

CONSOLIDATION OF LABOUR STANDARDS ACT
R.S.N.W.T. 1988,c.L-1

(Current to: March 21, 2014)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.20(Supp.)

R.S.N.W.T. 1988,c.88(Supp.)

In force April 1, 1991

R.S.N.W.T. 1988,c.119(Supp.)

In force July 15, 1991: SI-007-91

Note: see s.6 and s.7 of R.S.N.W.T. 1988,c.119(Supp.) for transitional provisions.

S.N.W.T. 1997,c.8

S.N.W.T. 1998,c.17

S.N.W.T. 1998,c.24

S.N.W.T. 1998,c.32

In force March 31, 1999

AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:

S.N.W.T. 1998,c.38

In force April 1, 1999

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2001,c.9

In force June 3, 2001

S.Nu. 2002,c.22

In force March 3, 2003

S.Nu. 2003,c.17,s.21

s.21 in force January 1, 2004

S.Nu. 2003,c.18

In force January 4, 2004; see SI/2003-185 (Canada)

S.Nu. 2005,c.3,s.7

s.7 in force March 22, 2005

S.Nu. 2007,c.8,s.9

s.9 in force November 8, 2007

S.Nu. 2008,c.6

In force September 5, 2008

S.Nu. 2010,c.24

In force January 1, 2011

S.Nu. 2012,c.12

In force June 8, 2012

S.Nu. 2012,c.16,s.63

s.63 in force April 15, 2013: SI-002-2013

S.Nu. 2013,c.20,s.22

s.22 in force May 16, 2013

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)

TABLE OF CONTENTS**INTERPRETATION**

Definitions	1	
-------------	---	--

APPLICATION

Application of Act	2	(1)
Managers		(2)
Certain employees		(3)
Disputes respecting application of Act		(4)
Saving more favourable benefits	3	(1)
Work on Sunday		(2)

PART I**HOURS OF WORK**

Standard hours of work	4	
Maximum hours of work	5	
Increasing maximum hours	6	(1)
Content of permit		(2)
Averaging hours of work	7	(1)
Permit to exceed maximum hours per day		(2)
Content of permit		(3)
Duty of Labour Standards Officer in issuing permit	8	
Emergency work	9	
Day of rest	10	
Overtime pay	11	(1)
Condition		(2)
Exception where general holiday in a week		(3)

PART II**MINIMUM WAGES**

Minimum rate of wages	12	(1)
Amount		(1.1)
Minimum on basis other than time		(2)
Duty of employer		(3)
Review of minimum rate of wages	12.1	
Employees under age of 17 years	13	
Regulations respecting this Part	14	

Where holiday pay not required	28
Deemed employment	29

PART V

PREGNANCY AND PARENTAL LEAVE

Medical certificate	30
Entitlement to pregnancy leave	31 (1)
Length of leave	(2)
Extension of leave	(3)
Shortening leave	(4)
Leave without notice	32 (1)
Leave after delivery	(2)
Application of subsection 31(4)	(3)
Requirement to take leave	33 (1)
Considerations	(2)
Continuation of leave	(3)
Entitlement to parental leave	34 (1)
More than one child	(2)
Repealed	(3)
Period during which leave must be taken	(4)
Period where more than one child	(5)
Parental leave following pregnancy leave	(6)
Leave may be shortened	(7)
Leave without notice when required suddenly	35 (1)
Leave without notice	(2)
Subsections 34(4) to (7) apply	(3)
Maximum combined leave	35.1
Application of section	35.2 (1)
Entitlement to extension of parental leave	(2)
Entitlement to further parental leave	(3)
Subsections 34(2) and (4) to (7) apply	(4)
Period during which leave must be taken	(5)
Resumption of benefits	36
Suspension of operations	37
Prohibition respecting pregnancy leave	38 (1)
Prohibition respecting parental leave	(2)
Onus on employer	39

PART V.1

COMPASSIONATE CARE LEAVE

Definitions	39.1 (1)
Entitlement to leave	(2)

LABOUR STANDARDS BOARD

Labour Standards Board	44	(1)
Composition		(2)
Reappointment		(3)
Remuneration		(4)
Quorum		(5)
Sittings		(6)
Appeal	45	(1)
Duties of Board		(2)
Annual report		(3)
Audit		(4)

PAYROLL RECORDS

Payroll records	46	(1)
Exemption		(2)
Daily records		(3)
Retention of records		(4)
Production of records		(5)
Record of hours of work		(6)
Service of notice		(7)
Duty of employer	47	(1)
Certificate as evidence		(2)
<i>Idem</i>		(3)
<i>Idem</i>		(4)
Proof of appointment		(5)
Pay statement	48	(1)
Detailed statement		(2)
Exemption		(3)

PAYMENT OF WAGES

Power to exempt	49	
Pay period	50	(1)
Payment of wages		(2)
Where employment terminated		(3)
Entitlement to pay		(4)
Salaried employees		(5)
Method of payment		(6)
Assignment of wages	51	(1)
"spouse" defined		(2)
Dishonoured cheques	52	
Wages recovery	53	(1)
Investigation by Board		(2)
Filing of certificate		(3)

OFFENCES AND PUNISHMENT

Offences	68	
Order to pay arrears of wages	69	(1)
Reinstatement of pay and positions		(2)
Refusal to comply with order		(3)
Where inaccurate records kept		(4)
Limitation period	70	
Civil remc		
i ((on perio(l rem)8c-0.00.e.m0c8(.0004ksF70)TJ7eTJoe0c8(9f04) 1D)TJ7hs0th1rTJ9 (4)		

LABOUR STANDARDS ACT

INTERPRETATION

Definitions

1. In this Act,

"Board" means the Labour Standards Board established by subsection 44(1);
(*Commission*)

"collective agreement" means an agreement in writing between an employer or an employer's organization acting on behalf of an employer, on the one hand, and a trade union acting on behalf of the employees in collective bargaining or as a party to an agreement with the employer or employer's organization, on the other hand, containing terms or conditions of employment of employees including provisions with reference to rates of pay and hours of work; (*convention collective*)

"day" means any period of 24 consecutive hours; (*jour*)

"employee" means a person employed to do skilled or unskilled manual, clerical, technical, operational or administrative work; (*employé*)

"employer" means a person who employs one or more employees; (*employeur*)

"general holiday" means New Year's Day, Good Friday, Canada Day, the first Monday in August, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, and the day fixed by the Governor General for observance of the birthday of the reigning sovereign, and includes any day substituted for any such holiday pursuant to section 23 or 25; (*jours fériés*)

"industrial establishment" means any work, undertaking or business of a local or private nature in Nunavut and includes a branch, section or other division of such work, undertaking or business; (*établissement*)

"inspector" means an inspector appointed under subsection 41(1); (*inspecteur*)

"Labour Standards Officer" means the Labour Standards Officer appointed under subsection 40(1); (*agent des normes du travail*)

"overtime" means hours of work in excess of standard hours of work; (*heures supplémentaires*)

"standard hours of work" means the hours of work described in section 4; (*durée normale du travail*)

Work on Sunday

(2) Nothing in this Act authorizes the doing of any work on Sunday that is prohibited by law.

PART I

HOURS OF WORK

Standard hours of work

4. Subject to this Part, the standard hours of work for an employee are eight hours in a day and 40 hours in a week.

Maximum hours of work

5. An employer may require or permit an employee to work more than the standard hours of work provided that the total hours of work for an employee do not exceed 10 hours in a day and 60 hours in a week.

Increasing maximum hours

- 6.** (1) Where
- (a) the nature of the work in an industrial establishment is seasonal or intermittent in nature, or
 - (b) there are exceptional circumstances to justify the working of additional hours,

the Labour Standards Officer may, by permit in writing, authorize hours to be worked by any class of employees in that industrial establishment in excess of the maximum hours of work set out in section 5.

Content of permit

- (2) A permit issued under subsection (1) may
- (a) specify the total number of additional hours in excess of the maximum hours set out in section 5; or
 - (b) specify the additional hours that may be worked in any day and in any week during the period of the permit.

Averaging hours of work

7. (1) Where the nature of the work in an industrial establishment necessitates irregular distribution of an employee's hours of work, the Labour Standards Officer may, by permit in writing, authorize the standard and maximum hours of work in a day and in a week to be calculated as an average for a period of one or more weeks.

Permit to exceed maximum hours per day

- (2) The Labour Standards Officer may, by permit in writing, on application by an employer and his or her employees,
- (a) reduce the days of work in a week by permitting hours of work in a day in excess of the standard hours of work, in respect of those employees; and
 - (b) specify the conditions under which the permit applies.

Content of permit

(3) Every permit granted under this section must specify the hours of work that are overtime.

Duty of Labour Standards Officer in issuing permit

- 8.** The Labour Standards Officer shall, before issuing a permit under section 7, consider
- (a) the nature of the industrial establishment;
 - (b) the conditions of employment in the industrial establishment; and
 - (c) the welfare of the employees in the industrial establishment.

Emergency work

- 9.** The maximum hours of work set out in section 5 may be exceeded in the case of
- (a) an accident to machinery, equipment, plant or persons,
 - (b) urgent and essential work to be done to machinery, equipment or plant, or
 - (c) other unforeseen or unpreventable circumstances,
- but only to the extent necessary to prevent serious interference with the ordinary working of the industrial establishment.

Day of rest

10. Except as may be otherwise prescribed, hours of work in a week shall be scheduled and actually worked so that each employee has at least one full day of rest in a week and, wherever practicable, Sunday shall be that normal day of rest.

Overtime pay

11. (1) When an employee is required or permitted to work in excess of the standard hours of work, the employee shall be paid for the overtime at a rate of wages not less than 1.5 times his or her regular rate.

Condition

(2) Subsections (1) and (3) are subject to the provision for overtime contained in a permit issued under section 7.

Exception where general holiday in a week

(3) Where a week contains a general holiday in respect of which an employee is entitled to a holiday with pay under Part IV,

- (a) requiring employers to pay employees who report for work at the call of the employer, wages for the minimum number of hours that may be prescribed whether or not the employee is called on to perform any work after so reporting for work;
- (b) fixing the maximum price to be charged for board, whether full or partial, supplied by or on behalf of an employer to an employee, and the maximum deduction to be made for board from the wages of the employee by the employer;
- (c) fixing the maximum price to be charged for living quarters, either permanent or temporary, supplied by or on behalf of an employer to an employee, whether or not the living quarters are self-contained and whether or not the employer retains general possession and custody of the living quarters, and the maximum deduction to be made for the living quarters from the wages of the employee by the employer;
- (d) governing the charges or deductions for supplying uniforms or other articles of wearing apparel that an employer may require an employee to wear or requiring an employer in any specified circumstances to provide, maintain or launder uniforms or other articles of wearing apparel that the employer requires an employee to wear;
- (e) governing the charges or deductions for supplying any tools or equipment that an employer may require an employee to use and for the maintenance and repair of those tools or that equipment;
- (f) specifying the circumstances and occupations in which persons under the age of 17 years may not be employed in any industrial establishment;
- (f.1) **repealed, S.Nu. 2002,c.22,s.3;**
- (g) exempting, on terms and conditions and for periods that are considered advisable, any employer from the application of section 12 in respect of any class of employees who are being trained on the job, if the training facilities provided and used by the employer are adequate to provide a training program that will increase the skill or proficiency of an employee; and
- (h) prescribing minimum wages for domestic workers or types of domestic workers.

R.S.N.W.T. 1988,c.88(Supp.),s.3; S.Nu. 2002,c.22,s.3.

PART II.1

TERMINATION OF EMPLOYMENT

Definitions

14.01. In this Part,

"notice of termination" means a written notice of termination of employment given by an employer to an employee in accordance with subsection 14.03(2); (*préavis de licenciement*)

"temporary layoff" means an interruption of the employment of an employee by an employer for a period

- (a) not exceeding 45 days of layoff in a period of 60 consecutive days, or
- (b) exceeding 45 days of layoff, where the employer recalls the employee to employment within a time fixed by the Labour Standards Officer; (*mise à pied temporaire*)

"termination pay" means a payment made by an employer to an employee in accordance with subsection 14.03(4) or section 14.06. (*indemnité de licenciement*)

R.S.N.W.T. 1988,c.20(Supp.),s.2.

Separate periods of employment

14.02. For the purpose of this Part, where an employee has been employed by the same employer more than once, those periods of employment shall be deemed to be one period of employment if not more than 90 days have elapsed between each period of employment. R.S.N.W.T. 1988,c.20(Supp.),s.2.

Termination of employment

14.03. (1) No employer shall terminate the employment of an employee who has been employed by that employer for a period of 90 days or more, unless the employer

- (a) gives the employee notice of termination; or
- (b) pays the employee termination pay.

Notice of termination

(2) An employer who wishes to terminate the employment of an employee by notice of termination shall

- (a) give the employee written notice of termination of not less than
 - (i) two weeks, if the employee has been employed by the employer for less than three years, and

- (b) indicate in the notice of termination the date
 - (i) on which the notice is given, and
 - (ii) on which the employment is terminated.

Annual leave

(3) The period of notice required by subsection (2) shall not coincide with the annual leave of the employee whose employment is being terminated.

Termination pay

(4) An employer who wishes to terminate the employment of an employee by paying termination pay in place of giving notice of termination shall pay the employee termination pay in an amount equal to the wages and benefits to which the employee would have been entitled if the employee had worked his or her usual hours of work for each week of the period for which notice would otherwise be required by subsection (2).
R.S.N.W.T. 1988,c.20(Supp.),s.2.

Exceptions

14.04. Section 14.03 does not apply to an employee

- (a) who is temporarily laid off;
- (b) who is employed in an activity, business, work, trade, occupation or profession that is exempted by regulation;
- (c) whose employment is terminated for just cause;
- (d) whose employment is terminated because the employee has refused an offer by the employer of reasonable alternative work; or
- (e) on temporary layoff who does not return to work within seven days after being requested to do so in writing by the employer.
S.N.W.T. 1988,c.20(Supp.),s.2.

Temporary layoff

14.05. (1) Where an employer wishes to temporarily lay off an employee, the employer shall

- (a) give the employee written notice of temporary layoff; and
- (b) indicate in the notice of temporary layoff the expected date on which the employer will request the employee to return to work.

Deemed termination

(2) Where an employer temporarily lays off an employee without giving the employee notice of temporary layoff in accordance with subsection (1), the employer shall be deemed to have terminated the employment of the employee.

R.S.N.W.T. 1988,c.20(Supp.),s.2.

Permanent layoff

14.06. Where an employer temporarily lays off an employee and the layoff exceeds a temporary layoff,

- (a) the employment of the employee shall be deemed to have terminated on the last day of temporary layoff; and
 - (b) the employer shall pay the employee termination pay, calculated in accordance with subsection 14.03(4).
- R.S.N.W.T. 1988,c.20(Supp.),s.2.

Notice to Labour Standards Officer

14.07. (1) Where an employer wishes to term

Continuation of employment after termination

14.09. Notice of termination is void and of no effect if an employee continues to be employed by his or her employer after the date for termination of employment specified in the notice of termination. R.S.N.W.T. 1988,c.20(Supp.),s.2.

Deeming provision

14.10. Termination pay shall for all purposes be deemed to be wages. R.S.N.W.T. 1988,c.20(Supp.),s.2.

PART III

ANNUAL VACATIONS

Definitions

15. In this Part,

"vacation pay" means 4% of the wages of an employee during a year of employment in respect of which the employee is entitled to a vacation of two weeks duration, and 6% of the wages of an employee during a year of employment in respect of which the employee is entitled to a vacation of three weeks duration; (*indemnité de congé annuel*)

"year of employment" means continuous employment of an employee by one employer for a period of 12 consecutive months beginning on the dater

- (g) providing for the application of this Part where, owing to illness or other unavoidable absence, an employee has been absent from his or her employment.

PART IV

GENERAL HOLIDAYS

General holiday with pay

22. Subject to this Part, every employer shall give to each of his or her employees a holiday with pay in respect of each of the general holidays falling on a day within any period of his or her employment.

Substituted holidays

23. Any other holiday may be substituted for a general holiday in any of the following circumstances:

- (a) where
 - (i) a class of employees of an employer is represented by a trade union, and
 - (ii) the parties to a collective agreement entered into with regard to the terms or conditions of employment of the employees notify the Labour Standards Officer in writing that a specified day has been designated in the collective agreement as a holiday with pay in lieu of a general holiday under this Part,

the designated day shall, for those employees mentioned in the collective agreement, be a general holiday for the purposes of this Act;

- (b) where
 - (i) no employees of an employer are represented by a trade union, or
 - (ii) a class of employees is not provided for under a collective agreement with regard to general holidays, and
 - (iii) the employer applies to the Labour Standards Officer to substitute another designated holiday for any general holiday under this Part,

the Labour Standards Officer may, if the Labour Standards Officer is satisfied that a majority of the employees or a majority of the class of employees, as the case may be, who are not provided for under a collective agreement in regard to general holidays, concur with the application, approve the substitution of the designated holiday for the specified general holiday, and the designated day shall, for those employees, be a general holiday for the purposes of this Act.

Holiday pay

27. Pay granted to an employee in respect of a general holiday on which the employee does not work shall for all purposes be deemed to be wages.

Where holiday pay not required

28. No employee is entitled to be paid in respect of a general holiday on which the employee does not work

- (a) where the employee has not worked for his or her employer a total of 30 days during the preceding 12 months;
 - (b) where the employee did not report to work on that day after having been called to work on that day;
 - (c) where, without the consent of his or her employer, the employee has not reported for work on either his or her last regular working day preceding or following the general holiday; or
 - (d) where the employee is on pregnancy leave or parental leave.
- R.S.N.W.T. 1988,c.119(Supp.),s.2.

Deemed employment

29. For the purposes of this Part, a person shall be deemed to be in the employment of another person when he or she is available at the call of the other person whether or not he or she is called on to perform any work for that other person.

PART V

PREGNANCY AND PARENTAL LEAVE

Medical certificate

30. For the purposes of this Part, a medical certificate must be signed by a qualified medical practitioner or, in a community in Nunavut in which no qualified medical practitioner is resident, by a registered nurse, a nurse practitioner or a temporary certificate holder under the *Nursing Profession Act* (Northwest Territories).
R.S.N.W.T. 1988,c.119(Supp.),s.3; S.N.W.T. 1998,c.38,Sch.D,PartII,s.4;
S.Nu. 2003,c.17,s.21.

Entitlement to pregnancy leave

31. (1) An employee is entitled to pregnancy leave, without pay, in accordance with subsection (2), where the employee

- (a) has been employed by an employer for the prescribed length of time;
- (b) submits to the employer a written request for pregnancy leave at least four weeks before the day on which the employee intends to commence the leave; and
- (c) if so requested by the employer, provides the employer with a medical certificate stating that the employee is pregnant and stating the estimated date of delivery.

Length of leave

(2) Subject to this Part, an employee referred to in subsection (1) is entitled to pregnancy leave of 17 consecutive weeks commencing at any time during the 17 week period immediately preceding the estimated date of delivery.

Extension of leave

(3) If the actual date of delivery is after the estimated date of delivery, an employee is entitled, at the request of the employee, to extend the pregnancy leave for a further period, without pay, not exceeding the period between the estimated date of delivery and the actual date of delivery and, in any event, not exceeding six consecutive weeks.

Shortening leave

(4) An employee who has requested pregnancy leave may, with the consent of her employer, resume employment before the expiration of that period.
R.S.N.W.T. 1988,c.119(Supp.),s.3.

Leave without notice

32. (1) An employee who does not request pregnancy leave in accordance with paragraph 31(1)(b) but who has been employed by an employer for the prescribed length of time is entitled to pregnancy leave under section 31 where

- (a) due to a medical condition arising from the employee's pregnancy, the employee is unable to give the required notice; and
- (b) within two weeks after the employee ceases to work, the employee provides her employer with a medical certificate stating that the employee was not able to perform the duties of her employment because of a medical condition arising from the employee's pregnancy and stating the estimated date on which, in the opinion of a qualified medical practitioner or nurse, delivery will occur or the actual date of delivery.

Leave after delivery

(2) An employee who does not request pregnancy leave in accordance with paragraph 31(1)(b) and to whom subsection (1) does not apply but who has been employed by an employer for the prescribed length of time is entitled to pregnancy leave of six consecutive weeks, without pay, where the employee provides the employer with a medical certificate stating that the employee has given birth on a specified day.

Application of subsection 31(4)

(3) Subsection 31(4) applies to an employee referred to in subsection (2).
R.S.N.W.T. 1988,c.119(Supp.),s.3.

Requirement to take leave

33. (1) The Labour Standards Officer may, at the request of an employer, require an employee to commence pregnancy leave where, in the opinion of the Labour Standards Officer, the duties of the employee cannot reasonably be performed because of the pregnancy.

Considerations

(2) The Labour Standards Officer shall, before requiring an employee to commence pregnancy leave under subsection (1), consider

- (a) the nature of the industrial establishment;
- (b) the conditions of employment of the industrial establishment;
- (c) the welfare of the employees in the industrial establishment; and
- (d) any medical information respecting the employee provided to the Labour Standards Officer by a qualified medical practitioner with the consent of the employee.

Continuation of leave

(3) The employee shall continue the pregnancy leave until

- (a) the Labour Standards Officer is satisfied that the employee is able to perform her duties; or
- (b) the pregnancy is terminated.

R.S.N.W.T. 1988,c.119(Supp.),s.3.

Entitlement to parental leave

34. (1) An employee is entitled to parental leave of 37 consecutive weeks, without pay, where the employee

- (a) has been employed by an employer for the prescribed length of time;
- (b) submits to the employer a written request for parental leave at least four weeks before the day on which the employee intends to commence the leave; and
- (c) will remain at home to care for a newborn child of the employee or a child who the employee has recently adopted or with respect to whom the employee has commenced adoption proceedings.

More than one child

(2) Where an employee has recently adopted more than one child or has commenced adoption proceedings with respect to more than one child and the children arrived at the employee's home at the same time or substantially the same time, the children are deemed to be a single child for the purposes of this section.

(3) **Repealed, S.Nu. 2001,c.9,s.2(2).**

Period during which leave must be taken

(4) Parental leave must be taken within the period commencing on the day of birth of the newborn child or the day on which the child arrives at the employee's home, as the case may be, and ending one year after that day.

Period where more than one child

(5) Where an employee plans to adopt more than one child and the children arrive at the employee's home at substantially the same time, the employee is entitled to parental leave for the period commencing on the day the first child so arrives and ending one year after the day on which the last child so arrives.

Parental leave following pregnancy leave

(6) Where an employee takes parental leave in addition to pregnancy leave, the employee must commence the parental leave immediately on the expiration of the pregnancy leave or on the day the child arrives at the employee's home, unless the employee and employer otherwise agree.

Leave may be shortened

(7) An employee who is on parental leave may, with the consent of his or her employer, resume employment before the expiration of the leave.

R.S.N.W.T. 1988,c.119(Supp.),s.3; S.Nu. 2001,c.9,s.2.

Leave without notice when required suddenly

35. (1) An employee who does not request parental leave in accordance with paragraph 34(1)(b) but who is otherwise entitled to parental leave is entitled to parental leave under section 34 where

- (a) the child who the employee has adopted or with respect to whom the employee has commenced adoption proceedings arrives at the employee's home sooner than expected; and
- (b) the employee requests parental leave.

Leave without notice

(2) An employee who does not request parental leave in accordance with paragraph 34(1)(b) and to whom subsection (1) does not apply but who is otherwise entitled to parental leave is entitled to parental leave of six consecutive weeks, without pay, where the employee requests parental leave.

Subsections 34(4) to (7) apply

(3) Subsections 34(4) to (7) apply to an employee referred to in subsection (2).
R.S.N.W.T. 1988,c.119(Supp.),s.3.

Maximum combined leave

35.1. Notwithstanding any other provision in this Part, the maximum period of combined pregnancy and parental leave to which an employee is entitled is 52 weeks.
S.Nu. 2001,c.9,s.3.

Application of section

- 35.2.** (1) This section applies to an employee
- (a) who, on the day on which this section comes into force, is on pregnancy or parental leave or whose parental leave has expired in respect of a child who
 - (i) is to be, is being or was cared for by the employee, and
 - (ii) is or will be a newborn child of the employee born, or has been placed with the employee for the purposes of adoption, after December 31, 2000; or
 - (b) who, before the day on which this section comes into force, has given his or her employer a written request for leave in accordance with paragraph 31(1)(b) or paragraph 34(1)(b) in respect of a child who
 - (i) is to be cared for by the employee, and
 - (ii) is or will be a newborn child of the employee born, or has been or will be placed with the employee for the purposes of adoption, after December 31, 2000.

Entitlement to extension of parental leave

(2) An employee is entitled to extend parental leave up to 37 consecutive weeks if the employee submits to the employer a written request for extended parental leave at least four weeks before the day on which the employee's parental leave would otherwise expire.

Entitlement to further parental leave

(3) If an employee's parental leave has expired on the day on which this section comes into force or will expire less than eight weeks after the day on which this section comes into force, the employee is entitled to further parental leave up to 25 consecutive weeks if the employee submits to the employer a written request for further parental leave no later than four weeks after this section comes into force and at least four weeks before the day on which the employee intends to re-commence the leave, unless the employee and employer otherwise agree.

Subsections 34(2) and (4) to (7) apply

(4) Subsections 34(2) and (4) to (7) apply to an employee referred to in this section.

Period during which leave must be taken

(5) For greater certainty, this section does not entitle an employee to continue parental leave after the expiry of one year after the day of birth of the newborn child or the day on which the child is placed with the employee for the purposes of adoption, as the case may be. S.Nu. 2001,c.9,s.3.

Resumption of benefits

36. Where an employee resumes employment on the expiration of the pregnancy leave or parental leave granted under this Part, the employer shall reinstate the employee in the position the employee occupied on the day the leave commenced or in a comparable position, at not less than the wages, benefits and seniority that had accrued to the employee on the day the leave commenced, and with all increments to wages and benefits to which the employee would have been entitled had the leave not been taken. R.S.N.W.T. 1988,c.119(Supp.),s.3.

Suspension of operations

37. An employer who has suspended operations during the pregnancy leave or parental leave granted under this Part and has not resumed operations on the expiration of the leave shall not, on resumption of operations, refuse to reinstate the employee or otherwise refuse to comply with section 36 because the employee has taken the leave. R.S.N.W.T. 1988,c.119(Supp.),s.3.

Prohibition respecting pregnancy leave

38. (1) No employer shall change a condition of employment of an employee without the written consent of the employee or terminate the employment of an employee because of the employee's pregnancy or because the employee has requested, is on or has taken the pregnancy leave to which the employee is entitled under this Part.

Prohibition respecting parental leave

(2) No employer shall change a condition of employment of the employee without the written consent of the employee or terminate the employment of the employee because the employee has requested, is on or has taken parental leave to which the employee is entitled under this Part. R.S.N.W.T. 1988,c.119(Supp.),s.3.

Onus on employer

39. The onus is on the employer to establish that a contravention of section 36, 37 or 38 is not because of the employee's pregnancy, where the employee is pregnant, or because the employee has requested, is on or has, within the 12 month period prior to the contravention, taken pregnancy leave or parental leave. R.S.N.W.T. 1988,c.119(Supp.),s.3.

PART V.1

COMPASSIONATE CARE LEAVE

Definitions

39.1. (1) The following definitions from the *Canada Labour Code* apply for the purposes of this Part only:

"common-law partner", in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohab

- and
- (b) that ends with the last day of the week in which either of the following occurs:
 - (i) the family member dies, or
 - (ii) the expiration of 26 weeks following the first day of the week referred to in paragraph (a).

Shorter period

(2) If a shorter period than that referred to in subsection 39.1(2) is prescribed for the purposes of subsection 23.1(5) of the *Employment Insurance Act* (Canada),

- (a) the certificate referred to in subsection 39.1(2) must state that the family member has a serious medical condition with a significant risk of death within that period; and
- (b) that shorter period applies for the purposes of subparagraph (1)(b)(ii).
S.Nu. 2003,c.18,s.2.

Expiration of shorter period

39.3. When a shorter period referred to in subsection 39.2(2) has expired in respect of a family member, no further leave may be taken under this Part in respect of that family member until the minimum number of weeks prescribed for the purposes of subsection 12(4.3) of the *Employment Insurance Act* (Canada) has elapsed.
S.Nu. 2003,c.18,s.2.

Minimum period of leave

39.4. A leave of absence under this section may only be taken in periods of not less than one week's duration. S.Nu. 2003,c.18,s.2.

Aggregate leave

39.5. The aggregate amount of leave that may be taken by two or more employees under this section in respect of the care or support of the same family member shall not exceed eight weeks in the period referred to in section 39.2. S.Nu. 2003,c.18,s.2.

Copy of certificate

39.6. If requested in writing by the employer within 15 days after an employee's return to work, the employee must provide the employer with a copy of the certificate referred to in subsection 39.1(2). S.Nu. 2003,c.18,s.2.

Prohibition

39.7. No employer shall dismiss, suspend, lay off, demote or discipline an employee because an employee has applied for leave of absence in accordance with this Part, or take into account the intention of an employee to take leave of absence under this Part in any decision to promote or train the employee. S.Nu. 2003,c.18,s.2.

Commencement

39.8. This Part comes into force on the date that section 27 of the *Budget Implementation Act, 2003* (Canada) is brought into force. S.Nu. 2003,c.18,s.2.

PART V.2

RESERVIST LEAVE

Definitions

39.9. In this Part,

"emergency situation" means a present or imminent situation or event that is seriously affecting or could seriously affect the health, safety or welfare of persons or is substantially damaging or could substantially damage property; (*situation d'urgence*)

"reserve force" has the same meaning as in subsection 2(1) of the *National Defence Act* (Canada) and includes members of the Canadian Rangers; (*force de réserve*)

"service" means a period of time spent on duty with the reserve force, and includes

- (a) participation in an operation, exercise, training, search and rescue operation, emergency situation or other military activity, and
- (b) treatment, recovery or rehabilitation in respect of a physical or

Where underpayments found on inspection

- 43.** (1) Where an inspector finds that an employer has failed to pay an employee
- (a) the minimum wage established by or under this Act,
 - (b) any overtime pay to which the employee is entitled under this Act, or
 - (c) any vacation pay or holiday pay to which the employee is entitled under this Act,

the inspector may determine the difference between the wages actually paid to the employee and the wages to which the employee is entitled and, if the amount of the difference is agreed to in writing by the employer and the employee, the employer shall, within five days after the date of the agreement, pay that amount to the Labour Standards Officer who shall pay it over to the employee without delay on receipt of that amount by the Labour Standards Officer.

Consent to prosecution

- (2) No prosecution for failure to pay an employee the full wages to which the employee was entitled under this Act shall, without the written consent of the Commissioner, be commenced against an employer where the employer has made payment of any amount of difference in wages in accordance with subsection (1).

LABOUR STANDARDS BOARD

Labour Standards Board

- 44.** (1) A board called the Labour Standards Board is established.

Composition

- (2) The Board shall consist of five members, including a chairperson, appointed by the Commissioner to hold office for a term not exceeding five years.

Reappointment

- (3) The members of the Board may be reappointed.

Remuneration

- (4) The members of the Board shall be paid a daily allowance and shall be reimbursed for expenses in accordance with the regulations.

Quorum

- (5) Three members of the Board constitute a quorum.

Sittings

- (6) The Board shall sit at the times and conduct its proceedings in the manner that it considers most satisfactory for the proper discharge of its business.

S.N.W.T. 1998,c.24,s.15(2).

Appeal

45. (1) An employer or employee aggrieved by a decision or order of the Labour Standards Officer may appeal to the Board, and the decision of the Board on the matter is final.

Duties of Board

(2) The Board shall hear appeals from any decision or order of the Labour Standards Officer, and shall perform any other functions that are assigned to it by this Act or the regulations.

Annual report

(3) The Board shall prepare an annual report and submit it to the Commissioner in accordance with Part IX of the *Financial Administration Act*.

Audit

(4) The accounts of the Board must be audited annually in accordance with Part IX of the *Financial Administration Act* by an auditor appointed by the Minister.

PAYROLL RECORDS

Payroll records

46. (1) An employer shall maintain in each place of business operated by the employer in Nunavut a true and correct record of the following particulars in respect of each of his or her employees at or in connection with that place of business:

- (a) the hours worked or on duty each day;
- (b) the gross wages and wage payments made;
- (c) the name, age and residential address;
- (d) the date of commencement of the present term of employment and the anniversary date of it;
- (e) the rate of wage and the date and particulars of each change in the rate of wage;
- (f) each annual vacation granted, showing
 - (i) the dates of commencement and completion,
 - (ii) the period of employment covered by the annual vacation, and
 - (iii) the amount of vacation pay given;
- (g) the amount of money paid in lieu of vacation with pay on the termination of employment;
- (h) the amount of money paid for general holidays under this Act;
- (i) the amount of each deduction from the earnings of the employee and the purpose for which the deduction was made;
- (j) a copy of any notice of termination of employment;
- (k) the amount of money paid in lieu of notice of termination of employment.

Exemption

(2) Notwithstanding subsection (1), an

PAYMENT OF WAGES

Power to exempt

49. The Labour Standards Officer may exempt any employee or class of employee or any employer or class of employer from the operation of any provision of sections 50 to 65.

Pay period

50. (1) A period of employment for computation of wages earned shall not exceed one calendar month unless a longer period is approved by the Board.

Payment of wages

(2) Every employer shall, within 10 days after the expiration of the period of employment for computation of wages of an employee, pay to the employee 0 TD0.0005 Tc

- (d) for the purposes of any plan that is not within paragraphs (a) to (c), but that, in the opinion of the Labour Standards Officer, is for the benefit of the employee and is authorized by the Labour Standards Officer,

and an employer may honour the direction of an employee to deposit wages in a bank or credit union or to pay wages to the spouse or other member of the immediate family of the employee.

"spouse" defined

(2) In subsection (1), "spouse" has the meaning assigned to it by section 1 of the *Family Law Act*. S.N.W.T. 1998,c.17,s.18.

Dishonoured cheques

52. An employer who, in payment of wages, issues a cheque or bill of exchange that is not honoured by the payment of the lawful currency of Canada is guilty of an offence.

Wages recovery

53. (1) Where the Labour Standards Officer

- (a) receives information that indicates that an employer has failed to pay to an employee all wages earned, and
- (b) is satisfied that the employee is not proceeding with any other action for the recovery of the unpaid wages,

the Labour Standards Officer may, at any time,

- (c) make a certificate in which shall be set out the wages owing, and
- (d) send a copy of the certificate to the employer by registered mail, giving the employer 30 days after the date of the mailing of the certificate within which to present evidence and make representation.

Investigation by Board

Appeal

- (4) An appeal lies to a judge of the N

Determination of disposal of money

57. The Board shall hold all money received pursuant to a demand made under subsection 56(1) until

- (a) the time for the taking of an appeal has elapsed, if no appeal is taken, or
- (b) a final decision is made with respect to the money,

and shall after that dispose of the money in accordance with that decision and section 60.

Security

58. (1) The Board may order an employer to provide the Board with a bond or other security conditioned for the payment of all wages in an amount and form, and for a period of time not exceeding two years, as may be satisfactory to the Board, and an employer shall comply with the order.

Application of security

(2) Where the employer provides a bond or other security under subsection (1), the Board may, by giving written notice to that employer either by registered mail or by service of the notice on that employer, apply the proceeds of the bond or security in whole or in part to any wages that the Board ascertains the employer subsequently owes to any employee.

Where security not provided

(3) Where the employer fails to provide the bond or other security under subsection (1), a judge of the Nunavut Court of Justice, on an application of the Labour Standards Officer, may restrain the employer from carrying on any industry or business until the bond or security is provided and the costs of the application are paid.
S.Nu. 2005,c.3,s.7(3).

Payment where employee's whereabouts unknown

59. (1) An employer who is unable to locate an employee in order to pay the employee wages shall pay the wages to the Board.

Disposal of wages

(2) The wages paid under subsection (1) shall be disposed of in accordance with section 60.

Discharge

(3) Payment by an employer under subsection (1)

Payment to Public Trustee

(2) Where the Board is unable to pay the money pursuant to subsection (1), it shall pay the money to the Public Trustee appointed under the *Public Trustee Act* who shall hold it in trust for the person who is entitled to it.

Payment to employee of named employer

(3) Where the Board receives money under this Act for an employee who is named as an employer in a certificate issued under section 53, the Board may pay the money to the employee named in the certificate.

Prosecution of corporation officers

61. Where a corporation commits an offence under sections 50 to 65, every director or other officer and every agent of the corporation who knowingly directed, authorized, assented to, acquiesced or participated in the commission of the offence is, whether or not the corporation is prosecuted for the offence, a party to and guilty of the offence. S.N.W.T. 1997,c.8,s.17(2).

Liability of corporation directors

62. Every director and other officer of a corporation is liable for the unpaid wages of the employees of the corporation, but not exceeding the equivalent of two months wages for each employee who has not been paid, and the provisions of this Act respecting the recovery of wages apply, with the necessary changes and so far as they are applicable, to the recovery of such wages from a director and other officer of a corporation that does not pay its employee's wages. S.N.W.T. 1997,c.8,s.17(3).

Associated corporations

63. (1) Where the Labour Standards Officer considers that there is common control or direction between two or more corporations, individuals, firms, syndicates or associations, the Labour Standards Officer may declare the corporations, individuals,

63party riatouwG4du.nted0f7TD0.00lg00076esucho3h ,a Tw(63.)Tj/TT2 1 5u0.0014 T7(and 01 Tl -0.00of)

Regulations

65. For the purposes of carrying out the provisions of this Part according to their intent, the Commissioner, on the recommendation of the Minister, may make regulations and orders that are ancillary to and not inconsistent with this Part and that are considered necessary or advisable.

IDENTITY OF COMPLAINANT

Identity of complainant

66. Despite the *Access to Information and Protection of Privacy Act*, if a person who makes a complaint to the Board or the Labour Standards Officer requests that his or her name and identity be withheld, the Board, the Labour Standards Officer and their officials shall not disclose the name and identity of that person except where disclosure is necessary for the purpose of a prosecution or is considered by the Board or the Labour Standards Officer to be in the public interest. S.Nu. 2007,c.8,s.9.

ORDERS

Orders

67. Any order made under this Act or the regulations may be made to apply generally or in particular cases, or to classes of employees or industrial establishments.

REINSTATEMENT OR COMPENSATION

Prohibition

67.1. (1) No employer or any other person shall

- (a) terminate or restrict the employment of a person,
- (b) threaten to terminate or restrict the employment of a person, or
- (c) discriminate in any way against a person,

because the person, either on his or her own behalf or on the behalf of another employee,

- (d) has made a complaint under this Act,
- (e) has given evidence or may give evidence at any inquiry or any proceedings or prosecution under this Act,
- (f) requests anything to which the person or another employee is entitled under this Act, or
- (g) has made or is about to make any statement or disclosure that may be required of the employee under this Act.

Powers of Labour Standards Officer

(2) Where the Labour Standards Officer is satisfied that an employer has contravened subsection (1) or section 36, 37, 38, 39.7, or 39.13, the Labour Standards Officer may order the employer

- (a) to cease doing any act;
- (a.1) to comply with Part V, V.1 or V.2, as the case may be, where there is a contravention of section 36, 37, 38, 39.7, or 39.13;

Reinstatement of pay and positions
(2) Where an employer has been convicted

