



# BC Government introduces long awaited reforms to Employment Standards and Labour Code

May 1, 2019

This week the Minister of Labour, Harry Bains, introduced two pieces of legislation that together dramatically increase protections for workers and their right to join a union.

These are long overdue reforms, and it is welcome news to see the government take these first steps to restoring balance and fairness for working people. These reforms do not cover everything - this is only the start - and HSA will continue to advocate for more changes going forward.

## Employment Standards Act

On Monday, April 29 amendments to the *Employment Standards Act* were introduced. The *Employment Standards Act* is the law that sets the basic standards for all workplaces in the province. However, these standards have been eroded over time, tilting in favour of employers and in many circumstances leaving employees with few rights or protections.

The amendments introduced by the provincial government address a number of areas where BC lags behind the rest of the country and gaps that left workers vulnerable.

Highlights of the changes include:

- Enhanced Employment Standards Branch
  - The government is finally removing the 'self-help kit' introduced by the BC Liberal government in 2003 when they closed Employment Standards Branches and drastically reduced staffing. It will be replaced with a new process for workers who need help to file a complaint against their employer.
- Child employment
  - The new law raises the age a young person can work from 12 years-old to 16 years-old. This is to protect the health and safety of young people and to fall in line with the international standards.
- Job-protected leave
  - The new legislation provides 10 non-consecutive days of unpaid, job-protected leave for victims of domestic violence, with an option of 15 weeks of consecutive unpaid leave.
  - The legislation also protects workers needing leave to care for ill family members, to align with the federal Employment Insurance benefit.
- Tips and Wage Recovery
  - The new Act protects a worker's right to the tips they earn, and restricts employers from withholding tips or claiming a portion of tips when pooled by employees
  - It extends the period an employee can recover wages owed from 6 months to 12 months

This is just a brief summary of the amendments. You can read the government's full press release and backgrounder [here](#).

## Labour Relations Code

On Tuesday, April 30 the BC government introduced amendments to the *Labour Relations Code* - the law that governs the relationship between unions and employers, and protects the rights of working people to join or form a union. The labour movement has been fighting for the Code to be updated for years, to create a more level playing field for working people. After almost 16 years, these reforms are doing just that - bringing long overdue balance to the law.

Some highlights of the legislation include:

- Protection of successorship rights for workers
  - Contract flipping has been a huge issue for workers in health care, food services, janitorial, and transportation services. This is when the employer flips the contract of a service provider as a means to dismantle a union, cut jobs and wages, and eliminate benefits. Under the new legislation, any time a service contract is flipped, the existing union contract must be honoured.
- Tightening up of the union certification process
  - The legislation reduces the time allowed between when an application for union certification is made and when workers vote on joining a union. The shorter window (5 days from 10 days) is important to reduce employer interference with the certification process. The legislation also allows for the Labour Relations Board to award the union certification if it finds the employer has interfered with employees' rights to join a union.
- Improved raid windows
  - In an effort to reduce raiding and disruption, the new legislation moves the raiding window from the 7<sup>th</sup> and 8<sup>th</sup> month of each year of a contract to the 7<sup>th</sup> and 8<sup>th</sup> month of the 3<sup>rd</sup>, and subsequent, year. There is an exception made for workers in the construction industry, in which case the raiding window remains every year.

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