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General Labour Standards Code Regulations
made under subsection 4(2) and Section 7 of the
Labour Standards Code

R.S.N.S. 1989, c. 246

O.I.C. 90-1321 (November 13, 1990, effective November 30, 1990), N.S. Reg. 298/90
as amended to O.I.C. 2016-160 (July 4, 2016), N.S. Reg. 135/2016

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[Definitions]

1 (1) In these regulations

(a) "Code" means the Labour Standards Code;

- (3) Persons engaged in work on a farm whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, Christmas trees, Christmas wreaths, maple products, honey, tobacco, pigs, cattle, sheep, poultry or animal furs are exempted from application of

(a) Sections 37, 38, 39, 40, 41, 42 and 43, and

(b) Sections 61, 62, 63, 64, 65, 66, and 67

of the Code.

Subsection 2(3) amended: O.I.C. 2003-507, N.S. Reg. 200/2003.

- (4) Persons engaged in work

(a) as real estate salespersons;

(b) as automobile salespersons;

(c) as salespersons, other than route salespersons, who are entitled to receive all or any part of their remuneration as commissions in respect of offers to purchase or sales of goods, wares, merchandise or services which offers or sales are normally made other than at or in their employer's establishment; or

(d) on fishing vessels of all types or in the operation of fishing vessels on water

are exempted from application of

(i) Sections 32, 33, 34, 35 and 36,

(ii) Sections 37, 38, 39, 40, 41, 42 and 43,

(iii) Sections 50, 51, 53, 54, 55 and 56,

(iv) Sections 61, 62, 63, 64, 65, 66, and 67,

(v) Sections 71, 72, 73, 74, 75, 76, 77, and 78

of the Code.

- (4A) Athletes while engaged in activities related to their athletic endeavour are exempt from the application of all of the following provisions of the Code:

(a) Sections 32, 33, 34, 35 and 36;

(b) Sections 37, 38, 39, 40, 41, 42 and 43;

(c) Sections 50, 51, 53, 54, 55 and 56;

(d) Sections 61, 62, 63, 64, 65, 66, 66A, 66B and 67; and

(e) Sections 71, 72, 73, 74, 75, 76, 77 and 78.

Section 2(4A) added: O.I.C. 2016-160, N.S. Reg. 135/2016.

(4B) Subsection 40(4) of the Code does not apply to persons who work as

- (a) employees for whom the Governor in Council has made a special order;
- (b) apprentices under apprenticeship agreements in accordance with the Apprenticeship and Trades Qualifications Act;
- (c) trainees under government-sponsored and government-approved plans;
- (d) employees at a playground or summer camp that is operated on a non-profit basis;
- (e) insurance agents licensed as such under the Insurance Act;
- (f) employees and employers to whom the Minimum Wage Order (Logging and Forestry Operations) or the Minimum Wage Order (Construction and Property Maintenance) applies;
- (g) watches, janitors or building superintendents in buildings that include their place of residence;
- (h) health or personal care providers, if the client is providing a residence as part of the terms of employment;
- (i) employees in the transport industry;
- (j) employees who are paid on a flat rate basis and work as automobile mechanics or auto body shop technicians; and
- (k) employees of enterprises engaged in primary processing or related activities in the agriculture, Christmas tree or fishing industry, but not meat processing.

Subsection 2(4A) added: O.I.C. 2003-507, N.S. Reg. 200/2003; renum

manufacturing or refining establishment are exempted from application of Sections 37, 38, 39, 40, 41, 42 and 43 of the Code.

- (8A) Persons engaged in work in the shipbuilding, ship repair, oil and gas industries, or related activities other than retail, are exempt from the application of subsection 40(4) of the Code.

Subsection 2(8A) added: O.I.C. 2003-507, N.S. Reg. 200/2003.

- (9) Training or employment activity referred to in Section 25 of the Employment Insurance Act (Canada) or any substantially similar program is designated as a class of work to which the Act does not apply and persons engaged in this class of work are exempted from application of the Code.

Subsection

Clause 4(1)(a) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (b) if the document is mailed or transmitted and is properly addressed to the Director or to the Board, as the case may be, at the time the document is mailed or transmitted.

Clause 4(1)(b) replaced: O.I.C. 2005-383, N.S. Reg. 171/2005; amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (2) Where a document in a form approved by the Director or the Board, as the case may be, is required by these regulations to be filed with the Director or the Board, filing is not complete until all information called for on the form is given to the Director or the Board, but the Director or the Board, or a person designated by either of them, as the case may be, may waive the requirement of any information which is, in the opinion of the Director, the Board or the designated person, unnecessary in the circumstances.

Subsection 4(2) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

Complaint to Director

- 5 (1) A complaint to the Director referred to in subsection 21(1) of the Code may be in a form approved by the Director, as set out in the rules of the Board.

Subsection 5(1) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (2) If the Director receives a complaint and is of the opinion that any of the following apply, the Director must notify the complainant to that effect:

- (a) the time limits in Section 21, Section 81 or Section 81A of the Code have lapsed;

Clause 5(2)(a) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (b) the complainant has taken, or could have taken, other action as specified by Section 82 of the Code;

- (c) there has been no failure to comply with the Code.

- (3) A notice under subsection (2) must include information about the complainant's right to make a complaint to the Board in accordance with Section 23 of the Code and the time limits for making the complaint.

Section 5 replaced: O.I.C. 2005-383, N.S. Reg. 171/2005; O.I.C. 2011-226, N.S. Reg. 219/2011.

Complaint to Board

- 6 (1) A complaint to the Board in accordance with Section 23 of the Code must be in a form approved by the Board.

Subsection 6 heading and subsection 6(1) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (2) A complainant has 10 days from the date of service of a notice from the Director under Section 5 to make a complaint to the Board in accordance with Section 23 of the Code.

Subsection 6(2) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (3) A complainant who does not receive a notice under Section 5 or an order under subsection 21(3) of the Code within one month from the date their complaint was filed has 10 days from the end of that month to make a complaint to the Board in accordance with Section 23 of the Code.

Subsection 6(3) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (4) Despite subsections (2) and (3), but subject to Sections 21, 81 and 81A of the Code, at any time before or after the time for making a complaint to the Board has lapsed, the Board may extend the time for making the complaint.

Subsection 6(4) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (5) A complaint made in writing to the Director as required by subsection 23(2) of the Code to support a complaint to the Board must be in a form approved by the Director, as set out in the rules of the Board.

Subsection 6(5) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

Section 6 replaced: O.I.C. 2005-383, N.S. Reg. 171/2005.

Appeal of Director's order

7 (1) A copy of an order made by the Director under subsection 21(3) of the Code must

- (a) be served on the party against whom the order is made; and
- (b) provide information on appeals and the time limits for appeals to the Board.

Clause 7(1)(b) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (2) An appeal from an order of the Director made to the Board under subsection 21(5) of the Code must be in a form approved by the Board.

Subsection 7(2) amended: O.I.C. 2011-226, N.S. Reg. 219/2011.

- (3) An appeal filed with the Board under subsection 21(5) of the Code by a person, other than an employee, against whom the Director has made an order under Section 21 of the Code must include 1 of the following:

- (a) the amount required by clause 84(1)(a) of the Code;
- (b) the security required by clause 84(1)(b) of the Code.

Subsection 7(3) added: O.I.C. 2013-29, N.S. Reg. 29/2013.

- (4) The payment or security referred to in subsection (3) must be provided to the Board at the same time as the other documents comprising the appeal are required to be filed with the Board and an appeal is not considered filed, and will not proceed, until all required documents and the payment or security are received by the Board.

Subsection 7(4) added: O.I.C. 2013-29, N.S. Reg. 29/2013.

Section 7 replaced: O.I.C. 2005-383, N.S. Reg. 171/2005.

Exempt classes of retail business

7A (1) The following classes of retail business are exempt from the application of Section 66A of the Code:

- (a) the operation of a drug store except in a department store;
- (b) the sale of agricultural products by the producer at the farm;
- (c) the sale of maple sugar products;
- (d) the sale of Christmas trees;
- (e) the operation of a motor vehicle service station;
- (f) the operation of a restaurant;

- (vi) a flea market or rummage sale,
 - (vii) a fish store,
 - (viii) a laundromat,
 - (ix) a billiard hall or pool room,
 - (x) the rental of video cassettes, video discs or similar media and related devices,
 - (xi) a prefabricated or modular home sales office,
 - (xii) a store whose principal business is the sale of nursery stock or the provision of gardening supplies,
 - (xiii) a store whose principal business is the sale of books, newspapers and magazines,
 - (xiv) an antique store,
 - (xv) an art gallery,
 - (xvi) a used clothing store.
- (2) For the purposes of clause (1)(a), a “drug store” does not include either of the following:
- (a) a retail business that includes a retail sales area that is
 - (i) larger than 2000 ft.² in total,
 - (ii) open to the public, and
 - (iii) dedicated to food items;
 - (b) a retail business in which the total retail sales area that is open to the public is larger than 20,000 ft.².
- (3) For the purposes of subclause (1)(s)(i), 2 or more stores that are owned, occupied or operated by related persons are deemed to be one store if they are
- (a) in the same building; or
 - (b) adjacent or in close proximity to each other.
- (4) For the purposes of subsection (3), “related persons” has the same meaning as in paragraph 251(2)(b) of the Income Tax Act (Canada).

Section 7A added: O.I.C. 2006-335, N.S. Reg. 117/20066]

- (a) “guardian” means a person having a legally recognized authority to act on behalf of a ward and includes a mandatary if the ward is incapacitated, a tutor and a curator;
 - (b) “spouse” includes a common-law partner; and
 - (c) “ward” means a minor or a disabled adult for whom a guardian is appointed.
- (2) All of the following persons are prescribed as classes of persons included in the definition of “family member”, in relation to an employee, for subclause 60E(1)(b)(iv) of the Code:
- (a) a child of
 - (i) the employee’s parent,
 - (ii) the spouse of the employee’s parent;
 - (b) a grandparent of
 - (i) the employee,
 - (ii) the employee’s spouse;
 - (c) the spouse of the employee’s grandparent;
 - (d) a grandchild of
 - (i) the employee, or
 - (ii) [the] employee’s spouse;
 - (e) the spouse of the employee’s grandchild;
 - (f) the spouse of
 - (i) the employee’s child, or
 - (ii) the child of the employee’s spouse;
 - (g) a parent of the employee’s spouse
 - (h) the spouse of a parent of the employee’s spouse;
 - (i) the spouse of
 - (i) a child of the employee’s parent, or
 - (ii) a child of the spouse of the employee’s parent;
 - (j) a child of

- (i) a parent of the employee's spouse, or
- (ii) the spouse of the parent of the employee's spouse;
- (k) an uncle or aunt of
 - (i) the employee, or
 - (ii) the employee's spouse;
- (l) the spouse of the employee's uncle or aunt;
- (m) a nephew or niece of
 - (i) the employee, or
 - (ii) the employee's spouse;
- (n) the spouse of the employee's nephew or niece;
- (o) a current or former foster parent of
 - (i) the employee, or
 - (ii) the employee's spouse;
- (p) a current or former foster child of the employee;
- (q) the spouse of a current or former foster child of the employee;
- (r) a current or former ward of
 - (i) the employee, or
 - (ii) the employee's spouse;
- (s) a current or former guardian of the employee;
- (t) the spouse of a current or former guardian of the employee;
- (u) a person, whether or not related to the employee by blood, adoption, marriage or common-law partnership, who considers the employee to be like a close relative or whom the employee considers to be like a close relative, on the condition that the employee, when requested, must give the employer a copy of any form that includes a statement that the employee is considered to be like a family member that is required to be submitted to the Government of Canada to claim compassionate care benefits under the Employment Insurance Act (Canada).

Section 7C added: O.I.C. 2007-644, N.S. Reg. 455/2007.

Termination of employment

- 8 The length of notice of termination required by subsections (1) or (2) of Section 72 of the Code does not include any week of vacation unless the employee, after receiving the notice, agrees to

- (iii) the reasons why payments to the employees applied for should be made other than in accordance with subsection (1) of Section 79 of the Code, and
 - (iv) the terms of the existing practice or collective agreement under which payments are made.
- 11 (1) For [the] purposes of clause 84(1)(a) of the Code, the prescribed amount is \$2000.
- (2) **Where security in the form of a bond is furnished to the Board in accordance with clause 84(1)(b) of the Code, the amount of the bond shall be**
 - (a) the total pay found by the Director to be unpaid by the employer to the employees;
or
 - (b) an amount other than unpaid pay that the Director has found to be owing to an individual.
- (3) An amount paid to the Board pursuant to clause 84(1)(a) of the Code shall be paid out
 - (a) where there is no appeal to the Cou }

- (b) that shall, in accordance with the Code and these regulations, be used in relation to an appeal or a complaint to the Board.

Section 13 replaced: O.I.C. 2011-226, N.S. Reg. 219/2011.

“Family member” defined for purpose of exemption from licensing

14 For the purpose of the exemption from licensing in clause 89H(2)(c) of the Code, “family member” means, with respect to a person, all of the following:

- (a) a spouse or common-law partner of the person;
- (b) a child of the person or a child of the person’s spouse or common-law partner;
- (c) a parent of the person or a spouse or common-law partner of the parent.

Section 14 replaced: O.I.C. 2013-29, N.S. Reg. 30/2013.

Qualifications and application for foreign worker recruitment licence

15 (1) An applicant for a licence must be a member in good standing of

- (a) the Nova Scotia Barristers’ Society, a bar of another province or the Chambre des notaires du Québec; or
- (b) the Immigration Consultants of Canada Regulatory Council, incorporated under Part II of the Canada Corporations Act (Canada) on February 18, 2011.

(2) An applicant for a licence must provide a photocopy of a membership card or other proof, acceptable to the Director, that the individual is a member in good standing of 1 of the organizations specified in subsection (1).

(3) In addition to any information requested by the Director under clause 89I(2)(b) of the Code, an applicant for a licence must submit all of the following to the Director, in a form approved by the Director:

- (a) the applicant’s name and date of birth;
- (b) the business name under which the applicant will recruit foreign workers;
- (c) the Canada Revenue Agency business number of the applicant or the applicant’s employer;
- (d) all names and addresses under which the applicant has conducted business in the previous 5-year period, including any changes of name, whether formal or informal;
- (e) all of the following contact information for both the applicant and the recruitment business with which the applicant will be associated:
 - (i) civic and mailing address,
 - (ii) telephone number,
 - (iii) e-mail address,

- (iv) website addresses, if any;
- (f) the address where the business records for the recruitment work are kept, including the address where records will be located for any future recruitment work;
- (g) a description of the nature and scope of the proposed foreign worker recruitment business, including all of the following information:
 - (i) whether the applicant will be carrying out the recruitment work as a self-employed individual or as an employee,
 - (ii) the approximate date when the recruitment business will begin if the licence is granted,
 - (iii) if the applicant is a resident of the Province, whether the applicant intends to reside in the Province on a full-time or a part-time basis if the licence is granted,
 - (iv) if the applicant does not intend to reside in the Province on a full-time basis, the applicant's plans for engaging in recruitment, how those plans are to be carried out and what portion of the applicant's business will involve placing workers in the Province,
 - (v) a list of the countries from which the applicant or the applicant's employer plans to recruit, and the names of any companies or individuals in those countries with which the applicant or the applicant's employer intends to deal and from which a benefit is expected to be received in relation to recruitment,
 - (vi) the types of employment for which the applicant will recruit foreign workers;
- (h) a list of all bank accounts, both domestic and foreign, maintained by the applicant or by any other person or entity on the applicant's behalf in which the applicant has a current or anticipated future benefit in relation to recruitment work;
- (i) a list of all businesses, both domestic and foreign, associated with the applicant's recruitment work before the date of the application;
- (j) certified copies of all of the following:
 - (i) the registration of the name of the business entity that will be conducting the recruitment,
 - (ii) the registration of the partnership agreement, if the recruitment will be conducted by a partnership,
 - (iii) if the recruitment will be conducted by a corporation,
 - (A) the shareholders' agreement,
 - (B) the articles and certificate of incorporation,
 - (C) the bylaws of the corporation;

