

Right to Be Free From Exploitation and Harm in the Workplace

Introduction

Canada ratified ILO Convention 138 (minimum age for employment) in June 2016. It comes into force in June 2017. Canada had already ratified ILO 182 (worst forms of labour) and the Convention on the Rights of the Child, which includes Article 32 on children's rights in the workplace and other relevant articles. Following is a summary of related public policies and recent developments that affect young people across Canada.

Minimum Age for Employment:

- When the federal government ratified ILO Convention 138, it established age 16 as the minimum age for employment. There are, however, a variety of minimum age regulations for different kinds of work, hours of work, and conditions of work for young people across Canada.
- Under the Canada Labour Code, children under age 17 may only be employed under specific conditions if they are not in school.
- The minimum age for employment in provincial labour laws varies from age 12 in Alberta to age 14 in Ontario. Ten provinces and territories have no minimum age in their labour laws. All have a variety of specific regulations for young workers.
- Various regulations in every province are not consistent with the provisions of ILO 138.

Working Conditions for Young Workers:

- Regulation of working hours and working conditions for young workers varies widely by province.
- Education is given primacy in every province and other provisions are designed to protect the "well-being" of children, but it is not clear how the rules are enforced to prevent and/or protect young people from unsafe, abusive, and unfair treatment in workplaces, or from work that compromises their rights to education, development, and time to play.
- High rates of workplace injuries show there is a need to pay more attention to measures that would prevent such injuries.

Enforcement:

- Complaint mechanisms and enforcement are uneven. Young people report being fired if they speak up about unsafe conditions or unfair treatment.
- Public accountability is limited. Data on young workers, preventive measures, investigations of violations, and enforcement measures are not readily available.
- No governing body has a clear mechanism for considering the views of young people in processes relating to individual situations or policy formation and enforcement

Overview by province and changes since the last report

Alberta

Minimum age of employment: 12

Stipulations: Workers aged 12-14 are only eligible to work in certain sectors, but can opt to work in other approved industries under various regulations. Employers require a special permit if they want to hire a young worker in an industry that has not been approved. Permits are intended to allow parents/guardians, employers, and Employment Standards the opportunity to determine whether the employment will harm the overall well-being of the worker. Stipulations that promote the child's well-being are imposed when a permit is issued. Workers aged 15-17 may work in any sector, though certain regulations are imposed for specific sectors.

Recent developments: In January 2016, Bill 6, the Enhanced Protection for Farm and Ranch Workers Act, came into effect and required the Workers Compensation Board to provide injury coverage for paid agricultural workers. Since youth under 15 are ineligible to work in agriculture, they are unaffected by this legislation. It is worth noting that a special permit could allow youth under 15 to do agricultural work. Since owners of farm operations and their families are not obligated to have this coverage, some youth workers could be uninsured. Alberta's minimum age standards were last modified in March 2011.

These provisions may have come into effect in response to Alberta's history of agriculture-related youth injuries. For children up to 14 years old, there were 75 agriculture-related injury deaths from 1990 to 2013, an average of 3 a year. 48% involved machines. 88% of the children were not working at the time, but were killed by a work-related activity. For children up to 15 years old, there were 973 agriculture-related injuries that resulted in hospital admission between 1990 and 2012, an average of 42 a year. Between 2002 and 2012, 51.1% of these admissions were work-related.

There were 272 agricultural fatalities for children under 15 between 1992 and 2012. The fatality rate for children under 15 only dropped by 0.8% between 1990 and 2012.

Sources: <http://work.alberta.ca/employment-standards/employees-under-age-18.html>
<http://calgaryherald.com/news/politics/a-year-after-bill-6-farm-workers-wcb-claims-more-than-double>
<http://globalnews.ca/news/2384640/bill-6-opposition-continue-as-government-moves-closer-to-finalizing-farm-safety-legislation/>
http://injurypreventioncentre.ca/documents/data/Agricultural_death_hosp_1990-2012_Oct%203%202016.pdf
<http://www.cair-sbac.ca/reports/cair-reports/current/>

British Columbia

Minimum age of employment: Technically none

Stipulations: Employers require a parent or guardian's consent to hire a worker aged 12-14. There are some constraints regarding the conditions and number of hours worked, but they do not preclude night work. To hire a child aged younger than 12, the Director of Employment Standards must issue a permit to employers, and specific restrictions are applied to the child's employment. His or her well-being is paramount. It should be noted that the British Columbian government distinguishes entertainment industry employment from more conventional types of employment.

Recent developments: The issue of child labour received some attention in the summer of 2016, when a farm employee was found by inspectors to be picking berries with his 11-year old son, who did not have a permit. The child was unpaid, so the owner was fined \$3115 by the Employment Standards Tribunal in November 2016. The fine also penalized his violation of child labour laws. A critic has pointed out that enforcement of child labour laws is lacking and that it is common practice for children to be working in

the agricultural industry. While official records show 6 transgressions against BC child labour laws between 2011 and 2015, children's rights advocates in the province suggest that many incidents are not reported or investigated.

Sources: <http://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/factsheets/general-employment-of-young-people>
<http://www.cbc.ca/news/canada/british-columbia/child-labour-bc-farms-1.3888686>
<http://www.elections.bc.ca/>

Manitoba

Minimum age of employment: Technically none

Stipulations: Children under 12 can technically work but only under exceptional circumstances. Moreover, youth under 16 require a permit from Employment Standards to work and are prohibited from working in certain sectors that may put them in physical danger. Restrictions also apply to workers under 18. There are also other conditions that promote the educational and physical well-being of the youth. Manitoba's minimum age standards were published online on December 21, 2016.

Recent developments: In 2016, a new Conservative provincial government was elected. There is no indication of plans to review relevant legislation.

Sources: <https://www.gov.mb.ca/labour/standards/doc,young-workers,factsheet.html>
<http://www.winnipegssun.com/2016/12/22/tories-keeping-many-election-promises>

New Brunswick

Minimum age of employment: Technically none

Stipulations: As per the Employment Standards Act, regulations are imposed to protect the prosperity of workers under 16. Moreover, workers under 14 are subject to the same regulations, and are also subject to more prohibitions.

Recent developments: Recent reports suggest that the government might make amendments to the Act with regard to the number of hours and the industries that may employ youth under 16.

Sources:
http://www2.gnb.ca/content/gnb/en/services/services_renderer.19676.Employment_of_Children.html
<http://globalnews.ca/news/3103259/new-brunswick-considering-further-restrictions-on-youth-employment/>

Newfoundland and Labrador

Minimum age of employment: Technically none

Stipulations: As per the Labour Standards Act, youth under the age of 16 cannot work in industries that would be detrimental to their physical or educational prosperity. Other restrictions, such as the number of hours and specific work hours, are also applied. Youth under 14 are only eligible to work under specific regulations in the Act. This information was last updated November 2016.

Sources: http://www.aesl.gov.nl.ca/publications/labour/labour_relations_work.pdf

Northwest Territories

Minimum age of employment: Technically none

Stipulations: A youth is defined as anyone 16 years old or younger. Youth can be employed in any industry, but may not clear brush and trees or do any type of construction/demolishment work. In order to promote their educational and general well-being, there are restrictions on the hours youth can work.

Sources: <https://www.justice.gov.nt.ca/en/files/legislation/employment-standards/employment-standards.a.pdf>

https://www.ece.gov.nt.ca/sites/www.ece.gov.nt.ca/files/resources/employment_standards_-_application_for_youth_employment.pdf

Nova Scotia

Minimum age of employment: Technically none

Stipulations: Children under 14 are eligible to work provided that their health and education are not hindered. They are also subject to other constraints, such as limited working hours. Children under 16 are not allowed to work in certain industries, unless they are working for a parent.

Sources: <http://novascotia.ca/lae/employmentrights/children.asp>

Ontario

Minimum age of employment: 14

Stipulations: Workers aged 14-17 are not to work during school hours unless they have been excused under the provisions of Ontario's Education Act. Various sectors have lower or higher minimum ages of employment. Ontario's minimum age standards were last reviewed December 2016.

Source: <https://www.labour.gov.on.ca/english/hs/faqs/workplace.php>

Prince Edward Island

Minimum age of employment: Technically none

Stipulations: A young person is someone under 16. There are limitations to the specific shifts and number of hours for young people. They are not allowed to work in certain industries, such as construction. It is worth noting that these regulations do not apply if the employee is working for a family member's company, and the company exclusively hires relatives.

Sources: https://www.princeedwardisland.ca/sites/default/files/legislation/y-02_0.pdf

Quebec

Minimum age of employment: Technically none

Stipulations: Children, considered anyone under 18, are not allowed to work during school hours if they do not have a high school diploma, or if they are 16 during the school year. Children under 14 require consent from a parent or guardian to be employed. Employers are prohibited from scheduling workers during certain hours and if they risk compromising their education, health, or moral development. These provisions are negated for specific types of employment and other circumstances, such as if the child is not required to attend school. The sections in the Act Respecting Labour Standards that pertain to children have not been updated since 1999.

Recent developments: In January 2016, an act officially merged three separate employment/labour institutions. Labour legislation itself has not been affected; the Administrative Labour Tribunal has replaced two previous adjudicative entities. This tribunal is responsible for making decisions related to various labour statutes, including the Act Respecting Labour Standards.

Sources: <http://www.cnt.gouv.qc.ca/en/wages-pay-and-work/work-performed-by-children/index.html#c4650>

<http://www.mondaq.com/canada/x/457614/employee+rights+labour+relations/Major+Restructuring+Of+The+Quebec+Labour+And+Employment+Institutions>

Saskatchewan

Minimum age of employment: Technically none

Stipulations: Youth aged 14 and 15 can be employed if they have permission from a parent or guardian and complete the Young Worker Readiness Certificate Course. They are limited to no more than 16 hours a week during the school year, and cannot work after 10 p.m. before a school day. Workers younger than 16 and 18 are also restricted from working in certain industries. Youth under 14 can technically work if

the employer has a special permit. These regulations do not apply for certain operations, such as family businesses that employ direct family members.

Recent developments: The Saskatchewan Party won the 2016 provincial election; its campaign platform did not contain anything related to child labour.

Source: <https://www.saskatchewan.ca/business/hire-train-and-manage-employees/youth-in-the-workplace/minimum-age-and-workplace-restrictions>
<http://leaderpost.com/news/politics/campaign-promises>

Yukon

Minimum age of employment: Technically none

Stipulations: Workers under 16 are required to attend school and can therefore not be scheduled during school hours. Workers must be either at least 16 or 18 to work at a mine, depending on the type of work.

Recent developments: Union leaders have expressed concern that the Employment Standards Act is not being sufficiently enforced. While the leaders' comments did not relate to child labour, it is possible that their observations point to a wider problem of enforcement that could potentially affect child labour.

Also, a new government was elected in 2016, but it has yet to be seen how child labour will be affected.

Sources: http://www.community.gov.yk.ca/pdf/employment_handbook_english_final_web.pdf

<http://www.yukon-news.com/news/unions-call-for-more-enforcement-of-labour-rules/>

<http://www.cbc.ca/news/canada/north/yukon-election-results-2016-premier-1.3841018>

Youth Workplace Injuries and Fatalities

Workplace safety remains a significant concern across Canada. Below are available statistics for workers between the ages of 15 and 19 who have lost work time due to injuries. Complete data is not available.

Injuries that Resulted in Lost Work Time

Year	Total	NL	PEI	NS	NB	QC	ON	MB	SK	AB	BC	NT/NU	YT
2013	7760	86	24	143	75	2284	1663	588	435	1129	1289	27	17
2014	7798	78	32	137	103	1976	1699	603	372	1149	1805	30	14
2015	8155	70	23	142	113	2064	1819	592	367	1059	1881	16	9

Source: <http://awcbc.org/wp-content/uploads/2016/12/Lost-Time-Claims-by-Age-and-Jurisdiction-2013-2015.pdf>. Association of Workers' Compensation Boards of Canada (AWCBC), National Work Injury/Disease Statistics Program (NWISP), extracted February 6, 2017

Fatalities of Young Workers at Workplaces

Year	Total
2013	8
2014	13
2015	4

Source: <http://awcbc.org/wp-content/uploads/2016/12/Fatalities-by-Age-and-Jurisdiction-2013-2015.pdf>. Association of Workers' Compensation Boards of Canada (AWCBC), National Work Injury/Disease Statistics Program (NWISP), extracted February 6, 2017

Policy Analysis

Work experience and training opportunities can be a significant part of developing the full potential of every child in Canada. They can provide opportunities to learn technical skills, business skills, entrepreneurship, and life skills; they can assist young people to make successful transitions from the world of schools to workplace environments. In principle, all jurisdictions in Canada give priority to education and the well-being and development of young people. But there is little coherence or consistency in the policy frameworks to support and guide young people in this aspect of their development.

Most young people in Canada do not know what their rights are and what rules are in place to assist them in making transitions from school to the workplace, while protecting them from exploitation, unsafe working conditions, and unfair treatment. Finding clear and complete information is not easy in many provinces, even for adults. Very few young people know what avenues are available to them if they are experiencing unsafe working conditions or unfair treatment. In consultations held by CCRC members, young people voiced: fear because they saw peers fired for speaking out about unsafe conditions; awareness that young people are sometimes paid less for doing the same work as adults; and, when they have evidence of being treated unfairly, there is no recourse except leaving the job.

A review of relevant legislation in every province reveals complex and ambiguous rules, which often rely on how employers and public officials interpret and apply vague rules with many exemptions. Relying entirely on permission letters from parents, as some provinces do for persons as young as 12, is unreasonable because parents cannot be expected to know enough about potential workplaces to ensure safety and fairness.

High rates of workplace injuries involving young people indicate need for greater attention to occupational safety for young people. In general, the lack of data and regular reporting on the experience of young people in the workplace allows gaps and poor practice to flourish.

There is no effective public accountability for how the federal government and provinces implement their duties under the Convention on the Rights of the Child, ILO 182, and ILO 138. At present, no province complies with the specific provisions in ILO 138 for enforcement, and no province adequately implements Article 32 and related articles in the Convention on the Rights of the Child.

The time between ratification of ILO 138 and its coming into force provides a good opportunity for significant improvement on all levels before June, 2017. The recommendations below are designed to seize this opportunity, ahead of the next full report on children's rights in Canada, due in July, 2018.

Recommendations:

1. That children's right to be free from exploitation, harmful working conditions, and unfair treatment in the workplace receive focused attention by federal and provincial ministries of labour before ILO 138 comes into force in June, 2017.
2. That an implementation plan be developed to ensure full implementation and public accountability for federal and provincial duty-bearers under the Convention on the Rights of the Child, ILO 138, and ILO 182. Governments should draw on international good practice, including General Comment No. 20 on the Rights of Children during

Adolescence, released by the UN Committee on the Rights of the Child on December 6, 2016 (CRC/C/GC/20) Youth Participation and Child Rights Impact Assessments can be used to review gaps in existing policies and proposed improvements.

3. That young people in every province be informed before June 2017 about what rules are in place to support both opportunities and their rights as they engage in any of the various forms of employment, workplace training, etc.
4. That particular attention be paid to avenues for enforcement of policies on safety in the workplace and fair treatment for young workers, with public accountability. The policy framework should include effective mechanisms for young people to address specific incidents of unsafe working conditions or unfair treatment, and have systematic input into the on-going development of policies and enforcement tools that fulfill their rights.
5. That the Canadian Coalition for the Rights of Children monitor the steps taken toward full implementation of children's rights in the workplace and pay more attention to this aspect of children's rights in its upcoming alternative report under the Convention on the Rights of Child in 2018.