

Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

EMPLOYMENT STANDARDS HANDBOOK, THIRD EDITION

Kimberly A. Parry, Scott D. Parry and David A. Ryan
Release No. 2, June 2022

Publisher's Special Release Note 2021

The pages in this work were reissued in October 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the October 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

THOMSON REUTERS CANADA®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

The *Employment Standards Handbook, Third Edition* offers a thorough explanation of the scope of the Ontario *Employment Standards Act, 2000*, a clearer understanding of the policies used by the Employment Practices Branch of the Ministry of Labour in the administration of the Act and reliable updates on this rapidly changing area of law. It includes the full text of the Act and all regulations, a discussion of the various provisions of the Act and a collection of Digests referenced to the applicable portions of the book.

What's New in This Update:

This release includes updates to the caselaw and commentary in Chapter 1 (Definitions), 3 (Application of the Act), 5 (Payment of Wages, Records), 7 (Records: Recording, Keeping and Custody), 8 (Hours of Work, Overtime, Minimum Wage), 11 (Overtime Provisions), 17 (Leaves of Absence), 18 (Termination and Severance), 21 (Reprisal), 22 (Temporary Help Agencies), 24 (Liability of Directors) and 27 (Reviews by Board).

Highlights

DEFINITIONS - REGULAR RATE DEFINED; RECORDS: RECORDING, KEEPING AND CUSTODY - EXCEPTION - SALARIED EMPLOYEES; RECORDS: RECORDING, KEEPING AND CUSTODY - MEANING OF SALARY; OVERTIME PROVISIONS - OVERTIME THRESHOLD; OVERTIME PROVISIONS - PERMITTING OVERTIME WORK - In *RBC Insurance Agency Ltd. Agence D'Assurances RBC Ltee (Re)*, the employer applied for review of an Order to Pay the claimant \$164,337.34 for unpaid overtime. The claimant earned a base salary in the form of a non-recoverable draw and variable compensation while employed as a Property and Casualty Insurance Advisor, then Life and Living Benefits Advisor. The employer denied owing any overtime pay to the claimant. The board was required to address several issues relating to whether the respondent worked overtime and how overtime should be compensated given the nature of the claimant's variable compensation. The decision, which allowed the application in part as to quantum, addressed: the significance of the Act's record keeping obligations; whether any overtime worked was "suffered or permitted to be done by the employer; and whether any overtime hours worked were sufficiently quantified to warrant a remedy. The Board directed how to calculate the claimant's regular rate for variable compensation earnings and the formula for determining his overtime entitlement. In this release, this significant decision is discussed in several sections, including in a new Chapter 7 section entitled **Meaning of Salary - Section 15(4)**. Digests of the decision have also

been added to the text under five subjects.

DEFINITIONS – EMPLOYER-EMPLOYEE RELATIONSHIP –

In *Raid Inc. (Re)*, the Board clarified that a claimant found to be an employee by the Canada Revenue agency for the purposes of the *Canada Pension Plan* and the *Employment Insurance Act* is not necessarily an employee for the purposes of the *Employment Standards Act*, since a determination of that relationship depends on the particular statutes at issue.

REPRISALS – In *Uxbridge Ford Inc. (Re)*, the Board dismissed a reprisal claim alleging the employer breached s. 74(1) of the Act by demoting her for asking about the right to be paid equitably under the Act's equal pay for equal work provisions. Those provisions of the Act had been repealed weeks before the facts giving rise to the complaint, such that the employee did and could not exercise any protected activity by querying her entitlement to equal pay. Even if the provisions had been in force, though, the board would have denied the complaint on the basis that the claimant was in fact asking for a pay increase to match her increased workload and responsibilities, which was not in any event a protected activity.

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages