

Labour Standards

Changes to Labour Standards – effective June 30, 2011 (subject to proclamation and the approval of proposed regulations)

I. Labour Board

- As of June 30, 2011, appeals of Labour Standards decisions will be to the Labour Board, a newly consolidated board that combines the functions of several labour and employment tribunals.
- As of June 30, 2011, employers who are appealing a decision of the Labour Standards division that they owe money to an employee must pay to the Labour Board the gross amount that is ordered, up to a maximum of \$2,000. This money will be held in trust until the Board has issued its decision, and then paid out as the Board orders. Alternatively, the employer may post a bond with the Board for the full gross amount ordered. These requirements also apply to recruiters who are ordered to repay improper recruitment fees charged to workers.
- As of June 30, 2011, the Director of Labour Standards will no longer routinely participate, through legal counsel, in appeals of Labour Standards orders to an employer to pay. The Director will determine on a case by case basis whether the Labour Standards Division should participate in the appeal.

II. Worker Recruitment and Protection

- Amendments to the Labour Standards Code will take effect on June 30, 2011 prohibiting the charging of recruitment fees/recovery of recruitment costs from employees or prospective employees. Labour Standards can recover improper recruitment fees. These provisions replace the *Employment Agencies Act*, which is repealed.
- Employers will be required to keep payroll and other records for three years, rather than the previous one year, and are required to include in these records information about any payments made to recruiters. Labour Standards will be able to inspect recruiter records as well as employer records.

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- In addition to the above provisions, which apply to all employees, two new provisions provide specific protection to temporary foreign workers.
 1. Employers cannot change the terms and conditions of a temporary foreign worker's employment from those that were agreed to when the worker was recruited. This includes terms and conditions contained in the Labour Market Opinion that most employers must obtain from Service Canada before they recruit a temporary foreign worker.
 2. Employers and recruiters cannot take a temporary foreign worker's property, including their work permit or passport.

In the coming months, Labour Standards will develop a licensing system for recruiters of temporary foreign workers and will set up a registry for employers who want to recruit temporary foreign workers. Updates will be provided as these come into effect.