

Business Law Basics for Junior Solicitors: Selected Topics in Employment Law

Prepared For: Legal Education Society of Alberta

Junior Solicitor Business Law Basics

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For Presentation In:

Calgary – November 18, 2014

Edmonton – November 25, 2014

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INTRODUCTION

This paper is intended as a high-level and general overview of a variety of employment law topics relevant to the business context. While the paper isn't designed to provide a comprehensive or detailed legal analysis on each topic, it will attempt to hit the highlights of issues that are likely to arise in a junior solicitor's day-to-day practice. In particular, this paper will provide an overview of employment law basics on the following topics:

1. The *Employment Standards Code*
2. Employment contracts
3. The nature of employment: who is an "employee"?
4. Employment considerations in the purchase and sale context
5. Restrictive covenants: how a business can protect its interests from departing employees
6. An overview of the workers' compensation scheme in Alberta

A GOOD PLACE TO START: THE *EMPLOYMENT STANDARDS CODE*

Introduction

The basic place to start with respect to any employment law issue is employment standards legislation. This legislation sets out minimum standards governing the basic terms and conditions of employment, and provides a base-level of protections for employees.

Employment standards legislation exists in every jurisdiction in Canada. In Alberta, most employees are covered by the *Employment Standards Code*,¹ which applies to all employees (except those who are employed by federally regulated businesses).²

¹ RSA 2000, c E-9.

² Federally regulated employees are governed by the *Canada Labour Code*, RSC 1985, c L-2.

Key Protections in the *Employment Standards Code*

The *Employment Standards Code* covers a wide variety of topics. Some of the key minimum standards to be aware of are the following:

Minimum wage	\$10.20/hour
Hours of work	Maximum hours per day: 12 Maximum hours per week: 44 Breaks: 30 minutes for each shift over 5 hours Days off: at least one rest day per week
Overtime	Hours over 8/day or 44/week must be paid at 1.5 x wage, unless the parties have entered into an overtime agreement.
Statutory holidays	9 holidays (New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day). The <i>Employment Standards Code</i> contemplates several scenarios for how holiday pay works depending on whether the holiday falls on a scheduled work day and whether the employee normally works on that day.
Annual vacation	2 weeks per year for first 4 years of employment 3 weeks per year after 5 years of employment 4% wages as vacation pay for first 4 years of employment 6% wages as vacation pay after 5 years of employment
Pregnancy leave	15 weeks leave without pay (become entitled after 52 weeks of consecutive employment). Employees on maternity or parental leave cannot be terminated.