (Agencies, Boards and Commissions)

Revised: February 15, 2018

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 Public Sector Employers Council.
- 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.

2018/19 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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2018/19 Estimates Note Advice to the Minister

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

Title: Ministry Fees

Revised: February 15, 2018

Issue: Ministry Fees in 2018/19

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.

2018/19 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:

Shawna Wilson A/Manager Budgets and Reporting 778 698-8401

2018/19 Estimates Note Advice to the Minister

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

Title: Minister's Office – Budget

Revised: February 15, 2018

Issue: Minister's Office Budget in 2018/19

Response:

- The Minister's Office budget for 2018/19 is \$589,000

Background/Detail

Minister's Office Budget Detailed Explanations

Minister's Office	
Expenditure Type	FY19 Estimates (\$)
Salaries	339,000
Benefits	105,000
Legislative Salaries	54,000
Travel	50,000
Information Systems	8,000
Office and Business	9,000
Other Expenses	25,000
Recoveries	(1,000)
TOTAL	\$589,000

- 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.

2018/19 Estimates Note Advice to the Minister

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

- In 2017/18, the benefit charge was 24.34 per cent of salaries, in 2018/19 the Ministry of Finance revised the charge upward to 24.8 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 effective April 1, 2017) 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:
Shawna Wilson A/Manager Budgets and Reporting 778 698-8401

2018/19 Estimates Note Advice to the Minister

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

Title: Minister's Office – Travel

Revised: February 26, 2018

Issue: Minister's Office Travel Expenditures

Response:

- The 2018/19 budget for travel for my office is \$50,000
- My travel expenses will be made available on a quarterly basis on the government's Open Information website.
- The most recent publication of Ministerial Travel Expenses is for the fiscal quarter ending December 31, 2017.
- There is currently \$7,516.68 in expenses published for my travel.

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.
- Ranking my travel against other MLA's is not a performance metric used by the ministry.

Contact:

Shawna Wilson A/Manager Budgets and Reporting 778 698-8401

2018/19 Estimates Note Advice to the Minister

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

Title: Transfers

Revised: February 21, 2018

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 2018/19 government transfers budget is \$50,000, no change from 2017/18 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:

Shawna Wilson A/Manager Budgets and Reporting 778 698-8401

2018/19 – 2020/21 Service Plan Questions & Answers

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Ministry of Labour

1. What are the Ministry's goals?

The Ministry's goals established in this Service Plan are:

- **Goal 1:** Modern, fair labour laws and standards that: reflect the changing nature of workplaces; support a growing, sustainable and innovative economy; and ensure the province leads the country in health and safety of its workers.
- **Goal 2:** Service excellence for workers and employers that treats all clients with compassion, respect and dignity.

2. How do these goals reflect the Ministry's work?

- The purpose of the Ministry is to promote fair, healthy and safe labour and employment relationships in support of a strong, sustainable and innovative economy.
- Our Service Plan goals clearly support the purpose of the Ministry through its leadership in fostering safe, fair work environments and a thriving economy

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

The Ministry has been tasked in this Service Plan to achieve the following specific objectives and performance targets:

- **Objective 1.1:** Labour laws and policy that are responsive to, and supportive of, the changing nature of the workplace
- **Objective 1.2:** Compliance with B.C. labour and employment law
- **Objective 1.2:** Clients and stakeholders are aware of and understand labour requirements and processes
 - **PM 1.3a:** Number of community outreach sessions conducted annually by the Workers' Advisers Office (WAO)
 - **PM 1.3b:** Number of educational outreach sessions conducted annually by the Employers' Advisers Office (EAO)
- **Objective 2.1:** Accessible, reliable and timely services
 - **PM 2.1:** Percentage of Employment Standards Branch complaints resolved within 180 days

4. Of the Performance Measures published in the February 2017 Ministry Service Plans which have been continued by this Ministry and are they meeting their targets?

Measures from former Jobs, Tourism and Skills Training:

- Percentage of Employment Standards Branch complaints resolved within 180 days – **ON-TRACK**

Ministry of Labour

5. Has the Ministry developed any new Performance Measures?

Yes, the following are new performance measures that are better indicators for the Ministry's new goals and objectives:

- Number of community outreach sessions conducted annually by the Workers' Advisers Office (WAO)
- Number of educational outreach sessions conducted annually by the Employers' Advisers Office (EAO)

6. Will the Minister's Mandate Letter commitments 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"*.
 - 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.