



# LEGAL LENS: KENT EMPLOYMENT LAW DIGEST

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**VOLUME 1  
ISSUE 1**

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## ABOUT KENT EMPLOYMENT LAW

Kent Employment Law is a Canadian employment law firm that provides advice and representation to both employers and employees, covering the full spectrum of workplace legal matters.

After over two decades in operation, our firm has an excellent reputation throughout Western Canada. Our clients come in all shapes and sizes and from diverse industries and backgrounds, giving our dedicated employment lawyers deep and varied knowledge and experience to draw on as we solve your legal issues.

## ABOUT THE PUBLICATIONS

This is the first issue of LEGAL LENS, providing employment law and related updates from January to June 2024. This publication highlights prominent employment law updates both nationally and within British Columbia. All content within this digest is informed by and from third-party sources, which can be accessed by following the provided links.



# NATIONAL UPDATES

## **REVIEWING 2024 CHANGES AND ADDITIONS TO LABOUR AND EMPLOYMENT LAWS ACROSS CANADA**

In 2024, significant changes and additions to labour and employment laws across Canada will impact employers. These changes focus on pay equity, transparency, and workers' rights.

Employers must understand these changes, ensure compliance, and adjust their organizational policies and employment agreements accordingly:

### **AMENDMENTS TO B.C.'S WORKERS COMPENSATION ACT (BILL 41)**

- Effective January 1, employers and workers must cooperate in the worker's early and safe return to work post-injury.
- Employers with 20 or more workers must maintain the employment of injured workers for at least 12 months.
- If the above amendments to the Act conflict with a term of a collective agreement, the Act will prevail if it provides the worker a greater benefit than the collective agreement (except for seniority-related conflicts).

## **AMENDMENTS TO THE CANADA LABOUR CODE**

- Effective February 1, federally regulated employers are required to provide termination notice based on employee tenure.
- Aligns with provincial and territorial labour and employment standards across Canada.
- Applies to approximately 6% of all Canadian workers.

## **NEW CANADA REVENUE AGENCY (CRA) ADMINISTRATIVE POLICY**

- Effective January 1, an employee's province or territory of employment must be determined for payroll purposes.
- Affects income tax, pension, and EI contributions.





### **MODERN SLAVERY ACT (BILL S-211)**

- Effective January 1, the Act aims to prevent forced labour and child labour in the supply chains of Canadian companies.
- Primarily impacts government institutions and large entities.

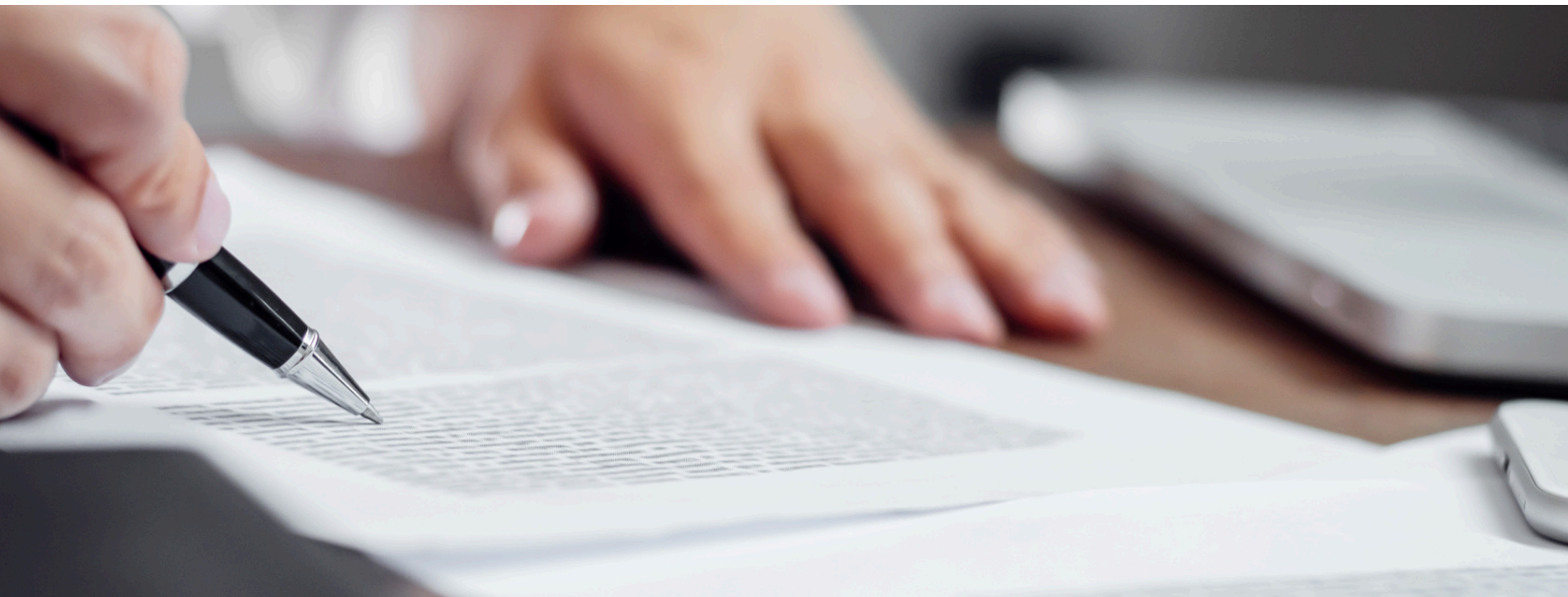
### **REGULATIONS AMENDING THE EXEMPTIONS FROM AND MODIFICATIONS TO HOURS OF WORK PROVISIONS REGULATIONS (SOR/2023-180)**

- Exempts certain classes of employees in banking, telecommunications, broadcasting, rail transportation, and air transportation from specified hours of work provisions.

## **AMENDMENTS TO THE FEDERAL COMPETITION ACT (BILL C-59)**

- Effective June 2023, the amendments target collusion in certain industries.
- Criminalized wage-fixing and non-poaching agreements between unaffiliated employers.
- For those who have not already done so, employers should focus on the following key areas to ensure compliance with the recent changes to labour and employment laws in Canada:

As a starting point, updating existing policies is crucial to ensure legal compliance in the workplace. Employers should review and adjust their compensation structures to ensure pay equity and prepare to disclose salary ranges in job advertisements as will be required by Ontario's *Working for Workers Four Act, 2024*.





Additionally, B.C. employers must update their policies regarding worker compensation and return-to-work procedures to comply with the amendments to B.C.'s *Workers Compensation Act*, including maintaining employment for injured workers who meet the criteria under the Act. Meanwhile, federally regulated employers must align their termination notice periods with the amendments to the *Canada Labour Code*. All federal and provincial employers must implement the new CRA policy for correct tax deductions and contributions for employees, particularly for those working remotely.

Next, employers should continue to focus on compliance measures. Employers must ensure that their operations and supply chain policies align with the *Modern Slavery Act* to combat forced labour and child labour. Policies should also be updated to reflect the exemptions from work hours provisions for specific industries. It is essential for employers to educate staff about the amendments to the federal *Competition Act* and its prohibition of wage fixing and non-poaching agreements in order to avoid any form of collusion.



Training and communication are also vital components. Employers should conduct training sessions with HR staff and managers to ensure they understand the new legal requirements and compliance measures. It is important to communicate these policy changes and inform employees about their rights under the new laws through internal newsletters, meetings, or dedicated portals.

Finally, conducting internal audits and strategic planning are necessary steps. Employers should perform internal compliance audits to identify and rectify potential areas of non-compliance. Developing a strategic plan and assigning specific responsibilities to team members or departments will ensure the successful implementation of these changes by the specified deadlines.

By addressing the key areas described above, employers can effectively mitigate the risk of non-compliance in the workplace.



# B.C. UPDATES

## EMPLOYMENT STANDARDS

### Employment Standards | B.C. Minimum Wage Increases June 1

As of June 1, 2024, the [British Columbia general minimum wage](#) has risen from \$16.75 to \$17.40 per hour, reflecting the average inflation rate in 2023. Minimum rates for resident caretakers, live-in home-support workers and live-in camp leaders also saw a 3.9% increase on June 1, while minimum piece rates for the hand-harvesting of the 15 crops specified in the Employment Standards Regulation will increase by 3.9% on December 31, 2024.

These increases were first announced in February as part of a broader legislative goal to ensure minimum-wage rates keep pace with inflation. This change will not only provide financial certainty to employers and minimum-wage workers, but will also support governmental efforts to reduce poverty, improve affordability, and strengthen the economy.



## AT A GLANCE: CURRENT MINIMUM WAGE RATES ACROSS CANADA

Province/Territory	Minimum Wage Rate per Hour	Effective Date
Federal Government	\$17.30	April 1, 2024
Alberta	\$15.00	June 26, 2019
British Columbia	\$17.40	June 1, 2024
Manitoba	\$15.30	October 1, 2023
New Brunswick	\$15.30	April 1, 2024
Newfoundland and Labrador	\$15.60	April 1, 2024
Northwest Territories	\$16.05	September 1, 2023
Nova Scotia	\$15.20	April 1, 2024
Nunavut	\$19.00	January 1, 2024
Ontario	\$16.55	October 1, 2023
Prince Edward Island	\$15.40	April 1, 2024
Prince Edward Island	\$16.00	October 1, 2024
Quebec	\$15.25	May 1, 2023
Saskatchewan	\$15.00	October 1, 2024
Yukon	\$17.59	April 1, 2024

Source: [Canadian HR Reporter](#)

## BASIC PROTECTIONS FOR B.C. GIG WORKERS ARE A STEP FORWARD

The Government of British Columbia announced new employment standards for gig workers on June 12, 2024, including a wage floor and access to workers' compensation. These regulations primarily impact app-based drivers, like those working for DoorDash and Uber. Key changes include minimum hourly wages, better tip protections, compensation for vehicle expenses, and increased transparency in work assignments. Eligible gig workers will also be covered by WorkSafeBC for job-related injuries.

Unifor, Canada's largest private sector union, praised these changes as a step toward economic fairness and better working conditions for gig workers, who are largely exploited and underrepresented in the economy.





Unifor highlighted the challenges gig workers face in forming unions, including the lack of transparency about the total local workforce for any particular gig company. In light of these difficulties, Unifor continues to advocate for the development of legal tools and workplace measures to support unionization efforts.

## WORKPLACE SAFETY | LABOUR MINISTERS UNITE IN B.C. TO ADDRESS WORKPLACE SAFETY

In April, labour ministers from across the country assembled in Richmond, B.C. to address workplace safety issues, a collaborative effort to harmonize safety standards and regulations nationwide.

Discussions centred on ratifying the ILO C155 in an effort to foster safe working environments. Attention was drawn to the adequacy of personal protective equipment (PPE) for women in trades, and a commitment was made to work with manufacturers to address these disparities.

The complexities of labour standards in gig work and non-standard employment were also addressed, focusing on improved conflict resolution mechanisms and fair working conditions in the quickly expanding sector of the workforce.





The ministers unanimously pledged to continue sharing information and best practices to promote fair, safe, healthy, and inclusive workplaces nationwide. These efforts could shape Canadian labour laws and workplace safety standards, setting a precedent for international labour compliance initiatives.

Originally Reported by [OHS Canada](#).



## TERMINATION | HUMAN RIGHTS CONSIDERATIONS WHEN TERMINATING AN EMPLOYEE ON LEAVE

In January, the [B.C. Human Rights Tribunal released a decision](#) suggesting that employers may terminate employees on sick leave without facing the consequences of successful discrimination complaints. In this case, the Tribunal dismissed a complaint filed by a female carpenter who was terminated from her employment while on sick leave. Despite her claims of discrimination, the Tribunal ruled in favour of the employer and found that the complainant failed to establish that her sex or physical disability was a factor in the employer's decision to end her employment.





The Tribunal clarified that the employee had to show that she experienced an adverse impact in her employment, and that her sex or disability was a factor in that adverse impact. Although the employee was dismissed while on leave for a “temporary disability” (a protected characteristic under Section 13 of the B.C. Human Rights Code), the Tribunal found that the employer could not have accommodated her with alternative work without facing undue hardship. As a result, the employee failed to establish a connection between her physical disability and her termination.

The Tribunal reiterated that the timing of a termination during an employee's leave does not necessarily imply discrimination, as employers may provide reasonable non-discriminatory explanations for such. Ultimately, the outcome of this case depended on the specific facts and the credibility of witnesses, neither of which sufficiently established the basis for the alleged discrimination.

Despite this ruling, employers are advised to proceed with caution when terminating employees on leave and should consider seeking legal advice to mitigate the risk of potential discrimination claims. See [Complainant v. Company and others, 2024 BCHRT 23](#)



## PAID SICK LEAVE | QUICK GUIDE FOR EMPLOYERS & EMPLOYEES

It's crucial for both employers and employees to understand the implications of paid sick leave. As reported by [CBC](#), this comprehensive outlook aims to clarify the key aspects of some newer regulations and address common questions surrounding paid sick leave in the province.



**Eligibility:** The paid sick leave legislation applies to all workers covered by the B.C. *Employment Standards Act* (ESA), except those employed in federally regulated sectors, self-employed workers, and certain excluded professions.

**Independent Contractors:** The eligibility of gig economy workers, often called independent contractors, depends on their relationship with the employer and is determined by the Employment Standards Branch.

**Federally Regulated Sectors:** Employees in certain industries, such as banking or air transportation, are covered by the *Canada Labour Code*, not the ESA, and are entitled to three days of paid leave per year.

**Financial Responsibility:** Employers are solely responsible for covering the costs of paid sick leave without reimbursement from the government.



**Payment Calculation:** Workers will be paid based on their average earnings over the past 30 days, regardless of their compensation scheme.

**Care for Loved Ones:** Paid sick leave is only for personal illness or injury, while separate job protections exist for caring for ill loved ones.

**Carryover:** Paid sick leave does not carry over from year to year. Starting on January 1 of each year, workers are entitled to five paid sick days per year, with any unused days expiring on December 31 of that same year.



## CASE STUDY | UBER ORDERED TO COMPENSATE WHEELCHAIR USER FOR ACCESSIBILITY RIGHTS

In a groundbreaking ruling by the B.C. Human Rights Tribunal, Uber Canada has been ordered to pay \$35,000 in compensation to Martin Bauer, a wheelchair user, for discrimination on the basis of his disability. This decision marks the first instance in Canada where a ride-hailing app has been subject to a human rights tribunal.

Read a full breakdown of this ruling in an article from the [Vancouver Sun](#).



Uber's defence cited the company's exemption from accessibility obligations due to its per-trip fee system. However, this argument was dismissed by the Tribunal highlighting the significant legal implications for ride-hailing services nationwide.



The Tribunal's decision is a significant victory for accessibility advocates, reaffirming that all individuals, regardless of physical ability, deserve equal access to transportation services. Bauer succeeded in his pursuit of justice and paved the way for improved accessibility standards within the ride-hailing industry.



Interestingly, the case prompted discussions on allocating accessibility fees collected from ride-share trips. While Uber argues that only a portion of the accessibility fees collected have been used for improvements, stakeholders are focusing efforts on ensuring these funds are directed toward expanding the availability of wheelchair-accessible vehicles.

Perspectives from industry experts shed light on the economic challenges of providing accessible transportation. Taxi companies, traditionally responsible for accommodating individuals with disabilities, stress the financial burdens of maintaining wheelchair-accessible vehicles. Despite these challenges, there is unanimous support for Uber's inclusion in providing such services.

The ruling also draws attention to similar cases internationally, notably in the United States, where Uber faced allegations of systemic discrimination against wheelchair users. The parallels underscore the global significance of accessibility issues in the evolving landscape of transportation technology.



As Uber evaluates its options for appeal, the legal precedent set by this case will likely influence future legislative and regulatory measures concerning accessibility in ride-hailing services. It serves as a reminder to companies operating in the sharing economy to prioritize inclusivity and address the diverse needs of all users.

The B.C. Human Rights Tribunal's decision against Uber signifies a significant victory for accessibility rights and sets a precedent for future cases in Canada's evolving transportation landscape. It underscores companies' need to proactively address accessibility concerns and uphold the rights of individuals with disabilities.



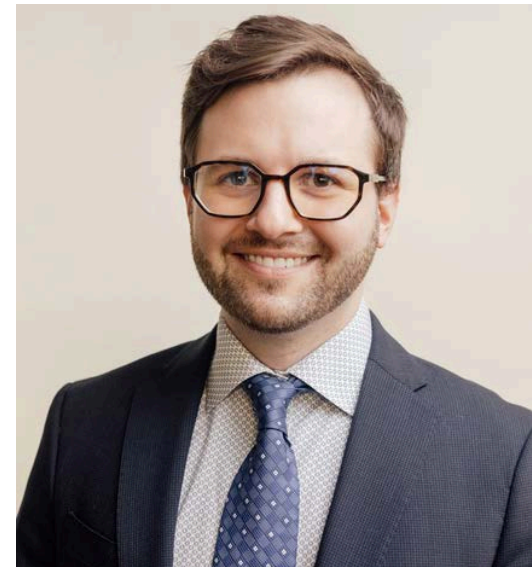
## TESTIMONIALS



*“Kimberly D. Darling at Kent Employment Law was an **absolute pleasure to work with.** Would recommend her to anyone seeking legal advice. Labour Law can be extremely complicated and Kimberly took the time to make sure I understood the process every step of the way. She was able to negotiate a mutually agreeable resolution to my dispute and always kept me in the loop.” -Dan B.*



*“Ryan Macklon was very helpful in providing me with a legal document in the form of an independent contractor contract. Ryan was **prompt, knowledgeable, and flexible.** I am very satisfied with the final product and would recommend that any other small business owners consider using Ryan’s legal services. Bonus that the cost was very reasonable and cheaper than other firms! Thank you, Ryan!” -Andrea C.*





# WHY CONTACT KENT EMPLOYMENT LAW



## FOR EMPLOYERS:

Protect your organization with expert employment law guidance. Our specialists provide tailored legal solutions, from drafting contracts to advising on policies and resolving disputes. Ensure compliance and maintain a productive workplace with our strategic support.

## FOR EMPLOYEES:

Know your workplace rights. Whether facing discrimination, wrongful termination, or pay disputes, our employment law experts are here to advocate for you. Get personalized legal support for a fair resolution.



*Contact us today to schedule a consultation and learn how we can assist you in navigating the complexities of employment law.*