

## HIGHLIGHTS OF MAJOR DEVELOPMENTS IN LABOUR LEGISLATION

August 1, 1999 to July 31, 2000

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## I. EMPLOYMENT STANDARDS

### A. Legislation of General Application

In the federal jurisdiction, by virtue of an amendment introduced by the *Budget Implementation Act, 2000* (Bill C-32), the duration of parental benefits under the *Employment Insurance Act* will be increased from 10 to 35 weeks on December 31, 2000.

The *Canada Labour Code* will also be amended on December 31, 2000. The amendment will extend the duration of parental leave from 24 to 37 weeks to allow employees to take time off from work during the period where parental benefits under the EI legislation can be paid. As is currently the case, the period during which parental leave may be taken will be the 52-week period from the day on which the child is born or comes into the care of the employee. Also, the maximum aggregate amount of parental leave that may be taken by two employees in respect of the birth or adoption will be increased from 24 to 37 weeks. In addition, the maximum aggregate amount of maternity and parental leave that may be taken by one or two employees in respect of the birth of a child will be 52 weeks.

Section 43 of the *Budget Implementation Act, 2000* provides that the *Canada Labour Code* will be further amended if the *Modernization of Benefits and Obligations Act* (Bill C-23) receives royal assent, which it did on June 29, 2000. This amendment to section 206.1 of the Code will extend parental leave to same-sex partners adopting a child. The purpose of the new version of this section is to accommodate upcoming changes to the *Employment Insurance Act*, which will in effect extend employment insurance parental benefits to same-sex partners adopting a child (section 107 of Bill C-23). The amendment will take effect on the later of the coming into force of section 107<sup>1</sup> of the *Modernization of Benefits and Obligations Act* and December 31, 2000 when the changes to the Code described in the preceding paragraph will come into force.

In British Columbia, the *Miscellaneous Statutes Amendment Act* introduced important changes to the provisions of the *Employment Standards Act* in regard to parental leave. Other amendments made under this Act to employment standards in regard to the silviculture industry are described in this document (see pages 8 and 9).

The changes to the parental leave provisions are meant to accommodate the changes to the employment insurance legislation which, as of December 31, 2000, will extend the payment of parental benefits from 10 to 35 weeks. Thus, under the *Miscellaneous Statutes Amendment Act*, in the case of an employee taking pregnancy leave, parental leave will be extended from 12 to 35 weeks. For birth fathers, adopting parents, or birth mothers who do not take maternity leave (a situation not specifically covered in the repealed provision), parental leave will be extended by a further two weeks, to 37 weeks, to take into account the employment insurance legislation requirement to serve a two-week waiting period before employment insurance benefits can be paid. (For birth mothers taking pregnancy leave, the two-week waiting period is already served in connection with the pregnancy leave).

Moreover, pregnancy leave will be reduced from a maximum duration of 18 to 17 weeks in order to reflect the *Employment Insurance Act*. Changes brought in this Act also provide

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<sup>1</sup> At the time this document was written, section 107 was not in force.

that pregnancy leave may not start later than the actual birth date and end later than 17 weeks after the actual birth date. Finally, the total combined number of weeks of pregnancy leave and parental leave will be increased from 32 to 52.

The amendments to the *Employment Standards Act* are to come into force by way of a regulation of the Lieutenant Governor in Council.<sup>2</sup>

**Alberta** has introduced a variety of changes to its *Employment Standards Regulation*. The most important of the changes are summarized below. The changes came in force on July 1, 2000.

The amended Regulation includes a modified list of exempted professions from the application of provisions on hours of work and overtime and exempts employers from the requirement to keep records on regular and overtime hours. The exemption of managers, persons employed by a builder of residential homes to sell those homes, insurance salespersons and persons engaged in a direct selling business was clarified and confirmed. Added to the list is the profession of counselor or instructor at a not-for-profit educational or recreational camp operated on a charitable basis for children or handicapped individuals, or for religious purposes. Clarifications were also made in regard to professions exempted from statutory holiday provisions.

Other changes were made to the list of professional workers, such as accountants, dentists, optometrists, and other professional workers, who are exempted from the employment standards mentioned in the previous paragraph (except for general holidays provisions). Agrologists, dental mechanics and information system professionals were added to the list.

Another change provides that persons employed in a school as well as school bus drivers are no longer subject to the provision that stipulates that on the 60<sup>th</sup> consecutive day of temporary layoff, employment terminates and the employer must pay termination pay. Also, under another amendment, general holiday and minimum wage provisions now apply to domestic employment.

On the other hand, counselors or instructors in not-for-profit educational or recreational camps for children or handicapped individuals, or for religious purposes, are not covered by minimum wage provisions. Occupations for which the weekly minimum wage rate of \$236 applies has been amplified and clarified and now includes individuals of 16 years or more engaged in a direct selling business, land agents and professional workers (such as dentists, chiropractors, engineers and many others). Moreover, under the amendment, those engaged in domestic employment are now subject to a monthly minimum wage rate of \$1125.

An assortment of other changes include the following: adolescents employed for less than 2 hours on a school day must be paid for two hours of work; for ambulance attendants, a new provision stipulates that on at least 4 days in every 28-day period, an employee must be relieved of on-call duties unless the employee agrees to be on call; the obligation to confine hours work within a period of 12 consecutive hours does not apply to geophysical

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<sup>2</sup> At the time this document was written, no such regulation had been made.

exploration and oilwell servicing; and, the liability for the payment of fees to a person conducting an audit of employer records is the responsibility of the Director of Employment Standards, instead of the employer, but the employer is liable to pay the same amount to the Director.

The amendments to the Regulation came into force on July 1, 2000, with the exception of amendments dealing with the exemption of professions from certain legislative provisions, namely those on hours of work and overtime, which require consequential amendments to professional workers legislation.

In **Manitoba**, further limits were imposed on retail business establishments that want to be open on Sunday. Under the *Retail Business Holiday Closing Amendment Act* which is in force since December 6, 1999, a retail business may open on Sunday only if the establishment is always closed to the public on Saturdays, and goods or services are not sold or offered for sale, on Saturdays. An owner or operator of two or more establishments may open on Sunday only if all the establishments are always closed to the public on Saturdays, and goods or services are not sold or offered for sale at any of the establishments, on Saturdays.

Before the amendment, retail business establishments were allowed to open on Sunday if the premises were closed to the public on the immediately preceding Saturday and where no goods or services were sold or offered for sale on that Saturday.

In **Quebec**, *An Act to amend the Act respecting labour standards and other legislative provisions concerning work performed by children* came into force on February 1, 2000, excluding two provisions which came into force on July 20, 2000 (see below). This Act in fact consolidates provisions on the employment of children. According to the amended legislation, an employer is prohibited from having children perform work that is disproportionate to their capacity or that is likely to be detrimental to the child's education, health or physical or moral development.

The legislation also prohibits an employer to have work performed by a child under 14 years of age without first obtaining the written consent of the holder of parental authority or of the tutor. The employer must keep this consent in a register.

In addition, the legislation prohibits employers from having work performed during school hours by a child who is subject to compulsory school attendance. Moreover, according to the amendment, an employer who has work performed by a child subject to compulsory school attendance must ensure that the child's work is scheduled so that he/she is able to attend school during school hours.

According to changes in force on July 20, 2000, employers are prohibited from having work performed by a child between 11 p.m. on any given day and 6 a.m. on the following day, except in the case of a child no longer subject to compulsory school attendance, or in the case of newspaper deliveries, or in any other case determined by regulation. Moreover, an employer who has work performed by a child must schedule the work so that, considering the family place of residence, the child may be at his/her family residence between 11 p.m. on any given day and 6 a.m. on the following day, except in the case of a

child no longer subject to compulsory school attendance or in cases determined by regulation.

In addition, a Regulation amending the *Regulation respecting a registration system or the keeping of a register* includes a new general provision requiring employers to record in a register the date of birth of any employee under 18 years of age.

Still in Quebec, An *Act to amend the Act respecting labour standards as regards differences in treatment* prohibits in an individual contract of employment, in a collective agreement under the *Labour Code*, in any other agreement relating to conditions of employment, including a Government regulation giving effect to it, or in a collective agreement decree, provisions which effectively grant an employee covered by a labour standard under the *Act respecting labour standards* or a regulation issued under it, a condition of employment less advantageous than that which is applicable to other employees performing the same tasks in the same establishment, when the difference is based solely on the date of hiring.

The conditions of employment to which the prohibition applies are those dealing with wages, hours of work, paid statutory holidays, annual vacations with pay, daily and weekly rest periods, leave for family events, notice of termination of employment or layoff, work certificates, as well as other standards such as those dealing with work uniform, premiums, allowances, indemnities, tools, showers, cloakrooms and rest areas. However, a condition of employment based on seniority or years of service does not constitute a contravention of this prohibition.

Also, the Act does not prohibit special arrangements to accommodate handicapped persons so as to allow these persons to continue to receive the same wages and to benefit from the same working conditions as before. This provision is not subjected to a time constraint. Nor does the Act prohibit, in regard to conditions of employment it covers, temporary differences in treatment in cases of reclassification or demotion of an employee, or in cases of mergers of businesses or of internal reorganization in an enterprise.

In regard to recourses, the *Act respecting labour standards* was modified to allow an employee governed by a collective agreement or a decree and who wishes to file a complaint in regard to what is perceived as a prohibited difference in treatment, to choose between the recourse provided under the collective agreement or the *Collective Agreement Decrees Act* or the submission of a complaint to the Labour Standards Commission (Commission des normes du travail). In this regard, the amendment provides that, instead of establishing that the recourses under the collective agreement or decree have been exhausted, the complainant must prove to the Commission that he/she has not exercised such recourses or that having exercised them, he/she discontinued proceedings before a final decision was rendered. The purpose is to avoid a duplication of proceedings in regard to the same complaint.

The *Act to amend the Act respecting labour standards as regards differences in treatment* came into force on January 1, 2000. All collective agreements or arbitration awards coming into force after February 29, 2000 are required to be written so as to take into account the prohibition regarding differences in treatment. In the case of collective agreement decrees, the provisions of the Act will come into force on January 1, 2001. In

the case of non-unionized employees, the provisions of the Act came into force on July 1, 2000.

In the **Northwest Territories**, the *Labour Standards Act* was amended by the *Access to Information and Protection of Privacy Statutes Amendment Act*. The amendment addresses the issue of disclosure of information, given the provisions of the *Access to Information and Protection of Privacy Act*.

Hence, section 66 of the *Labour Standards Act* was amended to ensure that notwithstanding the *Access to Information and Protection of Privacy Act*, a person who makes a complaint to the Labour Standards Board or a Labour Standards Officer, and requests that his/her name and identity be withheld, the Board, the Labour Standards Officer and their officials must not, with exceptions, disclose the name and identity of that person. This amendment came into force on December 31, 1999.

## **B. Fair Wages**

In the **federal** jurisdiction, *Regulations Amending the Fair Wages and Hours of Labour Regulations* came into force on September 14, 1999. The amendments authorize the adoption of the current provincial construction wage rates as the federal fair wage rates. With regard to hours of work, the amended Regulations stipulate that the hours of work, including the hours of work in excess of which overtime must be paid, are the hours of work for the province where work is performed.

Other changes include the addition of ethnic origin, sexual orientation, disability, conviction for which a pardon has been granted, and family status as prohibited grounds of discrimination in the mandatory non-discrimination clause on hiring and employment.

Moreover, under the amended Regulations, the requirement that only persons residing in Canada be employed under contracts subject to the fair wages and hours of work legislation has been removed.

Also, the *Road, Sewer and Watermain Construction Hours of Work Order* was repealed. Projects that were governed under the Order are now governed under the fair wage legislation applicable to any federal construction contracts.

## **C. The Garment Industry**

In **Quebec**, *An Act respecting the conditions of employment in certain sectors of the clothing industry and amending the Act respecting labour standards*, which came into force on November 11, 1999, extended four collective agreement decrees in the clothing industry to June 30, 2000. The four decrees affect the men's and boys shirt industry, the women's clothing industry, the men's clothing industry and the leather glove industry. According to the Act, from July 1, 2000, the government may prescribe by regulation minimum conditions of employment applicable to these garment industry sectors, which are not to exceed a transition period of 18 months. After that period, the government may prescribe labour standards applicable to the four sectors of the clothing industry covered by the decrees.

As to the labour standards to be introduced later, they will apply to all employers and salaried workers of the clothing industry that were covered by the decrees. As is the case for the minimum conditions during the transition period that is not to exceed 18 months, the Act stipulates that the standards may relate to the minimum wage, the standard workweek, statutory holidays, annual leave, meal periods and leave for family events. To establish the labour standards, the Minister may consult a body he/she considers representative. This body may, within time limits, propose standards to the Minister.

An amendment provides that the Labour Standards Board (Commission des normes du travail) must establish a specific program for the monitoring of the clothing industry and that the Commission consult in that respect the body the Minister considers representative. For the implementation of the program, the Act provides for the payment of an additional contribution by the employers of the clothing industry. The Act also includes provisions requiring all employers under the women's clothing industry decree to pay contributions designed to finance the deficit of the vacation leave provided in this decree. Finally, the Act provides a mechanism to resolve implementation difficulties arising from the application of the minimum conditions of employment during the transition period to last not more than 18 months.

Three regulations were added to the list of instruments governing employment standards in the garment industry. As provided under the *Act respecting the conditions of employment in certain sectors of the clothing industry and amending the Act respecting labour standards*, the *Regulation respecting minimum labour standards in certain sectors of the clothing industry* provides minimum conditions of employment applicable during the transition period. It came into force on July 1, 2000.

The new Regulation defines the occupations to which it applies in each of the four sectors. It then sets out minimum conditions of employment. It is worth noting that, for wages and hours of work, the Regulation reinstates the contents of the decrees. The minimum wage is calculated using formulas that take into account the minimum hourly rate and the employee's occupation and experience. Other factors can also affect an employee's wage. In provisions that apply specifically to the women's clothing industry, the Regulation deals with home workers and establishes a separate wage rate for them.

In the men's and boys' shirt industry, the standard workweek is 36 hours and 30 minutes, scheduled over five days, with a workday of 7.5 hours on the first four days and 6.5 hours on the fifth day. In the women's clothing industry, the standard workweek is 39 hours, with a standard workday of 8 hours from Monday to Thursday and 7 hours on Friday. In the men's clothing industry, the standard workweek is 39 hours for men's and boys' clothing and 40 hours for children's clothing and jeans clothing. In the leather glove industry, the standard workweek is 40 hours scheduled over five days at 8 hours per day.

The Regulation provides for a second shift for each of the four industries and, in some cases, makes provision for a third shift. Second and third shift employees receive a premium that varies from one industry to another. The meal break is one hour for the first shift and 30 minutes for the second and third shifts. Weekend shifts are entitled to a paid 30-minute meal period.

Following are the statutory holidays that are observed: January 1 and 2, Good Friday, Easter Monday, Fête de Dollard or Victoria Day, June 24, July 1, the first Monday in September, the second Monday in October and December 25.

Employees are entitled to two weeks of annual vacation after one year of uninterrupted service and three weeks after three years of uninterrupted service. An employee who, at the end of a reference year, has completed less than one year of uninterrupted service is entitled to one day of vacation per month of service, up to a maximum of two weeks. Vacations of two weeks or less are taken consecutively. Vacation pay is 4% of gross earnings and 6% for employees entitled to three weeks' vacation. In addition, employees who have completed one year of uninterrupted service are entitled to a year-end holiday beginning on December 26 and ending on December 31, with holiday pay equal to 2% of their total gross annual wages.

Finally, the Regulation provides for leave in the event of the death or funeral of members of the employee's family. An employee with one year of uninterrupted service with the same employer is entitled to three days with pay and another day without pay on the occasion of the death or funeral of his or her spouse, child, father, mother, brother or sister. Employees with less than one year of uninterrupted service are entitled to one day with pay and three days without pay; the leave also applies to the death or funeral of the spouse's child. Shorter periods of leave are granted for the death or funeral of other family members.

A second regulation, the *Regulation to amend the Regulation respecting a registration system or the keeping of a register* provides essentially that registers that were kept in accordance with the collective agreement decrees in the leather glove, women's clothing, men's clothing and men's and boys' shirt industries must still be kept after July 1, 2000, when the collective agreements decrees expired.

Under the amended Regulation, employers in the specified industries must send to the Labour Standards Commission, for the period from July 1, 2000 to July 1, 2002, a written monthly report indicating for each employee: surname, given name(s), address and social insurance number; classification or qualification; the number of regular working hours and overtime hours done each week and the total hours; total weekly and monthly earnings; the hourly rate; and the indemnities paid for statutory holidays, as severance pay and for annual vacation and any other indemnity or benefit with a financial value.

In addition, for each employee and each pay period, employers must record in a register information on employee identification and employment, the first date of service, the number of working hours per day and week, overtime, the wage rate, gross and net wages, deductions, premiums, severance pay and other sums, information on vacation and statutory holidays and other data. The list varies for employers in the women's clothing industry.

Specific requirements apply to home workers. Employers in the leather glove and women's clothing industries must keep a register that identifies the home workers and indicates the date on which work is delivered to them, the kind of work, the description and quantity of clothes to be prepared and the piece rate. The employer must also enter in the register his/her surname, given names and address or, in the case of a partnership, those



of the partners or in the case of a corporation, those of its officers or designated agents. As well, among other requirements, the employer must enter in the register his/her principal place of business and information identifying the owners of the merchandise that provide the work to be performed at home.

The Regulation stipulates that employers in the leather glove, women's clothing, men's clothing and men's and boys' shirt industries must keep separate registers where a single shop prepares clothing included and not included in the scope of the decrees covering these four sectors. This requirement does not apply if the employer grants all workers the conditions of employment imposed by regulation.

Under the Regulation, in the leather glove industry, the employer must register each employee, including home workers, with the Labour Standards Commission within five days of hiring and, in the women's clothing industry, within three days of hiring. Various requirements apply when an employer has work done by a contractor or performs work on contract. The amendments came into force on July 1, 2000.

Finally, the *Regulation respecting contribution rates* requires employers in the clothing industry to pay an additional contribution in connection with the specific monitoring program which the Labour Standards Commission is to set up for the clothing industry. The employers subject to this requirement are those in the women's and men's clothing, leather glove and men's and boys' shirt industries. The *Regulation respecting contribution rates* sets the contribution rate at 0.12% of the remuneration paid to the employees that is subject to this contribution. The new Regulation also reiterates the basic contribution rate of 0.08% that applies to employers in general. This rate appeared previously in the *Regulation respecting the levy*, which was replaced by the *Regulation respecting contribution rates*. The new regulation came into force on July 1, 2000.

#### D. Silviculture

In British Columbia, the *Miscellaneous Statutes Amendment Act* introduced changes to employment standards applicable in the silviculture industry. Amendments in regard to the silviculture industry include a definition of "silviculture contractor" which is defined as an employer who employs one or more silviculture workers to fulfill contracts involving reforestation field work. Another change specifies that a person wanting to act as a silviculture contractor must be licensed under the *Employment Standards Act*. These amendments to the *Employment Standards Act* are to come into force by way of a regulation from the Lieutenant Governor in Council.<sup>3</sup>

Under the *Employment Standards Regulation*, an amendment in force on May 8, 2000 defines a silviculture worker as a person paid primarily on a piece rate basis and who is involved in reforestation field work which includes clearing brush, cone picking, creek cleaning, application of herbicide, site preparation, building trails, planting, pruning, spacing or distributing trees.

The amendment stipulates that silviculture workers are not subject to the following *Employment Standards Act* provisions: the requirement to complete a split shift within 12

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<sup>3</sup> At the time this document was written, no such regulation had been made.

hours of starting work; the requirement to pay overtime wages after 8 hours in a day or 40 hours in a week, or, if on a flexible work schedule, over an average of 8 hours in a day or 40 hours in a week; the requirement to provide a weekly work break of at least 32 consecutive hours (or pay double the regular wage during that period); the provisions on flexible work schedules for employees not covered by a collective agreement; the provisions on overtime wages for employees on, or not on, a flexible work schedule; and, the requirement to credit overtime wages to a time bank at the rates stipulated in the case of employees on, or not on, a flexible wage schedule.

In lieu of excluded provisions, the amendment introduces special employment standards. Thus, an employer must implement a shift of no more than 5 consecutive days of work followed by a day off and, monthly, at least 2 consecutive days off or at least 8 non-consecutive days off; an alternative shift of up to 9 consecutive days of work followed by at least 2 consecutive days off, or not more than 10 consecutive days of work followed by a minimum of 4 consecutive days off, may be implemented with the approval of the majority of employees if work is being done at a remote camp and employees receive at least 8 days off in a month. An employer is subject to a penalty of \$500 if the written approval of the majority of employees has not been given before implementing the alternative shift schedule. A silviculture worker must receive double the piece rate or regular wage, as applicable, for time worked beyond the shift schedules described above.

The amendment also provides that the wage rate for workers paid on a piece rate basis must be at least the equivalent of the minimum wage for the first 8 hours, 1.5 times the minimum wage or the piece rate, if greater, for work over the first 8 hours, and double the piece rate for work over 11 hours in a day. The wage rate for a worker paid a regular wage must be 1.5 times the regular wage for time over 8 hours and twice the wage rate for time worked over 11 hours. Banking of overtime wages is done on the basis of the overtime rates of workers paid a piece rate.

Other changes include provisions limiting the fee an employer may charge for lodging (\$25.00 per day for camp costs, or the actual cost to stay at a motel) and an exemption to the application of statutory holiday provisions provided the employer pays instead 3.6% of gross earnings, 1.036 the piece rate, or 1 day's pay (previous 4 weeks' earnings divided by the number of days worked) if the silviculture worker did not work on the statutory holiday, and double the regular or piece rate if he/she worked on the statutory holiday. The provisions of the Act on the substitution of a statutory holiday and on the standards for those covered by a collective agreement continue to apply.

Finally, employers do not have to apply section 58 of the Act on vacation pay to silviculture workers on condition that the employer pays instead 4% of gross earnings or 1.04 the piece rate, and, after 5 consecutive years of employment, 6% of gross earnings or 1.06 the piece rate.

Employers contravening any of the new provisions applicable to silviculture workers are liable to a range of penalties from \$0 to \$500 per contravention, depending whether there were previous offences.

## E. Employment Agencies

In British Columbia, an amendment to the *Employment Standards Regulation* provides that an employment agency's licence may be cancelled or suspended when the agency places a domestic with an employer and fails to inform the employer of the requirement to register the domestic with the Employment Standards Branch, in accordance with the *Employment Standards Act*.

Another amendment stipulates that in the case of an employee who is to be employed as a domestic and who is coming to Canada from another country, the employer must provide the Director of Employment Standards his/her name, address, telephone and fax numbers, and provide the domestic's name, address and telephone number before the employee is hired and before making an application to bring the employee to Canada. These amendments came into force on July 2, 1999.

A subsequent amendment to the British Columbia *Employment Standards Regulation* affects performers and talent agencies. The amendment, which came into force on September 22, 1999, introduces two new definitions: "talent agency" which is a person who for a fee procures employment for actors, performers and other persons, and "technical creative film person", which includes a variety of occupations in the film industry such as film director, production designer, make-up artist, and costume designer.

Under this amendment, talent agencies must apply for a licence with the Director of Employment Standards who may issue a licence to operate a talent agency under specific conditions, including the provision of an application fee of \$100 and a bond equal to the average monthly wages of actors, performers, or extras based on the BC Film Commission's statistics.

The Director of Employment Standards may refuse to issue a licence to an applicant who previously had its licence canceled or who, in the past, has been involved in any activity that the Director determines to be illegal, dishonest, fraudulent or deliberately misleading and that is related to the operation of the talent agency. A licence may be suspended or canceled if the talent agency makes a false or misleading statement in its application for a licence, contravenes the Act or Regulation, or does not always display the agency's licence number on public advertising.

Talent agencies must comply with a long list of requirements regarding the payment of wages. For instance, talent agency fees are limited to 15% of wages owing to the actor, performer, extra or technical creative film person. Also, gross income less the fees referred to above cannot be less than the applicable minimum wage. Moreover, wages received by the talent agency must be paid to the actor, performer, extra or technical creative film person within 5 or 12 business days of receipt depending whether payment is made from within or from outside British Columbia. There are other requirements such as the obligation to forward to the Director of Employment Standards, 60 days after receipt, the wages of an actor, performer, extra or technical creative film person that cannot be located.

In addition, talent agencies are subject to several requirements regarding records keeping. For instance, talent agencies must indicate for each hired actor, performer, extra or

technical creative film person employed, amounts received, the amounts claimed as fees and the amount paid to the actor, performer, extra or technical creative film person. These records must be retained for not less than three years, be in the English language and kept in British Columbia.

#### **F. Artistic Production – Young Actors**

Two jurisdictions dealt with work done by children in the fields of film making and other artistic productions.

In **Quebec**, the *Regulation to amend the Regulation respecting labour standards*, under the *Act respecting labour standards*, provides that the prohibition against employing a child to work between 11 p.m. and 6 a.m. does not apply to work that is creation or interpretation in the following fields of artistic endeavour: the performing arts including theatre, opera, music, dance and variety entertainment, the making of films and records and other sound recordings, dubbing and the recording of commercials.

Moreover, when an employer has work done by a child in the occupations mentioned above, the employer is not required to schedule working hours so that the child is at the family residence between 11 p.m. and 6 a.m. on the following day. The requirement is also not applicable in regard to work by a child for a social or community organisation, such as a summer camp or recreational organisation, if the working conditions involve lodging at the employer's establishment, provided the child is not required to attend school on the following day. The changes to the Regulation came into force on July 20, 2000.

In **British Columbia**, pursuant to subsection 9(3) of the *Employment Standards Act*, the government introduced conditions of employment for child actors. Subsection 9(3) of this Act provide that the Director of Employment Standards may, on permitting the employment of a child under age 15, set conditions of employment for the child.

The standards, which apply to all children under 15 years employed in film and television, address such areas as safety and welfare, hours of work and overtime, and special provisions for infants. The standards also address parental involvement and consent, education and tutoring, and public trustee protection of child actors' earnings. In addition, the conditions of employment include a new permit procedure that provides a renewable annual employment permit.

#### **G. Minimum Wages**

In **Prince Edward Island**, an amendment to the *Minimum Wage Order* provides for a three-phase increase in the general minimum wage rate which will rise from \$5.40 to \$6.00 per hour by January 1, 2002. The first increase took place on January 1, 2000 when the general minimum wage rate rose to \$5.60 per hour. A second increase, to occur on January 1, 2001, will bring the general minimum wage rate to \$5.80 per hour. Finally, a third increase on January 1, 2002 will see the general minimum wage rate raised to \$6.00 per hour. The amended Order came into force on January 1, 2000.

In **New Brunswick**, by way of the *Minimum Wage Regulation*, the general minimum wage was increased to \$5.75 per hour, from the previous rate of \$5.50 per hour. The

Regulation provides that the maximum number of hours of work during which the new minimum wage must be paid is 44 hours per week. The minimum wage for work in excess of 44 hours per week is \$8.63 per hour, which is equivalent to 1½ times the minimum wage applicable for the first 44 hours.

The Regulation also stipulates that the wages paid to piece workers must not be less than the minimum wage for the number of hours worked during a pay period. In addition, the minimum wage for employees whose hours of work per week are not verifiable and who are not strictly employed on a commission basis is \$253.00 per week, from the previous rate of \$242.00 that was in force since July 1, 1996. The new Regulation came into force on January 1, 2000. It replaces and repeals the previous Regulation.

In a related matter, on December 8, 1999, Bill 8, *An Act to Amend the Employment Standards Act*, was tabled in **New Brunswick**. This Bill would abolish the Minimum Wage Board which is a body that advises the Lieutenant-Governor in Council in regard to minimum wage matters.

This would be achieved through the proposed repeal of section 10 of the *Employment Standards Act* which stipulates that the Lieutenant-Governor in Council cannot make a regulation under section 9 (dealing with the regulatory fix of the minimum wage rate, or other minimum wage matters) until the matter has been considered by the Minimum Wage Board and its advice rendered.

Sections dealing with the composition of the Minimum Wage Board, the appointment, renewal or revocation of members, its power to investigate, and the required quorum would also be repealed.

The dismantling of the Minimum Wage Board also affects other sections such as the ones dealing with the power to request from an employer employee information that the employer is required to record, the acceptance of the evidence of an employee when the employer fails to maintain accurate records, or the commission of an offence by persons willfully supplying false information.

At the time of the writing of this document, Bill 8 had not been adopted.

In **British Columbia**, in a press release dated August 29, 2000, the government announced a two-step increase in the general minimum wage rate, which will go up from \$7.15 to \$7.60 per hour on November 1, 2000 and will increase again to \$8 per hour effective November 1, 2001. In addition, according to information provided by the Ministry of Labour, other minimum wage rates will be affected as follows: the minimum daily wage for a live-in home support worker will increase from \$71.50 to \$76.00 on November 1, 2000, followed by an increase to \$80.00 on November 1, 2001; the minimum wage for a live-in camp leader will increase from \$57.20 to \$60.80 per day or part of a day on November 1, 2000, followed by an increase to \$64.00 on November 1, 2001; for a resident caretaker of an apartment building containing 9 to 60 suites, the minimum rate will increase from \$429 to \$456 a month (plus \$18.30 instead of \$17.20 for each suite) or \$1,554.00 instead of \$1,461.00 a month for 61 suites or more starting on November 1, 2000, and from November 1, 2001, the corresponding increased rates are \$480 a month (plus \$19.25 for each suite) or \$1635 a month for 61 suites or more; finally, similar two-step proportional

increases, to occur on November 1, 2000 and November 1, 2001, will apply to farm workers employed on a piece-work basis who hand harvest certain fruit, vegetable, berry and flower crops.

Finally, in **Nova Scotia**, the government amended its *Minimum Wage Order (General)* to remove a provision that allowed ambulance drivers to be paid minimum wages for hours worked in excess of 48 hours per week, instead of time and one half the minimum rate. Also removed is a provision that excluded ambulance drivers from the minimum three hour pay when called in to work outside scheduled working hours. These changes became effective November 29 1999.

#### H. **Employment Equity**

In **Quebec**, the government introduced on June 16, 2000 Bill 143, *An Act respecting equal access to employment in public bodies and amending the Charter of human rights and freedoms*.

Bill 143 would establish a special framework so that women, aboriginal peoples and members of visible minorities may have equal access to employment in public bodies, municipal bodies, educational bodies and institutions, and health and social services bodies and institutions having 100 or more employees.

According to Bill 143, if a target group that the Bill is concerned with is found to be underrepresented, the public body would be required to establish an equal access employment program to rectify the situation. The Human Rights and Youth Rights Commission (Commission des droits de la personne et des droits de la jeunesse) would oversee the carrying out of the legislation.

According to Bill 143, if there is a disagreement or if a public body fails to comply with a recommendation of the Commission, the Human Rights Tribunal would be competent to decide the matter or issue the appropriate order.

The Committee on Culture of the National Assembly is to hold public hearings beginning on August 29, 2000 in pursuance of a general consultation on Bill 143.

#### I. **Human Rights in the Workplace**

In **Ontario**, *An Act to amend certain statutes because of the Supreme Court of Canada decision in M. v. H.* contains amendments to a number of Acts in order that the provisions of those Acts apply to same-sex partners.

In this regard, the *Employment Standards Act* was amended so that the provision that forbids employers to differentiate between employees or their beneficiaries, survivors or dependents on the ground of age, sex or marital status of the employees, when establishing or providing a fund, plan, arrangement or benefit, also include same-sex partnership status as a prohibited ground of discrimination. This amendment came into force on March 1, 2000.

Also in Ontario, as a result of an amendment to the *Benefit Plans Regulation* under the *Employment Standards Act*, definitions of "same-sex partner" and of "same-sex partnership status" were added to the Regulation. By way of definition, the Regulation simply refers to the definitions of "same-sex partner" and "same-sex partnership status" found in the pension, life insurance, disability insurance or benefit, or health insurance or a benefit plan, fund or arrangement provided, furnished or offered by an employer to an employee. Other definitions were amended to account for same-sex partners, such as the definitions of "dependent", "health insurance or benefit plan", and "pension plan". Also, amendments were made to three sections of the Regulation that provide exceptions to the prohibition on differentiation in treatment, in the case of pension plans, life insurance and health insurance, namely by adding "same-sex partnership status" where marital status is mentioned and "same-sex partner" where spouse is mentioned. The amendments came into force on March 1, 2000.

In Saskatchewan, *The Saskatchewan Human Rights Code Amendment Act, 2000* was assented to on June 21, 2000. When it comes into force on proclamation, the Act will, among other things, introduce a number of changes affecting persons in the workplace.

The definition of employee will be modified to include persons "engaged pursuant to a limited term contract". Thus the protection afforded by the Act in the context of employment will be extended to those persons. Also, the Act will introduce a new clause which will stipulate that "no employee shall discriminate against another employee on the basis of a prohibited ground".

In addition, consequential amendments will be made to equal pay provisions of the *Labour Standards Act*. Under the new legislation, cases of equal pay complaints that cannot be settled by a labour standards officer may be referred by the Director of Labour Standards Branch to the chairperson of the human rights tribunal panel for the appointment of a human rights tribunal to conduct an inquiry. Currently, such a request must be made to the Saskatchewan Human Rights Commission for the commission to conduct a formal inquiry.

## II. INDUSTRIAL RELATIONS

### A. Legislation of General Application

In **Nova Scotia**, the *Financial Measures (2000) Act* (Bill 46) was assented to and came into force on June 8, 2000.

This Act contains, among other things, some amendments to the *Trade Union Act* dealing mainly with the payment of fees and expenses for certain arbitration or conciliation services.

When a grievance arbitrator or arbitration board is appointed under the Act or a collective agreement, including a grievance arbitrator appointed under the provisions applying to the construction industry, the Minister of Labour no longer pays one third of the fees and expenses of the arbitrator or chairman of the arbitration board. If the arbitration is conducted by a single arbitrator, the employer and the trade union must each pay one half of the fees and expenses of the arbitrator; and if the arbitration is conducted by an arbitration board, the costs of the member appointed by the employer and the trade union are paid by the employer and the trade union, respectively, and they must each pay one half of the fees and expenses of the chairman of the arbitration board.

Similarly, each of the parties before a conciliation board pays the fees and expenses of the member appointed to the board, and each must pay one half of the fees and expenses of the chairman of the conciliation board. The same applies when a Construction Industry Conciliation Board is appointed under the Act.

In **Saskatchewan**, *The Construction Industry Labour Relations Amendment Act, 2000* (Bill 59) was assented to on June 29, 2000 and came into force on July 14, 2000.

In addition to amending *The Construction Industry Labour Relations Act, 1992* (see page 22), this Act also brought some amendments to *The Trade Union Act*. It permits the appointment of two vice-chairpersons of the Labour Relations Board (previously, only one could be appointed); and it specifies that the chairperson of the Board may designate one or more persons as investigating officers for the purposes of the Act.

In **Manitoba**, two bills were passed to amend *The Labour Relations Act*.

Bill 18, which was assented to and came into force on August 18, 2000, has added a new section to *The Labour Relations Act* providing that, unless the Manitoba Labour Board orders otherwise, when a business regulated by federal labour legislation is sold and becomes subject to the collective bargaining laws of Manitoba, pertinent successor rights provisions of the Act apply, and the purchaser is bound by any trade union certification and collective agreement in force at the time of the sale.



The second bill, Bill 44, which was assented to on August 18, 2000 and will come into force on October 17, 2000, will bring a number of changes to *The Labour Relations Act*. The most important of these amendments are as follows:

#### Interim certification

The Manitoba Labour Board will be authorized to certify a union on an interim basis when it is satisfied that any dispute about the composition of a proposed bargaining unit cannot affect the union's right to certification.

#### Representation votes

Under the current law, when the Board has received an application for certification, it must order a representation vote if the union demonstrates that it has the support of 40% or more of the employees in the proposed unit. The new legislation will require a representation vote if the union demonstrates that at least 40% but fewer than 65% of the employees in the unit support the union. If 65% or more are in support, the Board will grant certification without a vote provided that the employees expressed their wishes freely and were not intimidated or coerced into supporting the union.

#### Last offer votes

A provision of the current Act allows an employer to request a vote of the employees to determine if they accept or reject the employer's last offer. That provision will be repealed and the Minister of Labour will have the power to order such a vote at any time before or during a strike or lockout instead of only after a strike or lockout has commenced, where it is deemed to be in the public interest.

#### Union dues used for political purposes

Section 76.1 of the Act will be repealed. That section requires a union to consult with each employee in a unit it represents about whether they wish their union dues to be used for political purposes, and allows an employee who objects to such use to direct that the amount of his/her union dues proposed to be used for political purposes be remitted to a registered charity.

#### Settlement of second or subsequent collective agreements

Where a collective agreement has expired, a strike or lockout has continued for at least 60 days, conciliation or mediation has been utilized for at least 30 days during the strike or lockout, and no settlement has been reached, the employer or the bargaining agent will be allowed to apply to the Manitoba Labour Board to have the collective agreement settled by the Board or, if the parties agree, by a single arbitrator that the parties must name.

Prior to initiating this settlement process, the Board will inquire into the negotiations between the parties to determine whether they have been negotiating in good faith and whether or not they are likely to conclude a collective agreement if bargaining continued for an additional period of time. The Board will have the authority to delay its decision to

initiate the settlement process until it is satisfied that the party requesting this process has bargained sufficiently and seriously.

A collective agreement settled by an arbitrator or the Board under these provisions will be effective for a period of one year following the expiry date of the previous agreement, or for any longer period the parties agree to.

The Minister of Labour will request the Manitoba Labour Management Review Committee to review the operation of the provisions dealing with this settlement process at least once every 24 months and provide a report to the Minister on their findings. Such a report will be tabled in the Legislative Assembly as soon as possible after it has been received.

#### Reinstatement after a strike or lockout

A provision will be amended to clarify that employees have the right to be reinstated following a strike or lockout, but that an employer may refuse to reinstate an employee if he/she demonstrates to the satisfaction of the Board that the conduct of the employee related to the strike or lockout resulted in a conviction under the Criminal Code of Canada and that the refusal to reinstate was for just cause even in the context of a strike or lockout.

#### Appointment of mediators

The Act will be amended to take into account situations where the parties jointly request the appointment of a mediator, but do not name a particular person to be appointed. In such cases, the Minister will appoint the mediator. Also, the Minister may appoint a mediator if only one party makes such a request.

#### Expedited grievance mediation/arbitration

An amendment will permit a bargaining agent to refer a grievance to the Board so that it be dealt with in accordance with the expedited grievance mediation/arbitration procedure provided in the Act. Currently, a bargaining agent can use this procedure only for dismissals, suspensions exceeding 30 days and other matters that the Board considers to be of an exceptional nature.

#### Financial and compensation statements

The requirement for unions to file audited financial and compensation statements with the Manitoba Labour Board will be repealed. In its place, the Act will require a union, at the request of a member, to give the member a copy of its annual financial statement.

In addition, Ontario passed the *Public Inquiries Amendment Act, 2000* (Bill 87) to protect employees of any person from adverse employment action if they, acting in good faith, have made representations or have disclosed information to a commission appointed under the *Public Inquiries Act* or to the staff of a commission. This legislation has effect from June 12, 2000.

Any person who contrary to the provision just described takes adverse employment action against an employee is guilty of an offence and on conviction is liable to a fine of not more

than \$5,000.

**B. Public and Parapublic Sectors**

In **Saskatchewan**, *The Health Labour Relations Reorganization Amendment Act, 2000* (Bill 3) was assented to on June 21, 2000.

A provision of *The Health Labour Relations Reorganization Act* prohibits the Labour Relations Board from making any order changing or rescinding the regulations made by the commissioner appointed under that Act with respect to bargaining units and unions representing those units. In its previous version, this provision was supposed to cease to apply on January 17, 2000. The new version introduced by this Act has extended the application of this moratorium until January 17, 2003.

In **Nova Scotia**, the *Health Authorities Act* (Bill 34) was assented to on June 8, 2000.

This Act contains, among other things, amendments affecting the Nova Scotia Hospital and its employees. This hospital is the last one to be operated by government employees in the province. When the Act is proclaimed into force, those employees will cease to be persons appointed under the *Civil Service Act*, and they will become employees of the hospital. As a result, collective bargaining for those employees will be carried out under the *Trade Union Act* instead of the *Civil Service Collective Bargaining Act*. The hospital will be bound by successor rights as determined under the *Trade Union Act*.

In **Ontario**, the *Education Accountability Act, 2000* (Bill 74) was assented to on June 23, 2000.

Among other things, this Act amends the *Education Act* to redefine "strike" for the purposes of the application of the *Labour Relations Act, 1995* to boards (i.e. district school boards or school authorities), teachers and bargaining agents representing them. The term "strike" includes any action or activity by teachers in combination or in concert or in accordance with a common understanding that is designed to curtail, limit or interfere with the operation or functioning of one or more school programs, including programs involving co-instructional activities, or of one or more schools, such as the withdrawal of services, work to rule, and the giving of notice to terminate contracts of employment. Any supporter of a board may exercise the rights of the latter regarding an application for a declaration and direction of the Labour Relations Board with respect to an illegal strike or for consent to institute a prosecution for an offence under the *Labour Relations Act, 1995*.

The amendment also adds a section to the *Education Act*, which applies where a provision in a collective agreement that was in operation on May 10, 2000 would, in the opinion of a board, require it to employ more teaching staff in secondary schools than is needed to meet its obligations under the Act. In those circumstances, sections 17 and 86 of the *Labour Relations Act, 1995* do not apply to prevent the board from altering terms and conditions of employment, or rights, privileges or duties, as it sees fit to enable it to alter its teaching staff to a level that it considers appropriate, having regard to its obligations regarding teaching assignments in secondary schools under the *Education Act*.

The provisions mentioned above came into force on June 23, 2000.

In **Manitoba**, *The Public Schools Amendment And Consequential Amendments Act* (Bill 42) came into force on August 18, 2000. This Act replaces the provisions of *The Public Schools Act* dealing with collective bargaining disputes between school boards and teachers or a bargaining agent representing the latter.

*The Labour Relations Act* has been made applicable to teachers, bargaining agents for units of teachers and school boards, except when that Act conflicts with *The Public Schools Act*.

Strikes by teachers and lockouts of teachers by school boards continue to be prohibited; however, the Act provides a revised dispute resolution scheme.

If the parties have been unable to conclude a collective agreement 90 days or more after notice to bargain was given, one of them may initiate arbitration proceedings to decide the collective bargaining matters in dispute. The bargaining agent and the school board may use a provision that is required in every collective agreement between them concerning the final settlement by arbitration, without stoppage of work, of all disputes arising in collective bargaining. If a collective agreement does not contain such a provision, arbitration provisions specified in the new legislation then apply. The arbitration award is binding on the teachers, the bargaining agent and the school board involved.

The previous restrictions on matters that may be referred to arbitration have been removed, with the exception of class size and composition. However, the minister of Education and Training must appoint a commission to consider whether a provincial policy should be established under the Act concerning the size and composition of classes in schools. The commission must make a report to the Minister within two years after the coming into force of the new legislation on August 18, 2000. The restriction mentioned above concerning the issues of class size and composition will be lifted six months after the Minister tables the commission's report in the Legislative Assembly.

In addition, the provisions specifying factors that an arbitrator must consider in respect of matters that might reasonably be expected to have a financial effect on a school division or school district have been repealed.

Also in Manitoba, *The Civil Service Amendment Act* (Bill 47), which took effect on August 18, 2000, has amended *The Civil Service Act* to allow the Treasury Board to administer certain sections of the Act, including those relating to pay plans, rates of pay and collective bargaining.

### **C. Emergency Legislation**

In **Nova Scotia**, the *Ground Ambulance Services Act* (Bill 9) was assented to on October 29, 1999.

This Act was passed to ensure the continuation of ground ambulance services in the province provided by full-time and regular part-time emergency medical technicians and ambulance attendants employed by EMC Emergency Medical Care Incorporated.

On October 29 1999, any strike by the employees or lockout by the employer was prohibited until the expiration of the collective agreement settled as a result of binding arbitration and/or negotiations between the employer and the union representing the employees. No employee could, without lawful excuse, fail to continue or resume his/her duties with the employer.

An arbitration board established under the Act could, before December 20, 1999, attempt to mediate issues and bring about agreement between the parties. If it considered it appropriate, the board could request the Minister of Health to extend the time for mediation. If it was unable to bring about agreement in respect of any remaining issues, the arbitration board was required, before December 20, 1999, to hear the parties on those issues, arbitrate them, render a decision and report to the Minister.

Nothing in the Act prevented the union and the employer from attempting to resolve any issues or make any agreements, and any of the issues resolved by agreement or mediation and put into writing before the issuance of the decision of the arbitration board was no longer to be considered by it, and was to become part of the collective agreement.

The decision of the arbitration board could not be retroactive, and was final and conclusive and not open to question or review. However, before the issuance of the decision, the parties could agree in writing that any term or condition of employment be retroactive and to give the arbitration board jurisdiction to make an arbitration award retroactive in whole or in part.

The collective agreement will expire on March 31, 2002.

Nothing in the Act prevents the union and the employer to agree to amend any of the provisions of the collective agreement, other than a provision relating to its term, and to give effect to the amendment.

The union and the employer are required to pay the costs relating to the appointment of its nominee on the arbitration board, and all costs incurred by the Minister of Labour relating to the appointment of the Chair and the exercise of the arbitration board's duties under the Act are debts due to the Minister and one half may be recovered from each party.

Fines are provided for a contravention of the Act by an individual (maximum: \$500 plus \$100 for each day or part of a day during which the offence continues), by an officer or representative of the employer or the union (maximum: \$1,000 plus \$100 for each day or part of a day during which the offence continues) or by the employer or the union (maximum: \$10,000 plus \$1,000 for each day or part of a day during which the offence continues).

In **British Columbia**, the *Public Education Support Staff Collective Bargaining Assistance Act* (Bill 7) was assented to and came into force on April 2, 2000.

This Act is divided into three parts. Part 1 ensures the continuation of support staff services in public schools; Part 2 provides a process for the review of the framework for support staff collective bargaining; and Part 3 deals with miscellaneous matters.

Effective April 2, 2000, the employees providing support services were required under Part I of the Act to continue or resume their ordinary duties and work schedules with their employer (i.e. a board of school trustees of a district designated in a Schedule of the Act). In addition, support staff unions and employers were prohibited to declare or continue any strike or lockout.

A collective agreement between an employer and a support staff union that was in force on March 1, 2000 was extended and was deemed to be in effect for the period from April 2, 2000 until the employer and support staff union concluded a collective agreement or a renewed or revised collective agreement took effect under Part I of the Act.

Under Part I, the Minister of Labour had the obligation to appoint an industrial inquiry commission to assist employers and support staff unions to conclude collective agreements, and if necessary, to make a decision regarding the settlement of those agreements. If after 60 days from the day on which an employer and a support staff union were designated in a Schedule of the Act they had failed to conclude a collective agreement, the industrial inquiry commission was required within 15 days to make a written decision for settlement of a collective agreement between them. The decision of the commission was binding on the parties, except insofar as they agreed to modify it.

Part I of the Act and the Schedule were repealed on July 31, 2000.

Part 2 of the Act gives the Minister of Labour the power to appoint a commissioner to do the following:

- inquire into the structures, practices and procedures for collective bargaining by the employers' association (i.e. the association established for school boards), school boards and support staff unions;
- make recommendations, after taking into consideration certain factors, such as the public interest in stable industrial relations in the public school system and in a bargaining environment that reduces the potential for disruptions in education, with a view to improving those structures, practices and procedures;
- report the recommendations to the Minister of Labour within the time set by that minister.

If the Minister of Labour accepts all of the recommendations made by the commissioner, the Lieutenant Governor in Council may make regulations to give effect to those recommendations.

#### **D. Construction Industry**

In Ontario, as a result of the adoption of Regulations under the *Fairness is a Two-Way Street Act (Construction Labour Mobility)*, 1999, effective November 18, 1999, Quebec is no longer a designated jurisdiction for the purposes of Part I (Construction Contractors) and Part II (Construction Workers) of this Act.

In Quebec, effective December 15, 1999, an amendment to the *Regulation respecting certain exemptions from the requirement of holding a competency certificate or an exemption issued by the Commission de la construction du Québec* under the Act respecting labour relations, vocational training and manpower management in the

*construction industry* has increased the number of situations where persons domiciled in Ontario are exempt from the requirement of holding a competency certificate or an exemption issued by the Quebec Construction Commission. These situations can only be invoked in relation to the persons mentioned above when they are covered by a bilateral intergovernmental agreement in respect of mutual recognition of qualifications, skills and work experience in trades and occupations in the construction industry and who meet, in accordance with such agreement, the requirements in respect of occupational health and safety training.

In Alberta, effective January 4, 2000, the *Construction Industry Jurisdictional Assignment Plan Regulation* under the *Labour Relations Code* stipulates that every collective agreement in the general construction sector of the construction industry entered into by a participating union must contain provisions requiring differences arising in that sector with respect to the assignment of work to members of a trade union or to workers of a particular trade, craft or class to be settled in accordance with the Jurisdictional Assignment Plan of the Alberta Construction Industry. The Plan consists of a memorandum of understanding and procedural rules agreed to between the Coordinating Committee of Registered Employers' Organizations and the Alberta and N.W.T. (District of MacKenzie) Building and Construction Trades Council, as amended or replaced from time to time.

A participating union, as mentioned above, is a building trades' union that is a party to or bound by a collective agreement with a registered employers' organization, an employers' organization represented by the Coordinating Committee of Registered Employers' Organizations or a participating contractor as defined in the procedural rules of the Plan.

In Saskatchewan, *The Construction Industry Labour Relations Amendment Act, 2000* (Bill 59) was assented to on June 29, 2000 and came into force on July 14, 2000.

This Act has amended *The Construction Industry Labour Relations Act, 1992*. The most significant changes are described below.

An amendment provides that each employers' organization set out in a Schedule to the Act is designated as the representative employers' organization to act as the exclusive agent to bargain collectively on behalf of all unionized employers in the trade divisions set out opposite the name of the employers' organization in the same Schedule. The Minister of Labour continues to have the power to designate a representative employers' organization to be the exclusive agent to bargain collectively on behalf of all unionized employers in an appropriate trade division.

Corporations, partnerships, individuals and associations that had been carrying on business, undertakings or other activities in the construction industry at the time the Act came into force on September 22, 1992 are no longer exempted from the application of the provision dealing with spin-off corporations. That provision continues to empower the Labour Relations Board to declare two or more corporations, partnerships, individuals or associations to be one unionized employer for the purposes of the Act and *The Trade Union Act* when related businesses, undertakings or other activities are considered to be under common control or direction.

It is an unfair labour practice for an employer to discharge, lay off or threaten to discharge

or lay off an employee by reason of the coming into force of the amendment described in the previous paragraph or by reason of a declaration made pursuant to that provision.

In **Ontario**, *An Act to amend the Labour Relations Act, 1995 in relation to the construction industry* (Bill 69) received second reading on May 10, 2000.

This Bill contains amendments to provisions of the *Labour Relations Act, 1995* dealing specifically with the construction industry. These amendments would come into force on a date to be announced by proclamation.

Amendments contained in the Bill set out more clearly what consideration is to be given by the Ontario Labour Relations Board to family relationships and key individuals in applications under the "single employer" and "sale of the business" provisions of the Act where one of the entities is an employer with which a construction trade union, council of construction trade unions or affiliated bargaining agent or employee bargaining agency has bargaining rights with respect to construction work.

Proposed new sections would apply with respect to work in the residential sector of the construction industry in the City of Toronto and the regional municipalities of Halton, Peel, York and Durham and the County of Simcoe. These sections would provide for the following:

- All collective agreements that are to expire before April 30, 2004 and that apply to residential construction work would be deemed to expire with respect to that work on April 30, 2001. They would expire every three years from that date. Normal collective bargaining procedures would remain in place. The parties would still have to give notice to bargain and commence bargaining, and could apply for conciliation and mediation. If an impasse is reached and the prerequisites prescribed by the Act regarding strikes and lockouts have been met, the parties would be in a position to strike or to declare a lockout.
- For the 2001 round of bargaining only, a strike or lockout would be prohibited after June 15, 2001. If no agreement is reached by that date, the dispute could be referred to binding arbitration by either party. The parties would be given an opportunity to jointly appoint an arbitrator and agree on a method of arbitration (i.e., mediation-arbitration, final offer selection or any other method). If the parties cannot agree on an arbitrator or on a method of arbitration, at the request of either party, the Minister of Labour would appoint an arbitrator and the method of arbitration would be prescribed by regulations.

Under a proposed new section of the Act, if a majority of employee bargaining agencies that hold bargaining rights with respect to an employer agree to abandon their bargaining rights, the Lieutenant Governor in Council would have the power to make a regulation deeming the bargaining rights held by all employee bargaining agencies and their affiliated bargaining agents with respect to that employer to have been abandoned. The Lieutenant Governor in Council would also have the power to make such a regulation applying with respect to the non-civil trades if a majority of employee bargaining agencies representing employees in those trades agree to abandon their bargaining rights. This section would



permit those agreements and subsequent regulations with respect to the employer to apply with respect to all of Ontario or specified parts of it.

New provisions would deal with a process for local amendments to provincial collective agreements to remove a competitive disadvantage in the industrial, commercial and institutional sector. An employer bargaining agency or a designated regional employers' organization would be permitted to apply to an affiliated bargaining agent to agree to amendments to the provincial agreement with respect to certain kinds or all kinds of work performed by employees represented by the affiliated bargaining agent, certain markets or all markets in the sector and certain locations or all locations within the geographic jurisdiction of the affiliated bargaining agent. No application could be made during the period of 120 days before the provincial agreement ceases to operate. The application could seek only amendments that concern specified matters (e.g. wages, including overtime pay, shift differentials and benefits, accommodation and travel allowances, and others). An interest arbitration procedure would be provided if the parties are unable to agree on amendments. If the arbitrator finds that the provisions of the provincial agreement render employers who are bound by it at a competitive disadvantage, he/she would use the final offer selection method. The arbitration provisions would apply only with respect to provincial agreements that come into operation after their coming into force.

In addition, a new section would permit an employer who is bound by a provincial agreement to elect to have certain provisions set out in that section deemed to be included in the provincial agreement. These provisions would permit the employment of specified percentages of employees when fulfilling a contract for construction in the industrial, commercial and institutional sector of the construction industry without going through the normal local union hiring hall process. The election could be made with respect to one or more, or all of the construction contracts under which the employer uses employees who perform work under the provincial agreement. The parties to a provincial agreement could agree that the employer may not make the election or that one or both of the percentages set out in those provisions will be lower. A strike or lock-out would not be permitted because there is a failure to reach an agreement. It would also be possible for the parties to agree to higher percentages.

Lastly, the Minister of Labour would be required to conduct a review of the provisions set out in the Bill by December 31, 2001.

In Manitoba, *The Labour Relations Amendment Act (2)* (Bill 44), which will come into force on October 17, 2000, will, among other things, amend the requirements for ratification votes for employees in the construction industry. It will permit only union members in a craft bargaining unit (rather than all employees) to cast ballots.

#### **E. Fishing Industry**

In Newfoundland, *An Act to amend the Fishing Industry Collective Bargaining Act* (Bill 5) took effect on July 1, 2000.

This Act has amended the *Fishing Industry Collective Bargaining Act*, which governs negotiations on the price of fish and other matters between a processor or a processors' organization and a certified bargaining agent for fishers. The dispute resolution process

called final offer selection, or another form of arbitration to which the parties have agreed at the commencement of the negotiations, has been made mandatory. This model had been the subject of a pilot project.

The amending Act also provides that, commencing September 1, 2002 and every two years after that, a party to the negotiations may, during the months of September and October, signal its intention to opt out of the model by writing a letter to that effect to the Minister of Environment and Labour, and that letter will, unless revoked, effect the opting out of that party on December 31 of that year.

### III. OCCUPATIONAL SAFETY AND HEALTH

#### A. Legislation of General Application

In Newfoundland, *An Act to amend the Occupational Health and Safety Act* (Bill 33) took effect on December 14, 1999.

This Act has brought a number of amendments to the *Occupational Health and Safety Act*. They notably provide for the following measures:

- to clarify the duties of employers so that they are required to ensure that their workers are given operating instructions in the use of devices and equipment provided for their protection and to specify that the workers must use them in accordance with the instructions;
- to provide the Minister of Environment and Labour with greater flexibility in obtaining the services of medical practitioners who act as occupational health and safety officers while providing services under the Act;
- to require a warrant to be obtained to enter a workplace for the conduct of an investigation where the assistant deputy minister responsible for occupational health and safety or an occupational health and safety officer believes on reasonable grounds that a contravention of the Act has occurred;
- to clarify the Minister's power to require codes of practice and to specify that a certified copy of a code required to be established or adopted may be admitted as evidence in a judicial or other proceeding;
- to make an occupational health and safety committee mandatory in every workplace where ten or more workers are employed (previously, committees in such workplaces were established at the discretion of the Minister);
- to allow the Lieutenant-Governor in Council to adopt by reference and constitute as regulations the whole or part of a code or standards of the Canadian Standards Association or similar organization;
- to provide a process under which the Minister may grant a variance at a workplace from a provision of the regulations where the protection for the health and safety of workers would be equal to or greater than the protection prescribed by such regulations;
- to increase the penalties the court may impose for a contravention of the Act (a fine ranging from \$500 to \$250,000 for individuals and/or a term of imprisonment not exceeding 12 months, a fine ranging from \$2,000 to \$250,000 for a corporation, and an additional fine not exceeding \$25,000 for each day during which the offence continues); and to give the convicting court broader powers with respect to the type of penalties that may be imposed.

In the federal jurisdiction, *An Act to amend the Canada Labour Code (Part II) in respect of occupational health and safety, to make technical amendments to the Canada Labour Code (Part I) and to make consequential amendments to other Acts* (Bill C-12) was assented to on June 29, 2000.

This Act will bring many significant amendments to Part II (Occupational Health and Safety) of the *Canada Labour Code*. Its purpose is to realign responsibilities for work place health and safety, placing a greater onus on employers and employees to work together to ensure a healthy and safe working environment. It will also modernize existing requirements, and provide a more favourable regulatory framework for the shift in onus to occur, while, at the same time, requiring less government intervention. Finally, the amendments will ensure that work place health and safety concerns, on the whole, are identified and resolved in a more flexible, timely and cost-effective manner.

The key components of the Act are described below.

Creation of an internal complaint resolution process to assist the parties in the work place in resolving problems in a more independent and timely manner

This internal occupational health and safety complaint resolution process will have to be used before other recourses available under Part II of the Code, except the right to refuse or continue to refuse dangerous work and the right of pregnant or nursing employees to temporarily withdraw from dangerous work (see page 30 for more information about that right). The process will include the following main steps: complaint by the employee to his/her supervisor; attempt by them to resolve the complaint as soon as possible; and referral of an unresolved complaint, on the initiative of either of them, for joint investigation by an employee member and an employer member of the work place committee (i.e. the work place health and safety committee) or by a health and safety representative and a person designated by the employer. If the complaint is found to be justified, the employer must in writing and without delay inform the persons who investigated of how and when it will resolve the matter and must take appropriate action. If the persons who investigate the complaint conclude that a danger exists, the employer must, on receipt of a written notice, ensure that no employee is exposed to that danger until the situation is rectified. The employee or employer may refer a complaint that there has been a contravention of Part II of the Code to a health and safety officer in the following circumstances: the employer does not agree with the results of the investigation; the employer has failed to take action to resolve the matter or to inform the persons who investigated the complaint of how and when it intends to proceed; the persons who investigated the complaint do not agree as to whether it is justified.

Establishment of mandatory policy health and safety committees

Every employer who normally employs directly 300 workers or more will be required to establish a policy health and safety committee, with at least equal representation from employees who do not exercise managerial functions. However, a collective agreement or other agreement may provide that members of a policy committee may include persons who are not employees. Such a committee will have a number of duties, including the following: to participate in the development of health and safety policies and programs; to consider and expeditiously dispose of matters concerning health and safety raised by members or referred to it by a work place committee or a health and safety representative; to participate in the development and monitoring of a prevention program that also provides for the education of employees in health and safety matters; to monitor data on work accidents, injuries and health hazards; and to participate in the planning of the implementation and in the implementation of changes that might affect occupational health

and safety. A policy committee will also have certain powers, such as requesting from an employer any information it considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities in any of the employer's work places; and having full access to all government and employer reports, studies and tests relating to the health and safety of employees in the work place; however, access to medical records will require the person's consent.

#### Enhancement of the powers and functions of work place health and safety committees and representatives

The duties of a workplace health and safety committee and health and safety representative will be expanded. They will, for example, include the following:

- to participate in the implementation and monitoring of a program for the prevention of hazards in the work place that also provides for the education of employees in health and safety matters and, where the program does not cover certain hazards unique to the work place, to participate in the development, implementation and monitoring of a similar program for the prevention of those hazards;
- to assist the employer in investigating and assessing the exposure of employees to hazardous substances; and
- to inspect each month all or part of the work place, so that it is inspected in its entirety at least once each year.

A work place committee or health and safety representative may request from an employer in respect of the work place any information that the committee or representative considers necessary to identify existing or potential hazards with respect to materials, processes, equipment or activities.

The provisions relating to health and safety representatives will be modified so that a representative is appointed in each work place at which fewer than 20 employees are normally employed or for which an employer is not required to establish a work place health and safety committee.

A member of a policy health and safety committee or work place health and safety committee or a health and safety representative will be compensated by the employer for time spent performing his/her functions (including authorized preparation and travel time), whether performed during or outside the member's or representative's regular working hours, at the regular rate of pay or premium rate, as specified in the collective agreement or, if there is no such agreement, in accordance with the employer's policy.

#### Enhancement of employers' duties

(Note: In the following text, the word "prescribed" means prescribed by regulation or determined in accordance with rules prescribed by regulation.)

Employers' duties will be expanded to include, among others, the following: to ensure that the work place, work spaces, procedures as well as machinery, equipment and tools used by the employees in the course of their employment meet prescribed ergonomic standards;

to ensure that members of policy and work place committees and health and safety representatives receive the prescribed training in health and safety; to ensure the availability in the work place of premises, equipment and personnel necessary for the operation of the policy and work place committees; to cooperate with the policy and work place committees or the health and safety representative in the execution of their duties; to develop health and safety policies and programs in consultation with the policy committee or, if there is no such committee, with the work place committee or the health and safety representative; to respond in writing to recommendations made by the policy and work place committees or the health and safety representative within thirty days after receiving them, indicating what, if any, action will be taken and when it will be taken; to investigate and assess employee exposure to hazardous substances in the manner prescribed, with the assistance of the work place committee or the health and safety representative; to provide to the policy committee, if any, and to the work place committee or the health and safety representative, a copy of any report on hazards in the work place, including an assessment of those hazards; and to ensure that the work place committee or the health and safety representative inspects each month all or part of the work place, so that every part is inspected at least once each year.

#### Additional duty for employees

It will be an obligation for every employee to report to the employer any situation that he/she believes to be a contravention of Part II of the Code by the employer, another employee or any other person.

#### Refusal to perform dangerous work

A number of changes will be made to the provisions dealing with the right to refuse dangerous work.

Where an employee reports to the employer that he/she refuses to perform dangerous work, the employee will have to inform the employer whether he/she intends to exercise recourse under an applicable collective agreement or Part II of the Code. The selection of recourse will be irrevocable, unless the employer and employee agree otherwise.

An employee will have the right to select a person from the work place to be present during an investigation by the employer where a member of a work place committee having no managerial functions or a health and safety representative is not available.

The Code will specify that, unless otherwise provided in a collective agreement or other agreement, employees affected by a stoppage of work arising from the internal complaint resolution process, the right to refuse or continue to refuse dangerous work or a direction of a health and safety officer to an employer are presumed to be at work for the purposes of calculating wages and benefits until work resumes or until the end of their shift or scheduled work period, whichever comes first. The same applies to employees who are due to work on the next scheduled work period or shift, unless they have been given at least one hour's notice not to attend work.

An employer may assign reasonable alternative work to employees who are deemed to be at work under the above-mentioned provisions. Unless otherwise provided in a collective

agreement or other agreement, employees who are paid wages or benefits under these provisions may be required by the employer to repay those if it is determined, after all avenues of redress have been exhausted by the employees who exercised the right to refuse or to continue to refuse dangerous work, that they exercised these rights knowing that no circumstances warranted such action.

#### Right to temporarily withdraw from dangerous work for pregnant or nursing employees

In addition to having the right to refuse dangerous work under Part II of the Code, an employee who is pregnant or nursing may, under the new legislation, cease to perform her job if she believes that continuing any of her current job functions may pose a risk to her health or that of the foetus or child. The employee must consult with a qualified medical practitioner of her choice as soon as possible to establish whether there is such a risk. When a decision is made as to whether there is a risk or not, the employee may no longer cease to perform her job under these provisions. Depending on the circumstances, she may seek a reassignment or job modification, as provided under Part III of the Code, or any other right conferred by a collective or other agreement or by any terms or conditions of employment. During the period she ceases to perform her job under these provisions of Part II of the Code, the employee is considered to continue to hold the job and continues to receive the related wages and benefits, whether or not she has been reassigned to another job that does not pose the risk mentioned above.

#### Other changes

Other changes to the occupational health and safety provisions of the *Canada Labour Code* include the following:

- the enhancement of the powers of health and safety officers to improve their efficiency and effectiveness;
- the streamlining of the appeal process for the review of decisions and directions of health and safety officers (i.e. the appeals will be made to an appeals officer whose decision will be final, except for appeals that may be permitted under the *Federal Court Act*); and
- the updating of penalties when there is a contravention of Part II of the Code (on summary conviction: maximum fine of \$100,000, but maximum of \$1,000,000 for offences resulting or likely to result in the death of, or serious illness or injury to an employee; on conviction on indictment: maximum fine of \$1,000,000 and/or, except for some specified offences, imprisonment for a term not exceeding two years).

The Act also makes technical amendments to Part I of the *Canada Labour Code* (Industrial Relations).

Except for these amendments to Part I of the *Canada Labour Code*, which took effect on June 29, 2000, the Act will come into force on September 30, 2000.

In Nova Scotia, comprehensive *Occupational Safety General Regulations* containing updated and new safety requirements were issued under the *Occupational Health and*

*Safety Act* in the spring of 1999. Two sections of the *Occupational Safety General Regulations* relating to demolition work took effect on April 28, 1999. The rest of the Regulations was scheduled to come into force on October 1, 1999; however, the Nova Scotia Government rescheduled the implementation in order to allow for proper consideration of many suggestions for improvements it had received. Following this process, various modifications were made to the original Regulations, and most of the provisions of the revised Regulations took effect on May 1, 2000.

For five topic areas where the Regulations differ significantly from the existing legislation, implementation has been delayed until November 1, 2000. These five topics are lock-out of certain machines, equipment, tools or electrical installations, roll over protective structures, some aspects of hoisting, confined space entry and plans for electrical installations. The *Industrial Safety Regulations* and the *Construction Safety Regulations* were repealed on May 1, 2000, except for the sections dealing with the five topic areas just mentioned, which will remain in effect until November 1, 2000.

In Alberta, a *First Aid Regulation* was adopted under the *Occupational Health and Safety Act*.

Among other things, this new *First Aid Regulation* requires more comprehensive training levels for first aid providers and equipment for distant or isolated work sites. Also, the required contents of first aid kits have been modified to reflect the need to prevent a first aid provider's exposure to blood borne pathogens and changes in first aid practices.

The new Regulation came into effect on March 31, 2000. Despite this, certificates issued to workers before August 31, 2000 under the previous Regulation will remain valid until the expiry date indicated on the certificate. Training delivered after August 31, 2000 must be done by one of the agencies accredited under the provisions of the new Regulation.

For the purpose of ensuring that the Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be readopted in its present or amended form, it is scheduled to expire on February 29, 2004.

Lastly, following consultations with employers and labour, Ontario has adopted regulations under the *Occupational Health and Safety Act* specifying new occupational exposure limits (OELs) for a large number of hazardous substances. These OELs are based on the 1999 American Conference of Governmental Industrial Hygienists' list of recommended exposure limits and on Workplace Exposure Guidelines that have been enforced under the Act. The new limits will be implemented on September 30, 2000, except for two which will take effect within 21 months following that date.

## **B. Construction Safety**

In Ontario, as a result of amendments to the *Construction Projects Regulations* under the *Occupational Health and Safety Act*, references to "the Director of the Construction Health and Safety Branch" in the Regulations have been changed to references to "a Director" appointed under the Act. Also, when an employer of five or more workers on a project appoints a supervisor as required by the Regulations, the amendments require the supervisor to supervise the work at all times either personally or by having an assistant,



who is a competent person, do so. Moreover, a revised provision dealing with the employment of young persons states that no person under the age of 16 can be employed at a construction project or be permitted to be present in or about a project while construction work is being performed.

Other changes include modified or new requirements concerning such topics as: fall protection systems, equipment and devices; toilet and clean-up facilities; dust control; traffic control; vehicles, machines, tools and equipment; and use of chain saws and explosive actuated fastening tools.

These amendments came into force on June 12, 2000, except for revised requirements concerning a sign used by workers to direct vehicular traffic, which will take effect on January 1, 2001. Also, provisions dealing with the training of workers in the use of a fall protection system and the preparation of a written record of training and instruction received by each worker in this area will come into force on June 12, 2002.

In Manitoba, amendments have been made to the *Construction Industry Safety Regulation* under the *Workplace Safety and Health Act*. These include the updating of a CSA standard and the adding of a ANSI standard for protective headwear to which reference is made in the Regulation (another standard may be used if it is acceptable to the Director of the Workplace Safety and Health Division). In addition, a new provision specifies that where a scaffold is of a type described in the Regulation or is designated by a safety and health officer, the employer must ensure that it is inspected and approved by a professional engineer before the scaffold is used by any worker, except one involved in constructing or erecting it.

These amendments took effect on July 28, 2000.

### C. Mining Safety

In Ontario, amendments have been made to the *Mines and Mining Plants Regulations* under the *Occupational Health and Safety Act*.

Effective October 7, 1999, these amendments deal with the warning signs to be posted when a workplace, travelway, manway or other area of an underground mine is under repair or there is a danger or hazard to a worker. They also modify technical requirements for electrical and hoisting equipment.

In Quebec, two regulations have amended the *Regulation respecting occupational health and safety in mines* under the *Act respecting occupational health and safety*.

A Regulation, effective May 4, 2000, specifies additional safety devices or measures for certain equipment, such as hoists and conveyances. It also amends certain provisions concerning personal safety equipment, remote-control equipment, the quality of respirable air when diesel-powered equipment is used underground, motorized devices for the transport of persons, as well as provisions relating to certain types of work, such as sinking a shaft.

The Regulation also clarifies the measures to be taken when storing combustible and inflammable substances and explosives, when cleaning and inspecting conveyors, when working in a raise and when drilling.

A second Regulation, effective June 22, 2000, sets another formula to determine the minimum safety factor of new hoisting ropes installed on drum hoists used in a vertical shaft, if certain standards are met, and provides that the procedure to be followed by hoistmen to test conveyance brakes be posted.

**D. Nuclear Safety**

In the **federal jurisdiction**, a new *Nuclear Safety and Control Act* came into force on May 31, 2000, and on the same date nine regulations were adopted under that Act to replace the requirements contained in the previous *Atomic Energy Control Act* and the regulations issued under it.

Among other things, the *General Nuclear Safety and Control Regulations* makes it an obligation for persons required to be licensed under the new legislation to train the workers to carry on the licensed activities in accordance with the Act, the regulations and the license; the *Radiation Protection Regulations* provides for lower radiation dose limits for nuclear energy workers and pregnant nuclear energy workers; and other regulations provide for the certification of exposure device operators and of inspectors, nuclear energy workers and other persons employed in a nuclear facility or other place where a nuclear substance or regulated equipment is produced, used, possessed, packaged, transported, stored or disposed of.

**E. Boilers, Pressure Vessels and Elevating Devices**

In **Ontario**, Bill 42, *An Act to enhance public safety and to improve competitiveness by ensuring compliance with modernized technical standards in various industries*, passed second reading on May 10, 2000.

The purpose of this Bill is to enhance public safety in Ontario notably with respect to the operation of boilers and pressure vessels, and elevating devices, the hydrocarbon fuels sector, and the activities of operating engineers. The Bill consolidates many fundamental elements presently found in a number of statutes governing technical standards and public safety that are being repealed. The statutes being repealed are, among others, the *Boilers and Pressure Vessels Act*, the *Elevating Devices Act*, the *Gasoline Handling Act*, and the *Operating Engineers Act*. The administration of these statutes has already been delegated to the Technical Standards and Safety Authority under the *Safety and Consumer Statutes Administration Act*, 1996.

The Bill retains the essential characteristics of a licensing scheme. It contains provisions which:

- deal with the appointment of directors and inspectors to supervise and inspect activities in the technical standards industries (the appointments may be made by a designated administrative authority or, if there is no such authority, by the Minister responsible for the legislation);

- provide for a system of authorizations for both persons and things in the areas governed by the proposed legislation;
- set out procedural safeguards with respect to revocations, suspensions and refusals to grant or renew authorizations;
- stipulate that a director's decision with respect to an authorization may be appealed to the Divisional Court;
- provide for the issue of a safety order by a director (such an order may require that any thing be shut down, be used only in accordance with the order or not be used);
- allow for an application to be made to the Superior Court for a compliance order if a director believes that there is non-compliance with the Act, the regulations or a Minister's order;
- set out an inspection scheme that may lead to the issue of an inspector's order directing compliance or the sealing of any thing to which the proposed Act or the regulations apply where there is or may be a demonstrable threat to public safety (an appeal may be made to a director) or an order directing that a correction be carried out;
- define a director's powers with respect to limitations on the operation and use of things governed by the proposed Act and with respect to orders that can be made where there is or may be a demonstrable threat to public safety and the matters involved are not dealt with in the proposed Act, the regulations or a Minister's order;
- set out the matters with respect to which the Minister has authority to make orders; and
- lay down penalties for offences under the proposed Act (a maximum fine of \$50,000 for an individual (including a director or officer of a corporation) and/or a term of imprisonment not exceeding one year; and a maximum fine of \$1,000,000 for a corporation).