

Marine Service  
Industry ...

# H.R. Toolkit



British Columbia Marine Industry  
Workforce Development Committee  
May 2009



# **Marine Industry Workforce Development Committee**

## **Marine Service Industry Human Resources Toolkit**

**May, 2009**

### **HR Toolkit Content Advisory:**

All references to legislation and regulations that apply to employment standards and practices are current at May, 2008.

External links to other Internet sites are provided as a convenience and for informational purposes only. Web Links were active at the time of publication. The Marine Industry Workforce Development Committee does not endorse or accept responsibility for the content of these sites, their privacy policies or any software features that may be found on them.

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## Chapter 1: RECRUITMENT



### Overview

Finding the right employees will always be one of the toughest challenges facing your business. Even without a labour shortage, recruiting is a daunting task: hiring the right people with the right skills at the right time.

So what should you do? Decide *how* you're going to recruit and *who* you're going to recruit, develop a straightforward plan and try to stick to it.

Hiring the right person takes time and careful planning. Recruiting is an important process with serious implications for the future of your business, and you should put in the time to examine your needs, and to recruit and hire in a systematic, thoughtful and legal way.

Recruiting needs to be an area of focus for your business. Even the smallest companies have to make recruiting a year-round activity. This will mean something different depending on the specific business but, setting aside beginner's luck, recruiting done on the fly can lead to trouble:

- You cannot afford to be short staffed;
- Hiring mistakes can be a huge financial burden;
- There's no room for a "bad apple" in a small business workplace; and,
- The right people – qualified and competent – could truly help your business achieve its purpose.

### ***First Things First – Legislation and Regulations***

When you become an employer, you take on certain responsibilities that include the following:

- paying your employees on a regular basis (as outlined by the Canada Revenue Agency)
- making regular payments to the federal and provincial governments on behalf of your employees, and contributing your portion as well (Income Tax, Canada Pension Plan, and Employment Insurance)
- complying with employment standards, such as paid vacation and statutory holidays
- maintaining records about your employees
- keeping employee information private
- providing your employees with a workplace that's safe and free from discrimination
- motivating your employees and giving them constructive feedback
- providing training for your employees
- providing and maintaining any tools or equipment your employees need
- taking legal and financial responsibility for your employees' actions

The [Employment Standards Act Fact Sheet](#) (Quick Reference Guide for Employers) is a handy reference (See Appendix 1, Page 122) and covers topics like:

- hours of work
- minimum wage
- public holidays
- overtime pay
- vacation pay
- pregnancy leave and parental leave
- termination of employment
- severance pay
- payments on termination
- retail business establishments

The Workers Compensation Act can be referenced at [www.worksafebc.com](http://www.worksafebc.com) . It outlines the responsibilities of employers, supervisors, workers and suppliers with regard to occupational health and safety. These include things like:

- providing a safe workplace
- preparing an occupational health and safety policy for the workplace
- informing employees about possible hazards and training them in the handling, storage, use, disposal and transport of any equipment, substances, tools and materials

Many of these requirements are legislated and will be explained in detail in Chapter 6: Safety.

In the workplace, The Human Rights Code serves to ensure British Columbians have equal access to employment opportunities and are treated fairly. The [Code](#) can be found at [http://www.qp.gov.bc.ca/statreg/stat/h/96210\\_01.htm](http://www.qp.gov.bc.ca/statreg/stat/h/96210_01.htm) or by contacting the Ministry of Attorney General by phone at 250-356-9666 or toll free in BC at: 1-800-661-8773 .

[Information Sheets](#) available through the Ministry of Attorney General cover specific situations and clearly outline both the Employers' rights and duties, such as:

- The duty not to discriminate (both towards employees and candidates)
- The duty to accommodate
- The handling of complaints and inquiries

The most recent significant change to the BC Human Rights Code was the elimination of Mandatory Retirement. Effective January 1, 2008, all people 19 years of age and over are protected from

discrimination based on age. This change allows employees to choose when they want to retire and they cannot be forced to retire.

The Canada Revenue Agency provides instruction on such things as:

- EI Premium Rates
- The Canadian Pension Plan (CPP)
- Taxable Benefits
- Payroll Deductions and Remittances
- Please refer to Chapter 2: Pay & Benefits for more detailed information. The CRA website is located at: <http://www.cra-arc.gc.ca/menu-e.html>.

Your objective is to hire qualified applicants that you need. The only way you are going to consistently do this is by having a recruiting plan and sticking to it. This section outlines the basic steps to preparing to hire:

- Needs Assessment: think carefully about your needs so you can be clear about what qualifications and skills you're looking for
- Job Descriptions: what do you want your new employee to do?
- Job Postings and Advertisements: determine how and where you'll advertise
- Interviews: how will you take advantage of this opportunity to assess your candidates?
- Hiring Procedures: how to legally and properly conduct a job offer

### ***Personnel Needs Assessment***

First, make sure this is a long term or necessary need for your business. You may be able to meet your needs without going to the expense of hiring an employee by working with independent contractors, a temporary help agency, or family members.

Then, make sure you take this opportunity to address the real needs of the business – not just what the last person did when they had this job. When you have a job opening, it's the perfect time to reassess the role to make sure you're getting the most out of it. Take this time to consider what you really need someone to do for you.

### ***Job Description***

A job description can be a simple list of duties and responsibilities, plus the requirements and experience necessary for the job. It can also define the authority, reporting relationships and measures of performance for the position. (See Appendix 1, Pages 107 to 111).

## ***Job Postings and Advertisements***

There are many ways to get the message out about your staffing needs. These might include:

**Staff referrals** frequently lead to good hires: your existing staff will only want to refer someone they can “vouch for” and would want to work with. Make sure you post your job openings internally.

**Signs** are an obvious first step. But, a decal placed on your company vehicles (“Join Our Team – Call 250-123-4567!”) is an easy approach to year round recruiting.

**Classified Ads** are the most reasonable newspaper advertisements. They are text only. Contact your community or regional newspaper’s advertising department and they will happily connect you to an advertising sales person who can assist you with drafting your ad. He/she will also keep you informed about upcoming advertising specials – opportunities for you to determine whether or not ads are effective for your business.

Community newspapers are usually considerably less expensive than the big dailies, and often just as effective.

**Job fairs** take place throughout the year and are hosted by universities, colleges, industries and trade associations. This is an excellent way to reach a large number of job seekers, but it carries a significant cost and investment of your time. For the most part, the crowd is “unscreened”. This means you may spend your day at a job fair talking to dozens of job seekers who are not likely candidates.

**Online** recruiting sites, such as [www.monster.ca](http://www.monster.ca) and [www.workopolis.ca](http://www.workopolis.ca) are increasingly popular. These sites are extremely user friendly. Simply create an account and write a job ad. Depending on which “package” you purchase, you can simply post job ads or buy access to a database of thousands of resumes for you to search through. They charge a modest fee.

**Free classifieds websites** such as Craigslist ([www.craigslist.org](http://www.craigslist.org)) have also proven to be surprisingly effective – and it’s free. The trick to making use of this sort of site is remembering that the ads are listed in the order they were posted and cannot be “searched”. That means that if 100 other employers post ads after you do, your ad is now number 101. To keep your ad at the top of the list and visible, you need to repost it regularly.

### **How to Write a Job Advertisement**

When writing an ad, look to your job description and list the top 3 or 4 skills that are most important to the job. Include any specific education or experience-related requirements. Be specific and accurate about your needs. You don’t want to wade through applications from people who don’t have what you need. On the other hand, don’t make your ad a ‘wish list’, listing skills that would be nice, but not really required.

There's no use requesting any specific personality traits (honesty, self-starter) since candidates aren't likely to say they don't have these attributes.

Tell the truth. The last thing you want to do is exaggerate the opportunity. There are all sorts of jobs out there and people are interested in all sorts of things. Your job is to match the two up and you can't do that effectively if you present the job as something other than what it really is. Besides, if you hire someone on false premises they are very likely to be dissatisfied from day one.

If you are writing a display ad, take the space to tell them about your business, its success and why it's a great place to work. Good advertising for potential customers at the same time.

Ask for candidates to respond to the ad in a way that suits you. You can insist on a resume, personal visit, proof of qualifications or a handwritten cover letter. By letter mail, fax or email? Think about whether or not you want applicants showing up at the door, or phoning for more information, etc.

It is courteous to acknowledge the receipt of job applications. Even if you decide not to interview some applicants it is good PR to let them know you did look at their application – and not leave them wondering. On the other hand this can be time consuming, so many ads specify (with a polite 'thank you') that only those chosen for an interview will be contacted.

Finally, don't forget to include your contact information: email address or fax number so they can send in their resume or a phone number so they can call for an appointment, if that is what you wish.

For some sample ads, see Appendix 1, page 112 - 113.

## ***The Hiring Process***

### **Applicants**

After you've advertised your job opening, you should have some applicants expressing interest. If you can, it's a good idea to keep track of where applicants learned about your opening – did your newspaper ad attract candidates or did they hear about it from one of your employees? This information is important for future recruiting.

Decide if you can benefit from an employee who will not "stay forever". Today's employees may change careers 5 times in their employable years. You don't want to waste money training someone who leaves after a couple of months but, depending on the job, recognize the value in someone who is willing to commit even a couple of years.

You will want to have candidates provide you with a copy of their resume and/or have them complete an employment application. A resume or application form should provide you with the information you need about the candidate's experience and education, as well as important documentation demonstrating that your business follows fair hiring practices.

Appendix 1, page 114 is an example of a standard application form. Asking all candidates to complete the same form that provides the same information helps establish a level playing field for everyone.

The information you receive from candidates is confidential and must be handled according to the legislated privacy laws outlined in PIPA. See Chapter 3, Page 54.

To comply with human rights legislation, do not ask any question on the job application or in an interview that is not specifically job related. You should not ask any question that would allude to the candidate's personal life in any way. This includes questions about their family, age, or health status. See Chapter 3, page 55.

## **Interviews**

The interview is an opportunity for you to learn about the candidate and for them to learn about your business. Ideally, it is an honest exchange of information about each of your needs and abilities.

Don't treat job applicants like servants in the presence of royalty. Let's be honest: you need an employee as much as the candidate needs or wants a job. Treat the applicant in the same way you would a valuable employee. As the interviewer, you can conduct an interview that will:

- provide you with more information about the candidate's skills, experience, and education;
- give you greater insight into the candidate's suitability for the role and the organization;
- educate the candidate about your needs and expectations; and,
- market your organization.

## **Interview Questions**

You can only ask questions that relate to the candidate's ability to do the job.

You cannot ask anything about his/her personal situation, such as marital status, number of children, daycare arrangements, age, ethnic background or religion.

Try to develop specific questions, rather than walk the candidate through his/her application or resume. Figure out what you want to know about a person you would hire for this job, and ask questions that will tell you what you want to know.

For example:

*Background Review (some or all of these):*

- Please take about 5 minutes and describe your background and experience (education, training, employment *and qualifications*), particularly the jobs/responsibilities that make you a strong candidate for this position.
- Why are you leaving your current position? (or, Why did you leave your last position?)
- What particularly attracts you to this position with XYZ Marine?
- What makes you good at this type of job?
- What feedback would we hear from a former boss or colleague about your answer?
- What do you think you need to improve? Would a former boss agree that you have identified the most important things you need to develop?
- Why would you stand out from other candidates applying for this position?
- Has your health ever interfered with your ability to report for work – more than the occasional day?

*General Attitude/Behaviour (some or all of these):*

- Give me two examples of things you've done in previous jobs that demonstrate your willingness to work hard.
- What could your past employers count on you for, without fail?
- Tell me about the last time you lost your temper at work.
- What motivates you to put forth your best effort?
- How has your attendance and punctuality been over the last few years?
- Tell me about your safety record. What did you do to that allowed you to achieve that record?
- Tell me about a recent situation in which you had to deal with a very upset customer or co-worker. What happened – what did you do?
- Tell me about a difficult decision you've made in the last year.
- Tell me about a time when you had to go above and beyond the call of duty in order to get a job done.
- Tell me about a time when you had too many things to do and you were required to set priorities for your tasks.
- Give me an example of a time when you had to make a split second decision.
- What is your typical way of dealing with conflict? Give me an example.

### *Questions Specific to the Job*

Depending on the job description, there are questions you can ask that will give you an idea of the applicant's technical expertise, for example:

- What type of engines/drives do you have experience and/or training with?
- Why would you use teak for exterior woodwork instead of mahogany?
- What kinds of repairs would you normally make with epoxy?
- What questions would you ask a customer before recommending furling gear?
- What questions would you ask a customer before recommending an inverter (cabin heater, anchor windlass, etc.)

Ask relevant, real-life questions that someone you need to hire should be able to answer easily. Don't ask 'trick' questions or pose impossible scenarios – after all, the candidate is sizing you up during the interview as well.

### **The Exchange of Information**

You want your candidate to be able to make an informed choice based on the truth – not on some rosy image that doesn't really exist. Teaching candidates a bit about you and your business helps ensure that they have enough information to make an informed choice.

Tell your candidates the "story" of your business. Most people want to have a sense of what they are getting into and what they are going to be a part of. In fact, it is often critical to today's workforce to know that they will be a part of something. Even a very small business has a unique community or work environment to offer, along with the more tangible benefits of employment.

And keep in mind that even if you don't end up hiring this candidate, they are now a spokesperson for the recruiting practices of your business. Just like the rest of us, that candidate may mention their interview experience to friends and family. With any luck, the message will be a positive one, even if they don't end up working for you.

### **Reference Checking**

Some employers check references before offering an interview. This makes sense, in that you won't waste time interviewing someone that has negative references.

On the other hand, a good interview might indicate why a certain employer would give a negative reference about someone who could otherwise be a good employee for you – there might be 'more to the story' that you would miss if you didn't interview the applicant.

Bear in mind that personality conflicts do happen, and that some employers do have weak 'people skills'. When checking references try to get to the facts, and be wary of opinions that might be those of a disgruntled employer who is upset at losing a good worker.

If an applicant is reluctant to use their last (or any) employer as a reference, be sensitive but honest about your need to know why.

If the applicant is still employed he/she may be very concerned that their employer not be informed that they are 'looking', or thinking of resigning. This concern should be respected.

In any case always ask for and check job references in order to avoid negligent hiring and to protect your business. Job offers can be made conditional to the completion of satisfactory reference checks. This is useful if you want to extend the offer of employment, but the candidate has not already provided you with their references or it is taking some time to actually reach all of the references. See a sample reference checking form, Appendix 1, Page 116.

## ***Offering the Job***

Once you decide to extend an offer of employment, you must be clear about:

- the actual duties
- the start date (and end date, if applicable)
- the hours of work
- the rate of pay
- the benefits (if any)
- any probation period

## ***The Offer and Acceptance of Employment***

An offer of employment can and most often is made verbally, but should be followed up with a written offer or contract. While it's not legally necessary to formalize an agreement between an employer and employee, it's often a good idea to have a written contract. That way, both parties know what's expected of the other and can refer back to it, if necessary. See a Sample Offer Letter in Appendix 1, Page 118. This may be more detailed than you need, but you can revise it to include just what you want the individual to understand and agree to when he/she accepts your offer. The Company signs the original copy of the letter, files it and gives a copy to the candidate.

The potential employee signs and returns to the Company a copy of the letter to show acceptance of the job offer and any conditions associated with the offer. He/she keeps the other original employee copy of the letter for his/her records.

## ***Signed, Sealed and on the Payroll!***

It's useful to have a checklist to refer to each time you hire someone, so you don't forget any of the steps to get him/her signed, sealed and on the payroll.

## ***Employment Records***

As stated in the Employment Standards Act, an employer must keep the following records for each employee:

- The employee's name, date of birth, occupation, telephone number and residential address.
- The date the employment began.
- The employee's wage rate, whether paid hourly, by salary or on some other basis.
- The hours worked on each day, regardless of the basis by which the employee is paid.
- The benefits paid to the employee.
- The employee's gross and net wages for each pay period.
- The amount of and reason for each deduction from the employee's wages.
- The dates of the statutory holidays taken by the employee and the amounts paid.
- The dates of the annual vacation taken, the amounts paid, and the days and amounts owing.
- The dates taken and amounts paid from the employee's time bank, and the balance remaining.

Records must be kept in English at the employer's principal place of business in British Columbia. These records must be kept for two years after the employment ends. In addition, the employment record must contain any averaging agreements, special clothing/tools records, and statutory holiday substitution records.

### **Related Websites**

BC Marine Service Industry	<a href="http://www.bcmarineservice.com">www.bcmarineservice.com</a>
Industry Training Authority	<a href="http://www.itabc.ca">www.itabc.ca</a>
BC Govn't - Work BC	<a href="http://www.workbc.ca">www.workbc.ca</a>
Canada Revenue Agency	<a href="http://www.cra-adrc.gc.ca">www.cra-adrc.gc.ca</a>
Canadian Pension Plan	<a href="http://www.hrsdc.gc.ca/en/isp/cpp/cpptoc.shtml">www.hrsdc.gc.ca/en/isp/cpp/cpptoc.shtml</a>
Employment Insurance	<a href="http://www1.servicecanada.gc.ca/en/ei/menu/eihome.shtml">www1.servicecanada.gc.ca/en/ei/menu/eihome.shtml</a>
Employment Standards Fact Sheets	<a href="http://www.labour.gov.bc.ca/esb/facshts/">http://www.labour.gov.bc.ca/esb/facshts/</a>
Employment Standards Act - Quick Reference Guide for Employers	<a href="http://www.labour.gov.bc.ca/esb/facshts/highlights.htm">http://www.labour.gov.bc.ca/esb/facshts/highlights.htm</a>
Human Rights Code	<a href="http://www.ag.gov.bc.ca/human-rights-protection/">http://www.ag.gov.bc.ca/human-rights-protection/</a>
Privacy Act Business Guide	<a href="http://www.privcom.gc.ca/information/guide_e.asp">http://www.privcom.gc.ca/information/guide_e.asp</a>

Workers Compensation Act	<a href="http://worksafebc.com/regulation_and_policy/default.asp">http://worksafebc.com/regulation_and_policy/default.asp</a>
Craigslist	<a href="http://www.craigslist.ca">www.craigslist.ca</a>



## Chapter 2: PAY & BENEFITS

### Overview

If you've been in business for awhile, you have probably spent some time asking yourself what you are prepared to pay to attract the right kind of people to come to work for you, and continue working for you.

Today, with more well paying jobs available in industries like oil and gas, mining and construction, you have to compete more aggressively to keep and reward the good people you have, hire the ones you need -- and still turn a profit.

You should expect to pay lower rates for lower levels of skill and experience, and vice versa. Paying relatively high rates for superior employees might make good business sense, but paying too much, especially for lower levels of skill, is a mistake. Remember, it is easy to raise the rate you offer, but practically impossible to decrease it!

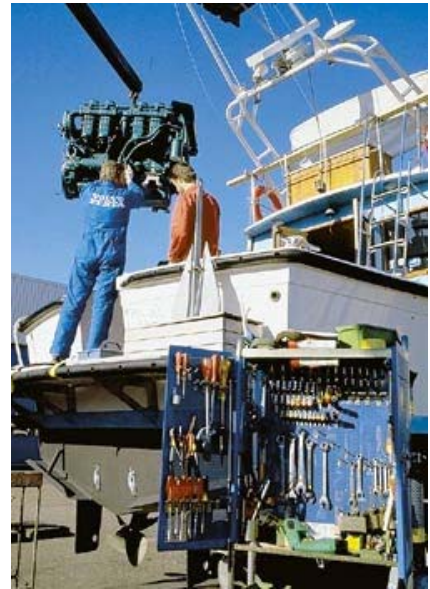
### *First Things First – Legislation and Regulations*

When it comes to wages, the **Employment Standards Act** dictates the minimum you are required to pay an employee in BC, and how employees are paid. However, this Chapter will mainly deal with what you have to pay to compete for talent in the recreational marine sector – and how to go about doing that.

### *Employment Status and the Employment Deal*

Before you consider whether “the deal” you offer your employees is competitive or not, you need to determine whether or not an individual is an *employee* or a *contractor*. What you offer in the way of pay and benefits will likely differ somewhat depending on the employment status of an individual. Chapter 3: Terms & Conditions of Employment includes the information you will need to determine employment status.

Whether or not you pay top dollar in the industry, it is important to look at the complete “Employment Deal” you can offer – not just wages – to figure out what can make yours as competitive as possible and still be affordable.



## ***What to Pay: The Employment Deal***

The Employment Deal: What is it and why is it important?

Although wages are at the core of the Employment Deal, it actually consists of everything your employee receives as a result of working for you, and can include some or all of the following:

- hourly or salaried wages
- other types of pay: performance bonus, profit share, gainshare
- medical/health benefits
- other benefits (e.g. RSP Savings Plan, Employee Assistance Program)
- paid leaves of absence (e.g., sick leave, maternity leave, parental leave, compassionate leave, jury duty)
- unpaid leaves of absence
- job-related training (apprenticeship, OEM training, ABYC Certifications) and other training
- a “career path” with upward mobility
- working conditions and quality of the work experience
- lifestyle benefits (e.g. location, access to boats)
- a friendly, companionable atmosphere

## ***How Does Your Employment Deal Compare?***

This section of the chapter on Pay and Benefits will take you through an exercise to evaluate the Employment Deal you offer compared to your competitors. “Problems” will be identified, along with “Possible Solutions” to assist you in structuring pay and benefits to make them as competitive as possible while keeping an eye on what you can afford.

### **Step 1: Identify your competition**

Marine industry employers in your community.

Other similar, but non-marine employers in your community (RV companies, automotive, construction, etc.)

Other industries anywhere in Western Canada

### **Step 2: List and describe Key Jobs**

List the key jobs – the ones that you have to fill to be able to run your business

Document the responsibilities and key tasks (See Sample Job Descriptions: Appendix 1, Pages 110 to 112) , so you are comparing “apples to apples” when you gather pay and benefits information for the job.

### **Step 3: Get information about your Competition's wages and benefits**

In most parts of the province the marine service industry is relatively small and concentrated near the water. Generally speaking most business people know their competition and in some cases 'friendly rivalry' may permit a direct sharing of employment information. After all, it is almost impossible to keep wage rates and benefits secret in these typical situations – often employees from different companies know each other and share a beer on Fridays after work. Finding out what your competition pays may be as simple as 'asking around'.

Finding out what other industry players are paying may be more difficult. Here are some other sources of this critical information:

- For BC occupational group wage rates refer to BC Stats [Earnings and Employment Trends](#)
- Some wage and salary information is available through Human Resources Development Canada's [Labour Market Information](#)
- Find information about jobs being offered through sources of information available in your community, like:
  - Newspaper ads
  - Chamber of Commerce and business contacts
  - City or municipality public records
  - Internet web-sites: monster.ca, Workopolis.com, Craigslist.com, etc.

### **Step 4: Compare your Employment Deal to your Competition**

To compare yourself to your competition, you need to figure out...

- Where are you and your competition equal in terms of the Employment Deal?
- Where you are better than the competition?
- Where the competition is better than you?
- What you don't know about competition that you need to find out to make the comparison complete?
- What you offer that should make people want to work for you?
- What you might need to change if you want to compete as effectively as possible?

The following chart makes comparisons in the four main areas of an Employment Deal:

- Total Cash
- Employment Benefits
- Quality of Work Experience
- Lifestyle Benefits

Complete the following chart, by checking off...

Yes, my company and/or the competition provides that to employees

No, my company and/or the competition does not provide that to employees

I don't know what the competition is doing

Employment Deal Comparison						
Total Cash		My Company		The Competition		
		Yes	No	Yes	No	Don't Know
	Competitive Hourly Rate vs. marine industry companies					
	Competitive Hourly Rate vs. other employers in local community					
	Performance Bonus					
	Profit Share					
	Gainshare (bonus based on cost savings)					
	Overtime – potential for OT to contribute significantly to take-home pay					
	Vacation Pay or Paid Vacation Days beyond Employment Standards					
	Other:					

Employment Benefits		My Company		The Competition		
		Yes	No	Yes	No	Don't Know
	Provincial MSP					
	Extended Health Benefits					
	Specific Health, Dental, Vision, etc. Benefits					
	Sickness Benefit					
	Other Benefits (e.g., Life and AD&D insurance)					
	Benefits paid while on seasonal layoff from company					
	Retirement Savings Program – Pension					
	Employee Assistance Program					
	Paid Leaves of Absence – not legislated (e.g.,					

	sick leave, weekly indemnity)					
	Unpaid Leaves of Absence (e.g. bereavement leave, family care leave, family leave, jury duty)					
	Job-Related Training/Apprenticeship					
	Career path opportunities					
	Hearing test paid by employer					
	Equipment – tool allowance, safety equipment, etc.					
	Other:					

Quality of Work Experience		My Company		The Competition		
		Yes	No	Yes	No	Don't Know
	Necessary job training provided					
	Necessary safety training provided					
	Good reputation as an employer in the industry/community					
	Physical working conditions, shops, equipment, yard condition, etc.					
	Other:					

Lifestyle Benefits		My Company		The Competition		
		Yes	No	Yes	No	Don't Know
	Affordable housing in the community – rent					
	Affordable housing in the community – buy					
	Affordable cost of living					
	Available family resources – e.g. doctors, dentists, good schools					
	Recreation/Entertainment					
	Commuting ease					
	Type of community (stable, family-oriented, friendly)					
	Available outdoor activities: outdoor sports, fishing, sailing, camping					
	Other:					

### **Step 5: Include information from your current employees in your evaluation**

Ask your best long-term employees questions like: Why do you continue to work for me, year after year? Why would you come to work for me today?

These are the kinds of answers you might get:

- Married, and would like to be home at night, if possible
- Medical benefits are important (or not) to me
- Would like to be able to afford pleasing accommodation – renting or buying
- Is looking for a career with a future
- Wants to continue living in home community
- Is looking for a job to pay the bills
- Enjoys comradeship of a strong ‘team’
- Likes boats and learning to do work on his/her own boat
- Is looking for a job that will support him/her through post-secondary training/education
- Is prepared to take lower base pay, if there is potential for additional pay through profit share, gainshare, performance bonus, etc.
- Likes the lifestyle available in this area – fishing, sailing, skiing, year-round outdoor activities

### **Step 6: Answer Step 4 questions to identify strengths/weaknesses**

- Where you and the competition are equal?
- Where you are better than the competition?
- Where the competition is better than you?
- What you don’t know about competition that you need to find out to make the comparison complete?
- What you offer that should make people want to work for you?
- What you might need to change if you want to compete as effectively as possible?

### **Step 7: Based on strengths/weaknesses identified, decide what changes you are prepared to make to be more competitive:**

- What do you think you need to change if you want to be more competitive?
- What do you want to change/add?
- What can you afford to change/add? Are there things you might do in the future that you cannot afford to do now?

- What did you find out about the type of person you should be trying to hire? (include this information in your recruiting practices)

## ***The Employment Deal - Issues and Possible Solutions***

This section deals with two common issues that frequently cause difficulty when cutting the Employment Deal.

- Base Pay too low to attract the prospective employee, but you can't afford to pay much more.
- Prohibitive Cost of Benefits – Health & Other

### **Issue 1: Base Pay too low to attract and cannot afford to increase it much.**

#### **1. Possible Solution: Gainsharing Program, Productivity Bonus, Profit-Share Program**

##### **Information:**

These pay programs are methods of increasing the total cash you pay to your employees in a way that allows you to avoid locking in pay increases as a fixed cost, i.e. it does not become part of their regular wage or salary.

The payout for the program and total cash paid to an employee will be different each year, depending on operating cost improvements, productivity or profit. These programs are identified as variable pay programs because there is no guaranteed amount that will be paid from the program in any given year.

Gainsharing and Productivity Programs are self-funding because the increase in pay comes from the improved results in your business. Gainsharing is tied to cost savings attributable to employees and Productivity programs are tied to increased output for the same inputs of time and materials.

##### **Things to consider:**

If this type of compensation is to take the place of an hourly wage rate or salary base pay increase, there has to be real potential for the program to pay out or employees become cynical about the program and, in the end, it becomes a “disincentive plan” instead of an “incentive” plan.

You have to be prepared to disclose some of the details of your business to your employees – financial facts or productivity requirements.

## **Risks:**

You have to structure these Programs in a way that protects other critical operating issues:

- Can't get results at the expense of Safety
- Can't get results at the expense of Maintenance
- Can't get results at the expense of effective performance behaviours
- Gainshare and Productivity Improvement Programs require you to pay if specific results are achieved

If your business takes a negative hit for some other reason (e.g. market suddenly weakens) it may not be affordable.

You have to be very good at determining what you can measure that will improve your business results – or you are paying employees for achieving results that don't help the financial viability of your business.

## **How it Works: Sample Profit Share Program**

You decide that your Company (you) are prepared to share a portion of its pre-tax profit with its employees rather than increase base pay, and you take these three steps:

Step 1: You set a "profit hurdle" by determining how much profit the Company needs in a given year to remain viable and sustainable.

- The Company retains the profit-below-hurdle.
- The "profit hurdle" takes into account the profit required for annual operating costs, capital costs (short and long term) and other financial considerations.
- When the "profit hurdle" is met, the Profit Share Program comes into effect.

Step 2: You calculate a Profit Share Pool to pay to employees

- Decide what portion of the "profit-after-hurdle" remains with the Company and what portion it will share with employees.

Step 3: You decide how to calculate employee payments, for example:

- Divide the Profit Share Pool equally, and award each employee the same amount; or

- Pay each employee a %age of his/her salary or earnings, which means that jobs that have more responsibility and higher wages, will receive a larger Profit Share Payment.

## **2. Possible Solution: Signing Bonus**

### **Information:**

A Signing Bonus is a lump sum paid to a candidate to get him/her to agree to accept a job with you.

The amount would generally be determined as a percentage of the cost to you if you were not able to fill that vacant position within the timeframe you require, i.e. consider reduced and lost productivity.

There is a cost savings to you if the employee joins your Company when you need him/her, and you are prepared to share a percentage of that savings with him/her.

### **Things to consider:**

This makes sense when it is difficult to attract/retain employees.

You need to “ball-park” the reduced/lost productivity figure to know what you would save.

You can structure payment to your advantage – pay ½ when the employee is hired and ½ at a later specified date that works for you (end of season; after 6 months; after 12 months)

### **Risk:**

If you pay this for one employee, all employees may expect to receive it.

## **3. Possible Solution: Returning Bonus (in areas where seasonal layoffs are common)**

### **Information:**

A Returning Bonus is paid at the end of subsequent seasons when the employee returns.

The amount would generally be determined as a percentage of the cost to you to recruit and train a new employee, i.e., how much did you save by that employee returning to work, and how much of that savings are you prepared to share with him/her?

**Things to consider:**

This makes sense when it is difficult to attract/retain employees.

You need to “ball-park” the reduced/lost productivity figure to know what you would save.

You can structure payment to your advantage – pay ½ when the employee is hired and ½ at a later specified date that works for you (end of season; after 6 months; after 12 months)

**Risk:**

Once you have paid it, it is difficult to stop.

**4. Possible Solution: All Cash vs. Pay + Benefits**

If an employee does not want benefits, she/he must accept a minimum amount in order that the Company is not at risk of litigation (e.g. MSP, Life Insurance, AD&D, and LTD).

The employee’s spouse may have some of this same coverage so it is not needed.

Employee signs to refuse additional benefits and the employee is paid an amount equal to the premium that the Company would have paid on his/her behalf.

**Issue 2: Prohibitive Cost of Benefits – Health & Other**

**1. Possible Solution: Long Term Disability – Cost Saving**

Have employees pay the premium.

Rationale: If they are ever in a position to need the benefit, it is tax-free.

**2. Possible Solution: Employee pays all or part of health benefits**

If you cannot afford the cost for this, then there can be a benefit to providing employees with an option, e.g.:

- “co-payment option”, where the employee share some portion of the cost with you on paying the premium (e.g. 50%)
- “access option” where employee might be prepared to pay the premiums him/herself because it is difficult to get access otherwise.

### **3. Possible Solution: Pay all or part of moving expenses**

Based on the cost estimate of a move, offer to pay for a percentage of the move or a flat rate (e.g. \$1,000), repayable if the employee resigns before completing 2 years of service.

If an employee is terminated for any reason, then the Company would require repayment for relocation costs.

The employee would be required to sign a document to that effect, agreeing to the repayment penalty.

## ***Managing Salaries***

*When should I increase an employee’s pay?*

This is really two questions:

**Question 1:** *Should I follow some type of schedule to provide wage rate adjustments for my employees?*

**Answer 1:** Yes. In order that you keep track of what is going on with wage rates in your industry, you should develop an annual review date to gather available information, compare your wages to the industry and decide what you need to do to keep your wages competitive.

**Question 2:** *What are the different reasons I might have for providing wage rate or salary increases to employees?*

**Answer 2:** The following list outlines business practices that could be applied to answer that question:

- **merit increases**, granted to recognized performance and contribution;

- **probationary increases** for newer employees who have attained the necessary skills and experience to function effectively;
- **training completion increases** for employees who complete apprenticeships or other major job relevant training programs;
- **promotion increases** for employees assigned to different jobs that should be paid a higher rate;
- **progression** to minimum established rate of pay for that job, for employees who are below the minimum or hiring rate for the job;
- **general increases**, granted to employees to maintain real earnings for the individual as economic factors require and to keep pay competitive in the market.

The first four – merit, probationary, training completion and promotion increases -- would be considered true performance-based increases. If you manage the performance of your employees by setting specific objectives for them to achieve, then wage rate increases are one way you can reward the achievement of those objectives. In these cases money relates to real or potential increases in productivity/performance.

In general, however, an employee should not receive a wage increase if the employer has an issue with his/her performance. Deal with the performance issue first; then, if warranted, provide the increase.

### **Annual Salary/Wage Adjustment Schedule**

#### **Sample Annual Schedule:**

1. Six months after you hire an employee, review the progress he/she has made in learning the job and, if sufficient progress has been made, then provide an increase.
2. Annually review the salaries you have established for the specific positions in your company. Gather what information you can about what your competitors are paying, consider any increase to the cost of living in your geographic area and, based on all of that, decide if you will increase all wage rates/salaries and, if so, by how much (usually a percentage).
3. Adjust the salaries of **ONLY** those employees whose performance meets the expectations and standards you have set for job performance. *Your employees should be very clear about expectations – and know what they need to do to warrant an annual salary adjustment. See more about Performance Management in Chapter 4: Managing Employees.*

## **Documentation of Salary Administration Schedule and Employee Communication**

If you document this review and decision, then you have an easy reference for providing information to employees about how you administer salaries.

Whether or not you make this information available to all employees is a personal decision and you should do what you are comfortable with.

## ***Employee Benefits***

The following outlines two types of benefits. You are required by law to provide only statutory benefits. However, you may want to consider others in the list due to the fact that your competitors may offer them:

- **Statutory benefits:** These include paid vacation, holidays and overtime (See Chapter 3: Terms and Conditions of Employment), and Canada Pension Plan (CPP), Employment Insurance (EI) and Worker's Compensation (WorkSafeBC) premiums.
- **Provincial Health Care (MSP):** While not required by law, many BC employers cover the cost of employees' individual health care premiums or pay a portion of it.

**Private insured benefits:** Many employers choose to bear the additional costs of life or accident insurance, short- or long-term disability pay, extended health care (prescription drugs), dental and optical care, and other health-related services.

**Other common benefits:** You may contribute to retirement pensions and employee assistance programs (EAP - counselling).

## **Annual Vacation, Vacation Pay and the Employment Standards Act**

### **Annual Vacation:**

The major points you need to understand about Vacation are the following:

An employer must ensure an employee takes an annual vacation within 12 months after completing the year of employment entitling the employee to the vacation. In other words, before the end of year two of employment.

An annual vacation entitlement is exclusive of statutory holidays that an employee is entitled to – even if the statutory holidays fall within his/her vacation period.

An employer must allow an employee who is entitled to an annual vacation to take it in periods of one or more weeks (See [Employment Standards Act](#) , RSBC 1996 CHAPTER 113)

Part 7 of the Employment Standards Act provides for minimum levels of vacation time and vacation pay for your employees. Vacation time is the time an employee is entitled to take off from work, while vacation pay provides employees with pay while on vacation from work.

The amount of vacation entitlement is based on the number of continuous years of service.

Vacation time does not include statutory holidays – even if those statutory holidays occur during an employee’s vacation. If statutory holidays do occur during an employee’s vacation, then the employer could either extend the vacation by the number of statutory holidays that have occurred during the vacation, or provide the employee with extra days of vacation to be taken within that year.

In addition, when your employee is on an approved leave of any kind (e.g. maternity, parental, jury duty) or on temporary layoff, he/she is still employed. Since vacation time entitlement is based on continuous employment (not hours worked), vacation time would not be reduced by periods of leave.

You are entitled to schedule the vacation of your employees, however, the annual entitlement must be taken within 12 months after the employee completes the year of employment that entitles the employee to that vacation.

He/she must be allowed to take vacation time in blocks of at least one or more weeks. The minimum vacation time under the Act cannot be carried forward. If you provide more vacation than the minimum required by the act, then you may allow employees to bank that vacation time.

Note: It is a good practice to control the size of vacation banks in order that you do not face a large future liability.

The following table indicates the levels of vacation time and pay as required by the Employment Standards Act:

Length of Service	Annual Vacation Entitlement per the Employment Standards Act	Vacation Pay Entitlement per the Employment Standards Act
After 5 calendar days of employment		At least 4% of the employee's total wages during the year of employment entitling the employee to the vacation pay.
> 12 months	At least 2 weeks, after 12 consecutive months of employment	
≥ 5 years	At least 3 weeks, after 5 consecutive years of employment.	
After 5 consecutive years of employment		At least 6% of the employee's total wages during the year of employment entitling the employee to the vacation pay.

### **Vacation Pay**

Vacation pay is different from vacation time and it begins to accrue after five calendar days of employment.

Vacation pay is a percentage of an employee's gross earnings from the previous year of employment. In the first five years of employment, vacation pay is calculated as four per cent of the gross wages from the previous year of employment. Employees who have completed five consecutive years of employment become entitled to six per cent of their total wages earned during the previous year. Thus, employees in their sixth year of employment are entitled to six per cent of the gross earnings from their fifth year of employment.

The calculation of vacation pay is based on an employee's entire gross earnings or wages from the previous year. This amount includes all wages paid, including vacation pay, bonuses, or commissions paid in the previous year.

You may not include vacation pay as part of a commission structure or treat a bonus as vacation pay.

### **When to pay vacation pay:**

Vacation pay must be paid either at least seven days before the employee's annual vacation or on the employee's regular scheduled payday if this has been agreed to in writing by the employee.

### **How to treat vacation pay for terminated employees:**

Terminated employees are entitled to receive all of their vacation pay owed within the time limit specified in Section 18 of the Employment Standards Act for the payment of wages, i.e, current legislation requires that, if an employer terminates an employee, the employer must pay all outstanding wages, including any outstanding annual vacation pay, within forty-eight (48) hours.

### **Salaried employees and vacation pay:**

If you continue to pay an employee his/her salary during vacation, then the Employment Standards Branch considers the employee to have received vacation pay -- provided that the salary during the vacation pay is at least four per cent of their gross earnings for the first four years, and six per cent of gross earnings for subsequent years.

For further information concerning vacation time and vacation pay, view the [Annual Vacation Fact Sheet](#) or Appendix 2, Page 127.

### **Employment Insurance Short-term Disability and Premium Reduction Program**

Employment Insurance (EI) provides special benefits to persons who are not working because of illness, injury or quarantine. It also allows for maternity, parental (including adoption) and compassionate care benefits. When employers make similar income protection coverage available to their employees, the latter may not have to collect from EI, or may collect for a shorter time. Because this reduces the demands made on the EI system, the government initiated a program to return the savings to both employers and their employees.

The Premium Reduction Program allows employers to pay Employment Insurance premiums at a reduced rate if their employees are covered by a short-term disability plan that meets certain requirements set by Service Canada.

#### **Basic requirements of the Program:**

To be considered for a premium reduction, a plan that provides short-term disability benefits to employees must:

- Provide at least 15 weeks of benefits for short-term disability;
- Match or exceed the level of benefits provided under EI;
- Pay benefits to employees within 14 days of illness or injury;
- Be accessible to employees within three months of hiring;

- Cover employees on a 24-hour-a-day basis.

For information on savings and application see the [Guide for Employers – EI Premium Reduction Program](#) or contact Service Canada, Premium Reduction Program toll free at 1-800-561-7923.

### **Provincial Health Care (MSP), Private Insured and Other Benefits**

While not required by law, many BC employers cover the cost of employees' individual health care premiums or pay a portion of it.

#### **Private Insured Benefits**

Many employers choose to bear the additional costs of life or accident insurance, short- or long-term disability pay, extended health care (prescription drugs), dental and optical care, and other health-related services.

#### **Other Benefits**

Employees may also be looking for you to contribute to a retirement pensions and employee assistance programs.

### ***Statutory Benefits: Leaves of Absence - General***

In Part 6 of the Employment Standards Act all employees are provided with the right to certain unpaid leaves of absence – and protects their right to return to work. These leaves include pregnancy leave, parental leave, family responsibility leave, bereavement leave, compassionate care leave and jury duty.

As a result, you have certain obligations that are mandatory and apply to all of the above-noted leaves and jury duty.

If an employee requests a leave that falls within Part 6 of the Act, as noted above, then you must grant it.

While the employee is on leave you are not permitted to alter his/her terms and conditions of employment and the Employment Standards Act identifies these as the following: job title, job duties, reporting relationships, status as perceived by other staff and the public, compensation package, hours and location of work, and the provision of equipment and tools.

If an employee on a statutory leave is terminated, or if a condition of his/her employment is changed by you, then you must prove the employee's leave of absence was not the reason for the termination or change in employment conditions – that it would have occurred whether or not the leave was taken.

When the leave period or jury duty has ended, you are required to place the employee back in the same job or a job comparable to the one he/she held before taking the leave. If you return the employee to a comparable job, then you must be able to show that this change was not related to the leave.

You are not required to allow the employee to return to work before the date identified as the end date for the leave.

Your employee's service is considered uninterrupted by this type of leave or jury duty. For the purposes of calculating vacation entitlement, length of notice of termination, eligibility for pension, and other medical or other benefit plans the employee's service is continuous.

Where an employer makes payments to a pension, medical or other plan beneficial to the employee, the employer must continue those payments as if the employee were not on leave.

Employees on this type of leave or on jury duty are entitled to all increases in wages and benefits they would have been entitled to had the leave not been taken or jury duty not required. These changes must be applied when they return to work, i.e., the employees' wages must reflect any wage and benefit increases that they would have been entitled to had they worked during the leave.

If an employee chooses to opt out of coverage while on leave, it is a good idea to have the employee sign a waiver to confirm that they understand the implications of discontinuing coverage, which could be some or all of:

- There is no benefit coverage while the employee is on leave
- If, for some reason (e.g. accident or sickness while on leave), the employee is unable to return to work then the benefits cannot be reinstated because the employee is required to physically return to work before coverage is reinstated
- The waiting period may apply again when the employee returns to work – e.g. the same waiting period as a new employee
- A condition that commences during the leave may be considered a pre-existing condition and effect coverage in future.

## **Employment Insurance and Leaves of Absence**

Employment Insurance (EI) provides special benefits to persons who are not working because of illness, injury or quarantine. It also allows for maternity, parental (including adoption) and compassionate care benefits.

### **Maternity or Pregnancy Leave**

If your employee requests leave while she is pregnant, she is entitled to up to 17 consecutive weeks of unpaid leave. The leave must begin no earlier than 11 weeks before the expected birth date, and no later than the actual birth date. The leave must end no earlier than six weeks after the actual birth date, unless the employee requests a shorter period, and no later than 17 weeks after the actual birth date.

An employee who requests a leave after the birth of a child or the termination of a pregnancy is only entitled to six consecutive weeks of unpaid leave beginning on the date of the birth or the termination of the pregnancy.

If an employee requests this leave, then you must grant it on the dates requested. [Employment Standards Act - Pregnancy](#) provides the details regarding the procedure for requesting pregnancy leave.

### **Parental Leave**

If a birth mother takes pregnancy leave, she can also take an additional 35 consecutive unpaid weeks of leave, beginning immediately after the end of the pregnancy leave. You and the employee may, however, come to a different agreement.

If a birth mother does not take pregnancy leave, then she may take 37 consecutive unpaid weeks of leave, beginning within 52 weeks of the birth of the child. Birth fathers are entitled to up to 37 consecutive weeks of unpaid leave, beginning within 52 weeks of the birth of the child.

Adoptive parents, regardless of their marital status or whether they are same-sex partners, are entitled to up to 37 consecutive weeks of unpaid leave. This leave must begin within 52 weeks after the child is placed with the parent.

In the event the child has a physical, psychological or emotional condition requiring an additional period of parental care, the employee is entitled to up to an additional five consecutive weeks of unpaid leave beginning immediately after the end of the parental leave.

[Employment Standards Act - Parental Leave](#) provides specific details concerning the procedure for requesting parental leave.

### **Maternity and Parental Leave and Employment Insurance Benefits:**

The Employment Insurance (EI) program pays 15 weeks of Maternity Leave Benefits, plus 35 weeks of Parental Leave Benefits.

These benefits are provided to both biological and adoptive parents, and the Parental Leave can be shared by the mother and father.

An employee who requests a leave after the birth of a child or the termination of a pregnancy is only entitled to six consecutive weeks of unpaid leave beginning on the date of the birth or the termination of the pregnancy.

### **Family Responsibility Leave**

Section 52 of the Employment Standards Act entitles employees to five days of unpaid leave during each employment year to meet responsibilities related to the care, health or education of a child in the employee's care or the care or health of any other member of the employee's immediate family.

Section 1 of the ESA defines immediate family as the spouse, child, parent, guardian, sibling, grandchild or grandparent of an employee, and any person who lives with an employee as a member of the employee's family.

An employer cannot refuse to grant family responsibility leave, however it is reasonable to expect your employee to provide reasonable notice of the need for the leave – and enough information for you to confirm that he/she is entitled to the leave.

If unused, the annual 5-day entitlement does not carry over from year to year. In addition, you may count a portion of a day taken off work as one full day of family responsibility leave.

### **Bereavement Leave**

Section 53 of the ESA provides that employees are entitled to up to three days of unpaid leave on the death of a member of the employee's immediate family.

Section 1 defines immediate family as the spouse, child, parent, guardian, sibling, grandchild or grandparent of an employee, and any person who lives with an employee as a member of the employee's family. This definition does not include a parent-in-law unless that person lives with the employee as part of the employee's family.

There is no requirement for an employee to give notice to the employer if he or she intends to take bereavement leave and the employee is not required to take all three days, and the leave does not have to be taken on consecutive days.

The entitlement to bereavement leave is not an annual entitlement. If an employee suffers more than one death in the family in one year, he or she would be entitled to bereavement leave for each of those deaths.

### **Jury Duty**

Section 55 of the Employment Standards Act provides protection for an employee who is called for jury duty, similar to the protection provided to employee who takes a leave under Part 6 (See Leaves of Absence – General and [Employment Standards Act - Leaves and Jury Duty](#), Appendix 2, Page 124)

### **Compassionate Care Leave**

Your employees in British Columbia are entitled to eight weeks of unpaid leave to care for terminally ill family members.

The new legislation indicates the following:

- Employers must reinstate an employee returning from a compassionate care leave;
- Employers may demand a doctor's certificate verifying the family member's illness; and
- Employees can apply for multiple leaves to care for different family members and for a second leave for the same family member if he or she survives for more than 26 weeks.

Originally, “immediate family” member was defined in the Employment Standards Act as the spouse (including common-law and same-gender spouse), child, parent, guardian, sibling, grandchild or grandparent of an employee, and any person who lives with an employee as a member of the employee’s family. Recent amendments have broadened the definition of relationships, and employees may now take leave to care for in-laws, step-siblings, aunts, uncles, nieces and nephews, current or former foster parents, ward or guardian, as well as immediate family members.

The amendments also allow for claims based on non-familial relationships, including “any individual with a serious medical condition who considers the employee to be, or whom the employee considers to be, like a close relative”.

You are not required to pay wages during compassionate care leaves, but most employees will be entitled to receive compassionate care leave benefits from Employment Insurance.

To view the specific provisions of the Act in detail, visit the [Government’s Interpretation Guidelines Manual - Section 52.1](#)

## Compassionate Care Leave and Employment Insurance:

Employment Insurance compassionate care benefits may be paid up to a maximum of 6 weeks to a person who has to be absent from work to provide care or support to a gravely ill family member at risk of dying within 26 weeks. Unemployed persons on Employment Insurance can also ask for this type of benefits.

### Related Websites

BC Earnings and Employment Trends	<a href="mailto:BC/Stats@gov.bc.ca">BC/Stats@gov.bc.ca</a>
Employer Premium Rate Reduction	<a href="http://www1.servicecanada.gc.ca/en/cs/prp/documents/in12199.pdf">http://www1.servicecanada.gc.ca/en/cs/prp/documents/in12199.pdf</a> <a href="http://www1.servicecanada.gc.ca/en/cs/prp/0200_000.shtml">http://www1.servicecanada.gc.ca/en/cs/prp/0200_000.shtml</a>
Employment Insurance and maternity, parental and sickness benefits	<a href="http://www.rhdsc.gc.ca/en/ei/types/special.shtml#top">http://www.rhdsc.gc.ca/en/ei/types/special.shtml#top</a>
Employment Standards Act	<a href="http://www.qp.gov.bc.ca/statreg/stat/E/96113_01.htm">http://www.qp.gov.bc.ca/statreg/stat/E/96113_01.htm</a>
Labour Relations Board of BC	<a href="http://www.lrb.bc.ca/cas/">http://www.lrb.bc.ca/cas/</a>
Service Canada	<a href="http://www.servicecanada.gc.ca/en/home.shtml">http://www.servicecanada.gc.ca/en/home.shtml</a>

## Chapter 3: TERMS & CONDITIONS OF EMPLOYMENT



### Overview

Once you have successfully brought a new employee on board, it is very important for that person to understand the “running rules” you have established in your Company, so that he/she knows how things are done.

If you can figure out what you would like to know if you were starting a new job, then you can probably figure out what a new employee would like to know when it comes to “Terms and Conditions of Employment”. For example, they probably want to know at least...

- Some Company background -- your history, reputation, goals
- Safety in the workplace -- your record and reputation
- Hours of work
- Pay periods – when and how they will be paid
- Benefits – what do you offer and how to sign up
- Vacation or Vacation Pay – entitlement and/or schedule
- Statutory Holidays – and alternate arrangements
- Work gear that you provide
- Tools/equipment that they must provide

These questions can be answered in a brief “booklet” that you can make up and provide to all employees. Or, this HR Toolkit document could serve as the basis of your company employment standards.

However, it is not enough to tell them what they would ask about – you need to make sure you also send the message that you run your business in a way that ensures your compliance with employment-related laws. It is always wise to complete the hiring process with an offer of employment letter (Appendix 1, Page 118). As part of this letter you indicate which policies you have in writing that you want each employee to read and agree to. The policies that would be important to confirm are the ones this Chapter deals with and any other company policy you think your employees should be familiar with.

## Company Policies

Establishing written company policies is a way of following the familiar Quality Assurance mandate: *“Say what you do ... then do what you say.”*

Your ‘policy manual’ sets out in writing what your own personal rules and standards for behaviour and performance are so that anyone: employees, customers, suppliers, and anyone else can understand the principles, procedures and rules that you operate by on a daily basis.

Of course your policies cannot conflict with employment standards or any other form of legislation; they confirm your intent to abide by the law, and set the standards above and beyond the legal requirements of the land.

Company policy may reflect your intentions regarding such things as:

- employment standards (the subject of this HR Toolkit)
- purchasing standards (fair dealing, acceptance of ‘gifts’ from suppliers, etc.)
- customer relations standards (dealing with unhappy customers, refunds, warranties, etc.)
- rules around drug/alcohol use, smoking on the job, etc.
- special safety procedures/rules that go beyond legislative requirements
- your own company environmental standards
- conflict of interest (use of company property, customers/suppliers property, etc.)
- accounting/bookkeeping procedures (receipts for expense claims, credit cards, cheque signing, information security)
- ... and anything else you feel is important enough to put in writing.

Some straightforward documentation of policy and procedure regarding employment standards and other company policies can be beneficial for a number of reasons:

- You gain a better understanding of your responsibility as an employer;
- You can communicate policy, accountability and consequences to employees;
- You can avoid costly and time-consuming complaints and investigations; and
- The document demonstrates to employees that they can expect fair and consistent treatment from you.

## ***First Things First -- Legislation and Regulations***

You must follow the [Employment Standards Act](#) with regard to wages, overtime, breaks, leaves, vacation and termination. An [Interpretation Guidelines Manual](#) has been developed for employers. This is a great resource and very easy to use.

The best way to ensure that you are up-to-date on interpretation of any section of the Act or Regulations is to visit the website where notes of amendments to the guidelines are posted on an ongoing basis. If you are working from the printed document, then you can confirm updates by contacting the Employment Standards Branch office nearest to you.

*Small-business owners frequently hire and fire employees without considering the potential pitfalls. They often make decisions quickly, choosing the path of least resistance. Later, such decisions can have catastrophic results, and ensuing legal costs can be crippling.*

It is unlikely you would hire someone who you didn't think would fit in and be a good worker. However, mistakes are made and things can go wrong. A good prospect may turn out to be a disgruntled employee that you have to let go. Some people will look for ways in which you are at fault and bring legal action just to make life difficult for you.

Understand the basic standards and check if you are unsure how to proceed. Make sure *everything you say and do is documented* and that you are following the Act at every step.

### ***Topics in This Chapter***

While a comprehensive list of legislation and guides to interpretation can be found at the end of this chapter, an explanation and relevant sample documentation is provided for the following:

- Employment Status of a Worker
- Hours of Work: Overtime
- The Human Rights Code & Employment
- Personal Information Protection
- Employment Harassment

For a list of fact sheets and web addresses most relevant to this Chapter of the HR Toolkit and provided by the Employment Standards Branch see Appendix 3. These fact sheets are prepared for general information purposes and are not legal documents. Refer to the Employment Standards Act and Regulation for purposes of interpretation and application of the law.

## ***Employment Status of a Worker – Employee or ‘Contractor’***

In most cases the status is quite clear between people you hire as employees, versus contractors who you pay to perform specific services. However, many employers become caught in an expensive trap when they cross the line and pay an individual to provide similar services, in a similar way, as you might expect of an employee.

Both the federal Canada Revenue Agency and the provincial Employment Standards Branch provide guidelines regarding the definition of employee – but for different reasons:

### **Canada Revenue Agency – Defining Employment Status**

The Canada Revenue Agency (CRA) defines “employee” vs. “self-employed” because employment status directly affects a person’s entitlement to Employment Insurance (EI) benefits. It can also have an impact on how a worker is treated under other legislations such as the Canada Pension Plan, the Employment Insurance Act and the Income Tax Act.

When CRA examines whether or not a person is an employee or self-employed, the key question is *whether or not the person is engaged to perform services as a person in business on his or her own account, or as an employee*. To do this, CRA examines the total relationship between the worker and the payer.

Two primary questions are asked and a number of factors considered. To quote from the CRA guide:

*“We (CRA) ask the worker and the payer what their intent was when they entered into the working arrangement. Did the two parties intend to enter into a contract **of service** (employer-employee relationship) or did they intend to enter into a contract **for services** (business relationship)?*

*We (CRA) ask the worker and the payer questions that will help us understand the working relationship and allow us to verify whether the **intent** of the parties is reflected in the **facts**.”*

These questions relate to:

- the level of control the payer has over the worker;
- whether or not the worker provides the tools and equipment;
- whether the worker can subcontract the work or hire assistants;
- the degree of financial risk taken by the worker;
- the degree of responsibility for investment and management held by the worker;
- the worker's opportunity for profit; and

- any other relevant factors, such as written contracts.

The CRA guide, “[Employee or Self-employed?](#)”, provides details on how the answers to these questions would be evaluated to indicate that the worker is an employee ... or self-employed.

If a worker or payer is not sure of the worker’s employment status, either party can request a ruling to have the status determined. Use Form [CPT1](#), [www.cra-arc.gc.ca/E/pbg/tf/cpt1/cpt1-06b.pdf](http://www.cra-arc.gc.ca/E/pbg/tf/cpt1/cpt1-06b.pdf) Request for a Ruling as to the Status of a Worker under the Canada Pension Plan and/or the Employment Insurance Act. You can download and print this form by selecting its link above, or you can get a printed copy by calling 1-800-959-2221.

### **Employment Standards Act – Defining Employment Status**

The Employment Standards Branch defines “employee” in order that employment terms and conditions as set out in the Employment Standards Act may apply to those individuals who fall within that definition.

The [Employee or Independent Contractor Factsheet](#) from the Employment Standards Branch provides the following guidelines for the definition of employee.

Employee includes:

- A person, including a deceased person, receiving or entitled to wages for work performed for another,
- A person an employer allows, directly or indirectly, to perform work normally performed by an employee,
- A person being trained by an employer for the employer’s business,
- A person on leave from an employer, and
- A person who has a right of recall.

### **Employee vs. Independent Contractor**

The Act does not apply to persons who are independent contractors. A person who is an independent contractor is considered to be self-employed.

*Just because someone is called an independent contractor does not mean that he or she is one. In fact, persons working in an employment relationship are employees for the purposes of the Act, regardless of whether they are employed on a part-time, full-time, temporary, or permanent basis.*

Determining who is an employee within the meaning of the Act is based on various tests that have been developed by the courts, the Employment Standards Branch and the Employment Standards Tribunal.

These tests include:

**Control:** Is the person under the direction and control of another regarding the time, place, and way in which the work is done? Is the person hired, given instruction, supervised, controlled or subject to discipline? Did the person answer a help wanted ad, was told what to do, how to do it, and when to do it? Did the person have to do the work him or herself, or could that person give the work to another to do? Does the person perform work normally or previously performed by an employee? The greater the degree of control, the greater the likelihood of the person being found to be an employee.

**Ownership of tools:** Does the person use tools, space, supplies and equipment owned by someone else? If so, this would indicate an employment relationship. However, it is recognized that some employers require employees to provide their own tools or vehicles.

**Chance of profit:** Does the person have a chance of profit? If their income is always the difference between the cost of providing the service, and the price charged for the service, the worker may be someone other than an employee.

**Risk of loss:** Is the person at risk of losing money if the cost of doing a job is more than the price charged for it? If not, this would indicate an employment relationship.

**Payment:** Does the person receive payments of regular amounts at set intervals? Does the person receive payments regardless of customer satisfaction or customer payment? If so, this would indicate an employment relationship. In general, the degree to which the party who pays for the service provided controls the supply of material and tools, and retains direction and control of the activities, increases the likelihood that the Director will find the relationship to be one of employer/employee.

*A common misunderstanding is that one or a combination of the following factors establishes an independent contractor relationship:*

**Agreement:** A person who signs an independent contractor agreement is not necessarily an independent contractor. *It is not what you say you are, but the reality of the work relationship that determines if you are an employee or not.* In addition, any agreement to waive employment standards entitlements is prohibited by the Act.

**Charges GST:** GST filing numbers are provided upon request, and the requester may or may not be in a lawful position to charge GST.

**No Deduction for Income Tax, EI or CPP:** It may be that the employer is simply breaking two laws by not complying with the Income Tax Act and the Employment Standards Act.

**Person sets own hours and is not actively supervised:** The business may simply be informally run with an emphasis on getting results rather than operating under strict rules of attendance and control.

**Works for several businesses:** A person may be “moonlighting.”

**Submits a bill for labour provided:** It may be nothing more than a record of hours worked; in effect, a time card.

**Drives his or her own vehicle/provides own tools:** It may be a condition of employment that a person provides a vehicle so as to perform the work. In some sectors employees are expected to provide a set of tools for their use at work.

**Payment by commission** or other forms of pay incentive do not necessarily indicate a chance of profit or risk of loss; these are simply ways of tying pay to productivity.

## **Volunteers**

Volunteers are persons who choose to provide services for non-profit organizations or charities for which they do not expect compensation. In a profit-based organization, any person allowed, directly or indirectly, to perform work normally done by employees is considered to be an employee, not a volunteer.

## ***Hours of Work: Overtime***

The recreational marine industry doesn't necessarily conform to the standard 40-hour work week and occasionally employers need flexibility from their employees to meet the demands of their business. The Employment Standards Act does provide for some flexibility but, as an employer, you need to be familiar with the limitations that apply to your business.

**Overtime – General Requirements:** Employees are entitled to be paid at overtime rates for time worked beyond 8 hours each day and 40 hours each week. As an employer, you are required to pay both daily and weekly overtime, and the two are calculated separately. Being entitled to one does not mean that an employee is necessarily entitled to the other.

**Daily overtime:** If an employee works longer than eight hours in a day, then that employee is entitled to 1.5 times the regular wage for the time worked in excess of eight hours, and double the regular wage for the time worked beyond 12 hours.

**Weekly overtime:** If an employee works more than 40 hours in a week, the employee is entitled to be paid 1.5 times the regular wage for the time worked in excess of 40 hours. However, in calculating whether an employee is entitled to weekly overtime, only the first eight hours worked by an employee in each day is counted. This means that weekly overtime will only be required where an employee works more than five days in a week.

**Definition of “work” and “on call”:** In Part 1 Definitions of the Employment Standards Act “work” is defined as *“the labour or services an employee performs for an employer whether in the employee’s residence or elsewhere. An employee is deemed to be at work while on-call at a location designated by the employer unless the designated location is the employee’s residence.”*

**Travel time:** Based on this definition, work may include travel time where the travel is part of an employee’s job, but not where it is considered a commute.

**Time spent training:** Training done at the employer’s direction or request is also considered time worked. It is important to make this clear (in writing) before the employee engages in training programs or events. Is the employee taking the program to enhance his/her own career horizons on her/his own time? Or is the employee being *directed* by the employer to attend training for the purpose of enhancing the company’s productivity or scope of services?

If the training takes place during normal working hours and no leave is requested or required, then it is probably the latter. If the training takes place in evenings/weekends outside the normal work week, or the employee requests/requires leave to take the program, then it is probably the former. Check with your Branch office if unsure.

**Banking overtime:** At the written request of an employee, the employer may establish a time bank for overtime worked. If a time bank is established, then you would credit the employee’s overtime wages to the time bank instead of paying them to the employee within the regular time frame for paying wages under the act (Part 4 — Hours of Work and Overtime, Section 42). Once a time bank is established, the employee may, at any time, request the employer to do any one of the following:

- Pay the employee all or part of the wages credited to the time bank.
- Allow the employee to take time off with pay in lieu of being paid the wages in the time bank, at a time agreed to by the employer and the employee.
- Close the time bank.

As an employer, you may close an employee’s time bank on one month’s notice. In this case, you would have six months to either pay the employee all the wages credited to the time bank, allow

the employee to use the wages credited in the time bank to take time off with pay, or a combination of the two.

Upon termination of employment or if you receive an employee's written request to close a time bank, you must pay the employee any amount credited to the time bank. If at the time of termination, there is a negative balance in an employee's time bank, you are not permitted to deduct the amount owing from the employee's final paycheque.

### **Variations and Averaging Agreements**

Alternative arrangements can be made to the overtime/work scheduling restrictions specified in the ESA if both employer and employees agree in writing. Averaging agreements can be set up to allow extended hours/workweeks at regular pay for brief periods (no more than 4 weeks) with free time granted to compensate. Employers and employees who agree can apply for a variance from the normal employment standards through an application to their local Employment Standards Branch office.

### **Meal Breaks**

An employer must ensure that no employee works more than 5 consecutive hours without a meal break, and that each meal break lasts at least a 1/2 hour.

An employer who requires an employee to work or be available for work during a meal break must count the meal break as time worked by the employee.

### **Split Shifts**

An employer must ensure that an employee working a split shift completes the shift within 12 hours of starting work.

### **Minimum Daily Hours**

Subject to subsections (2) and (3), if as required by an employer an employee reports for work on any day, the employer must pay the employee for a minimum of 2 hours at the regular wage whether or not the employee starts work, unless the employee is unfit to work or fails to comply with Part 3 of the Workers Compensation Act.

Whether or not the employee starts work, the employer must pay the employee for a minimum of 4 hours at the employee's regular wage if the employer had previously scheduled the employee to work for more than 8 hours that day, unless:

- the employee is unfit to work or fails to comply with Part 3 of the Workers Compensation Act, or
- the work is suspended for reasons completely beyond the employer's control, including unsuitable weather conditions. In this circumstance, the employer must pay the employee for a minimum of 2 hours at the employee's regular wage.

If the employee works longer than 2 hours in the first case, or longer than 4 hours in the second case, the employer pays the employee the time actually worked.

For more information, [contact the Employment Standards Branch](#). Contact information is available through this link to the ESA website and as listed at the end of this Chapter.

## ***Protection of Personal Information***

The [Personal Information Protection Act](#) (PIPA) describes how all organizations must handle personal information of customers, employees and others.

As an employer, you are legally responsible for all personal information in your custody or under your control – even the information a contractor is using under its contract with your organization is your responsibility. Personal information is, generally, under the control of an organization when the organization can decide how to use or disclose the information, how to store it and how long to keep it.

PIPA also gives individuals the right to access the personal information an organization has about them and to ask for the information to be corrected if they think their personal information is incorrect or incomplete.

**Personal information** means information that can *identify an individual* (for example, name, home address, home phone number, ID numbers), and information about an identifiable individual (for example, physical description, educational qualifications, blood type). Personal information includes things like information documented on a resume or in a personnel file, performance issues, documented discipline, reference or background checks and criminal record checks.

For an explanation of how the legislation works, see [A Guide for Businesses and Organizations to British Columbia's Personal Information Protection Act](#).

See Appendix 3 for a suggested outline for a Policy and associated Procedures, including the form Authorization To Release Personal Information.

Remember: Don't write a policy unless you intend to comply with it and enforce its compliance by your employees.

## ***The Human Rights Code and Employment***

The BC legislation that addresses human rights in the workplace is the [BC Human Rights Code \(HRC\)](#).

This Code applies to full-time and part-time employees, probationary employees, contractors, seasonal workers, temporary workers, and volunteers. So, it makes sense to know your responsibilities and rights as well as those of your employees.

To quote from the Code, its purposes are as follows:

- *“to foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;*
- *to promote a climate of understanding and mutual respect where all are equal in dignity and rights;*
- *to prevent discrimination prohibited by this Code;*
- *to identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this Code;*
- *to provide a means of redress for those persons who are discriminated against contrary to this Code;”*

The HRC is only concerned about the following prohibited grounds of discrimination based on:

- race
- colour
- ancestry
- place of origin
- political belief
- religion
- marital status
- family status
- physical or mental disability
- sex
- sexual orientation
- age
- criminal or summary conviction offence *unrelated* to the employment or intended employment of that person.

This means that, as an employer, you cannot refuse to employ or continue to employ a person, or discriminate against a person in the workplace due to any of the grounds listed above.

The Code specifically prohibits discrimination in employment advertisements and wage rates; it refers to but is not limited to the following:

- recruitment and selection
- compensation and benefits
- dismissals
- hours of work
- overtime
- training
- performance management
- layoffs
- leaves of absence
- vacation
- transfers
- promotions

The Code also establishes the **BC Human Rights Tribunal**, as an independent body, responsible for accepting, screening, mediating and adjudicating human rights complaints.

## Employment Harassment

The Human Rights Code protects individuals from Employment Harassment, which may be personal or sexual in nature, or both.

The following points should help to clarify the meaning of employment harassment:

- Harassment is any unwelcome or unwanted physical, visual or verbal conduct by any person, related to any of the prohibited grounds of discrimination set out in The Human Rights Code, i.e., race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age, criminal or summary conviction offence unrelated to the employment or intended employment of that person.
- Behaviour toward another that humiliates insults, degrades or intimidates is harassment *if a reasonable person would have known that the behaviour was not desired by the victim of harassment*. See [BC Human Rights Coalition – FAQ Harassment](#).
- Harassment can occur as a single, serious incident or as a series of incidents and the conduct or comments usually serve to isolate certain individuals and may include threats regarding opportunities or working conditions.
- Harassment typically is directed toward a specific person or persons.
- Employees have a right to know that you provide a workplace free from sexual or personal harassment, in accordance with the Human Rights Code and that...

1. By harassment-free you mean there will be no tolerance for unwelcome or unwanted physical, visual or verbal conduct by any person toward another, relative to the grounds of discrimination listed above.
2. There will be no personal harassment in the form of...
  - objectionable conduct or comments, deliberate gestures, questions or representations which are uninvited or unwelcome;
  - other behaviours that ought reasonably to be known to be unwelcome;
  - which negatively affects the work environment; and
  - which creates an intimidating, humiliating hostile or poisoned work environment;
3. There will be no sexual harassment in the form of...
  - unwelcome conduct of a sexual nature, including offensive or humiliating behaviour related to a person's sex;
  - which could reasonably be interpreted as placing sexual conditions on a person's job or employment opportunities;
  - which negatively affects the work environment; and
  - which creates an intimidating, humiliating, hostile or poisoned work environment;
4. That there is a complaint procedure if an employee believes he/she is the recipient of harassment;
5. And finally, that you also hold your employees accountable to comply with the Company policy and the requirements of the Code.

For more information concerning harassment in the workplace, visit the BC Human Rights Coalition's [FAQ-Harassment. www.bchrcoalition.org/files/faq\\_Harassment.html](http://www.bchrcoalition.org/files/faq_Harassment.html)

This is an example of a good reason to establish a written company policy. See Appendix 3, Page 138 for a suggested outline for a Policy and associated Procedures, including an Acknowledgement form that documents receipt and agreement to comply with the policy.

Remember: Don't write a policy unless you intend to comply with it and enforce its compliance.

### **Eliminating Mandatory Retirement**

As of Jan. 1, 2008, employees can choose when they want to retire. Changes to BC's human rights legislation protects all people 19 years and over from discrimination on the basis of age, and gives

mature workers the choice to remain in the workforce, if that is their wish. People who choose to retire at or before age 65 will be able to continue to do so.

This means that, as an employer, you cannot force an employee to retire because of his/her age. There may still be some jobs with age limits because of the duties or needs of work or because of safety issues or dangers. These true demands of a job are called *bona fide occupational requirements*. In other words, your requirement for retirement must be directly related to physical demands of the job that would put even healthy, fit older individuals at risk to themselves or others, not just their numerical age. You must be able to show that the reason for an age limit is acceptable under the Human Rights Code.

All Canadian jurisdictions have bona fide occupational requirement exceptions in their human rights legislation. These exceptions may permit mandatory retirement if the employer can show that the above test for a bona fide occupational requirement has been met.

*Where can I find more information on the elimination of mandatory retirement?*

For more information on the end of mandatory retirement please see the brochure "[Want to Work Past 65? Now You Can Choose!](#) [1MB] [PDF] as well as the [information sheets](#) on the Human Rights Protection [web pages](#).

### Internet Web Site Links

The following table lists numerous links to web sites regarding the content of this chapter and other employment issues:

Reference Material	Web Address
Employment Standards Act	<a href="http://www.qp.gov.bc.ca/statreg/stat/E/96113_01.htm">www.qp.gov.bc.ca/statreg/stat/E/96113_01.htm</a>
Employment Standards Branch	<a href="http://www.labour.gov.bc.ca/esb/">www.labour.gov.bc.ca/esb/</a>
ESA - Interpretation Guidelines Manual	<a href="http://www.labour.gov.bc.ca/esb/igm/">http://www.labour.gov.bc.ca/esb/igm/</a>
Work BC Toolkit	<a href="http://www.workbc.ca/">http://www.workbc.ca/</a>
Human Rights Code	<a href="http://www.qp.gov.bc.ca/statreg/stat/H/96210_01.htm">http://www.qp.gov.bc.ca/statreg/stat/H/96210_01.htm</a>
BC Human Rights Coalition – FAQ re Harassment	<a href="http://www.bchrcoalition.org/files/faq_Harassment.html">www.bchrcoalition.org/files/faq_Harassment.html</a>

Workers Compensation: Small Business Primer: A Guide to the WCB	<a href="http://www2.worksafebc.com/PDFs/Small%20Business/primer.pdf">www2.worksafebc.com/PDFs/Small%20Business/primer.pdf</a>
Protection of Privacy Act	<a href="http://www.oipc.bc.org/pdfs/private/a- GUIDE TO PIPA(3rd ed).pdf">www.oipc.bc.org/pdfs/private/a- GUIDE TO PIPA(3rd ed).pdf</a>
Labour Relations Code	<a href="http://www.qp.gov.bc.ca/statreg/stat/L/96244_01.htm">www.qp.gov.bc.ca/statreg/stat/L/96244_01.htm</a>
Canada Revenue Agency	<a href="http://www.cra-arc.gc.ca/tax/business/topics/payroll/menu-e.html">www.cra-arc.gc.ca/tax/business/topics/payroll/menu-e.html</a>
Canadian Federation of Independent Businesses	<a href="http://www.cfib.ca">www.cfib.ca</a>
Work Visas	<a href="http://www.cic.gc.ca/english/work/">www.cic.gc.ca/english/work/</a>
Citizenship and Immigration Canada	<a href="http://www.cic.gc.ca/english/work/">www.cic.gc.ca/english/work/</a>
Ministry of Labour and Citizens' Services Employment Standards Branch	<a href="http://www.labour.gov.bc.ca/esb/facshts/">http://www.labour.gov.bc.ca/esb/facshts/</a>
Employed or Self-employed CRA Information	<a href="http://www.cra-arc.gc.ca/E/pub/tg/rc4110/README.html">www.cra-arc.gc.ca/E/pub/tg/rc4110/README.html</a>
Employee or Independent Contractor Factsheet	<a href="http://www.labour.gov.bc.ca/esb/facshts/employee.htm">http://www.labour.gov.bc.ca/esb/facshts/employee.htm</a>
Frequently Asked Questions About Eliminating Mandatory Retirement:	<a href="http://www.ag.gov.bc.ca/mandatory-retirement/index.htm">www.ag.gov.bc.ca/mandatory-retirement/index.htm</a>



## Chapter 4: MANAGING EMPLOYEES



### Overview

With the right employees (skilled, competent, motivated and dependable) being an employer, manager or supervisor in the marine industry doesn't mean managing *people* so much as managing their *performance* – helping them steer the course. No matter how small your business, if you've got employees, performance management is one of your responsibilities.

Making performance management an ongoing – even daily – task is the key to successful supervision. Your people will perform most effectively if you...

- set goals for them;
- make sure your expectations are clear;
- provide frequent feedback; and
- recognize and reward the performance you want to see more of.

For the most part, that is what employees want – clear goals or objectives and some meaningful feedback. Most people show up at work intending to do a good job, and deserve to know that you appreciate their work – or not.

And, of course, employee performance affects your company's performance. If you express clear expectations to your employees, your company will benefit from increased employee focus and motivation. Effective performance management should have a positive impact on both your employees and your company.

### ***What is Performance Management?***

First of all, it is *not* just an Annual Performance Review.

Performance management is the process of creating a work environment that allows people to perform to the best of their ability; and the performance review is really only one piece in a system that can make managing your employees' performance quite straightforward.

Performance management, like training, should actually be part of your company's overall plan for success. The process of letting employees know what you expect from them and providing meaningful feedback throughout the year can be achieved with the following five steps:

**Step 1: Develop a Strategic Plan**

Put your vision and plans for your company in writing.

**Step 2: Identify Company Goals**

Determine what needs to be achieved in order to realize your strategic plan.

**Step 3: Break the Organizational Goals down into Measurable Employee Goals**

Employees want to know that the work they are doing has a purpose and is contributing to the bottom line and the progress of the company. An easy guideline for setting goals is S.M.A.R.T.:

- Specific ...** Set clear expectations.
- Measurable ...** What will indicate when the goal has been completed?
- Attainable ...** Don't bite off more than anyone can chew.
- Relevant ...** Tie employee goals into organizational goals.
- Timely ...** All goals need to have a completion deadline.

**Step 4: Review Employee Progress**

Acknowledge good performance, identify how employees can improve and provide training, coaching, and support.

Every six months, or at least once every year summarize ongoing informal feedback and provide employees with a formal performance review. Review results and identify accomplishments and areas for improvement. Set the goals and objectives to be achieved before the next review.

**Step 5: Recognize People for Their Contributions**

An effective compensation and reward program helps to not only recognize employees for their achievements, but deliver what the company needs: quality performance. See Chapter 2 for more information about pay and benefits.

**Reviewing Employee Progress with a Performance Review**

Establishing an effective performance review system will help you to support your employees, recognize weak areas, improve morale and enhance productivity. It is a tool to encourage strong performers to maintain their high level of performance and to redirect and motivate poor performers to do better.

It should be a positive experience that strengthens working relationships and increases motivation.

Many people cringe at the idea of delivering a performance review...or worse yet, receiving one! Why is it that the performance review process has earned such a poor reputation? It may be because they are so often conducted for the wrong reasons and in the wrong ways.

Some of the wrong reasons for conducting a review include...

- You intend to discipline the employee and are going to use the review as the venue.
- You don't want to fire the employee, and hope he/she will resign if you make the Performance Review a really ugly experience.
- You have to do it for WorkSafe BC and plan to complete it as a "check list", with no real two-way communication.

In general, the right reason for conducting a performance review is to improve your chances of keeping and motivating the people you need to run your business successfully. You'll do this by ensuring that...

- the employees who are strong performers know that you appreciate their contribution to your company, you are interested in what they want for the future, and you want them to be part of the future of your company.
- the employees who are under-performing in some areas understand what you appreciate about their work, where they are missing the mark, and how you intend to work with them to help them improve.

Some other "right" reasons for conducting a review include...

- You want to create an opportunity for one-on-one two-way communication between you and your employee;
- You need to redirect performance and want to make it part of a conversation that includes feedback on the areas where he/she does a good job;
- You want to formally offer your employee the support he/she needs to improve performance;
- You want to hear your employee's ideas about your company;
- You want to find out what his/her plans are for the future;
- You want to help him/her understand where he/she fits in your plans for the future.

Note: If you effectively manage the performance of your employees on a day-to-day basis, there should be no surprises in the Performance Review.

Performance reviews should not be seen as a report card of the previous six months or so. Instead, the focus should be on acknowledging work well done and removing any roadblocks that have

interfered with the quality of performance. Employees should come to the review meeting prepared to set goals, make performance plans for the upcoming year, and contribute ideas or information that would benefit the company.

The performance review system also works as a cross-check for other systems in the organization and can provide you with:

- insight into the effectiveness of your hiring practices - do they need revising or are your employees performing well generally?
- a sense of whether or not your organization is in need of training or any updated skills;
- an objective tool for making compensation decisions;
- an overview for succession planning – at the very least, looking out for those with potential for advancement or who might be better suited to other areas of the company.

Of course, all of this ties into your bottom line. Your performance review system should help you to establish your recruiting, training, and compensation budgets for the year.

### **Criteria for Performance**

The criteria for your employees' performance need to be clearly defined and communicated, ideally, from their first day on the job.

Some performance review systems establish organization-wide competencies and job-specific competencies that are required of each employee and against which their performance is evaluated. This is an effective, but labour intensive method.

No matter your method, clear communication is the best way to establish fair criteria. While you can set out your initial expectations of a new employee, as time passes and the role/organization evolves, you can use the Performance Review to work with the employee to ensure the criteria remain relevant.

A job or position description is an adequate basis for evaluating performance. As long as it stays up to date (and an ongoing performance management program that includes regular communication is going to naturally identify any necessary changes), working with your employees to establish a position description that outlines what they are doing and what you need them to be doing will in turn create a set of criteria for evaluating performance. See a sample job description in Appendix 1, pages 110 - 113.

## Performance Review Meeting

### Format:

There are many review formats available – some that go into very little detail and others that are a series of numbers and scores. You will likely find something in between that works well for you and your employees. Above all else, the form should help to facilitate communication between the manager and employee and create a fair and consistent system for evaluation. See Appendix 4 for sample Performance Review forms.

### Before the Meeting:

- Schedule the meeting in advance and give it sufficient time – at least an hour.
- Provide your employee with a copy of the form you are going to use. If you don't use a form, then give him/her a short list of the things you would like to discuss and you would like her/him to think about in preparation for the meeting.
- Make sure you have reviewed all of the important aspects of his/her performance.
- Any goals you previously established.
- The job description.
- Accomplishments on the part of the employee.
- Problems that you want to identify.
- You should have also given thought to goals for the upcoming review period.
- Standards that you want to see (performance targets or behaviours).

### During the Meeting:

- If you can avoid it, don't sit behind a desk. Conversation will be easier if the seating arrangement is more neutral.
- Establish the "rules of thumb" for the meeting: open, honest, factual, positive, focused on the future.
- Ask if there are any concerns about the process and be prepared to discuss this openly.
- Next, review the employee's job with him/her. See if you both have the same understanding of what the job is all about.
- Review any goals set previously. If they have been met, ask some real questions about how the employee managed to do it. If not, ask some questions about what prevented it and what needs to be done in future – by both him/her and you.
- Review any other achievements – be specific and demonstrate that you understand his/her job well enough to understand the demands that were part of the achievement.
- Review areas where improvement is needed. Again, it is important to be specific.
- Work with them to develop an improvement plan – and be as positive and honest as possible, i.e., let the employee know that you believe they can improve.

- Commit to what you plan to do to support the employee in their efforts to improve.
- Either develop an action plan for improvement with the employee, or ask him/her to develop one and bring it back for your review and input.
- Ask about the employee's goals and plans for the future. If your company could support those plans, then commit to doing that. Don't make promises, but indicate how you will help them to develop in the direction they want to go.
- Wrap up, asking for feedback about the meeting.
- End the meeting by summarizing the key points and providing a copy of the appraisal document to the employee.

### **Then What? – Action Plan**

Set a date for a follow-up meeting with the employee to keep the conversation going and make performance planning and follow-up an ongoing process and regular part of the way you do business.

It's all too tempting to throw the completed performance review into the personnel file and cross it off the list for another year. However, this is of no value to the company or the employee. Reviews need to be part of the ongoing performance management program. If an employee is rated outstanding, what is the consequence of that effort? Whether performance is extraordinary or in need of improvement, action plans must follow as a consequence of the review. This will not only help the struggling employee to improve, but will assist in retaining the excellent employee who is looking for the next challenge.

### **Document Everything!**

*If you've heard it once, you've heard it a thousand times: document everything!* This is an excellent practice for your own organization and management skills, but it is critical when it comes to monitoring and working to improve your employees' performance. And you can start out quite simply: start a personnel file for each new employee hired, and include an up to date job description, the signed job application form, any and all performance notes, and regular performance reviews.

### ***Performance Problems***

Performance problems typically identify themselves in the following ways:

- Problems with the quantity of work: absenteeism, lateness, leaving early without permission, excessive use of break time, extended washroom breaks, smoke time or phone use, misuse of sick time, slow response to work requests, inefficiency, or a general apathetic attitude.

- Problems with the quality of work: frequent errors, poor workmanship or results, customer dissatisfaction, wasted materials, cutting corners, poor work methods or a general 'who cares' attitude.
- Inappropriate behaviours: negativity, lack of cooperation, insubordination, hostility (short temper), resistance to change, inappropriate interpersonal relations, sleeping on the job, and/or alcohol or drug use.

### **What to do?**

The most important action you can take is just that – do something. Whether or not you want this employee to continue to work for your company, be aware that your other employees will know about the problem and will be watching you to see what you do.

You want to demonstrate that performance problems are not acceptable and, at the same time, show that you take a measured and fair approach to resolving issues with employees.

Think of this next step as a "Performance Improvement Plan". If the plan is effective, then the problem is resolved. If, despite the plan, the employee's performance does not improve then the Plan could form the basis for commencing Progressive Discipline, as outlined below. See Appendix 4, Page 144 for a sample plan.

### **Performance Improvement Plan:**

You should review the following six items with the employee, and record them:

1. State the performance to be improved; be specific and cite examples.
2. State the level of work performance expectation and that it must be performed on a consistent basis.
3. Identify and specify the support and resources you will provide to assist the employee.
4. Communicate your plan for providing feedback to the employee. Specify meeting times, with whom and how often. Specify the measurements you will consider in evaluating progress.
5. Specify possible consequences if performance standards are not met.
6. If relevant, provide additional information such as company policies.

To show and document your commitment to helping your employee improve his or her performance, you might want to use a Performance Improvement Plan outline. Further on in the chapter there is advice that applies to the Progressive Discipline Meeting. This approach could also apply to the meeting to develop a Performance Improvement Plan with an employee.

## **Progressive Discipline:**

It is important to know that discipline can be managed. Your employees should take responsibility for their behaviour. If you make your expectations clear, are consistent, and hold your employees accountable, discipline can be a more straight forward and manageable aspect of supervision.

While discipline is never easy, it can be especially challenging in a small workplace. You may not feel you have the space or opportunity to speak privately with an employee, it may seem like word travels too fast through the office, or you may be working with people who are personal friends or family members.

Having a progressive discipline system that everyone is familiar with can make disciplining your employees fair and effective. Rules and expectations must be clear and reasonable, and employees need to know the consequences of unacceptable behaviour in advance. Keep in mind that behaviour must be culpable, meaning that it should be deserving of blame and/or injurious as well as controllable by the employee.

The purpose of progressive discipline is to:

- Stop unacceptable behaviour;
- Retain the employee as a respected and productive member of your team; and
- Ensure fair, equal and justifiable treatment of all employees.

## **What is progressive discipline?**

Progressive discipline is an established system where the *severity of the consequence increases with each infringement of the rules or standards*. Typically, the progression is:

1. Verbal warnings
2. Written warnings
3. Suspension
4. Termination

Suspension and termination is a complex matter in terms of the law and ESA; many employers have put themselves in liability of lawsuits through improper or ill-advised disciplinary action. In some cases you may want to speak to a lawyer before applying these steps as disciplinary measures.

When implementing progressive discipline, remain *consistent in your approach and thorough in your documentation*. To maintain the integrity and value of your program, treat all employees fairly,

respectfully and equally. Ensure that all progressive disciplinary meetings are held in a private location free from interruption. By following a pre-set process, both you and your employees will be fully aware of behaviour expectations and the consequences should your workplace standards or rules not be met.

### **What should a progressive discipline system include?**

A fair and progressive system of discipline will include the following actions on your part:

- You ensure that your employees are aware of workplace policies and standards and the consequences of inappropriate behaviour.
- You give employees notice that there is a behaviour issue or deficiency and thoroughly explain your expectations. This would include providing the employee an opportunity to explain his/her behaviour.
- You provide an opportunity for the employee to change his/her behaviour.
- You include a method of measurement so all parties know when appropriate changes have been achieved.
- You and your employee agree on a time frame for achievement including a follow-up date for discussion.
- You ensure that the employee is aware of the consequences should the prescribed changes not be achieved.
- You *document* the program, your actions and the employee's actions every step of the way.

You should know...

Documentation is the key to an effective system of progressive discipline. It will likely be your responsibility to ensure that you, your supervisors, and your employees get the details down on paper: who, where, when, and why. Documentation can simply be handwritten, but make sure it is detailed, dated and filed. This includes both the details of the incident and the details of the discipline program.

How long should I keep the documentation on an incident of progressive discipline?

There is no "best answer" to this question. Some employers keep the records as long as the person is an employee of the company. Other systems specify that documentation regarding an incident will be removed from an employee's record after a period of time passes without another infraction (e.g. 6 months to a year). Performance problems in future that warrant progressive discipline will start the process again with an oral warning.

Before you implement your system you should make a decision about documentation, so that all employees are treated in the same manner when going through the process.

### **Progressive Discipline Meeting:**

Because disciplining an employee is a difficult thing for most people to do well, you should take the time to plan the details of the meeting beforehand. This will make the meeting easier for you and the employee you meet with.

#### **Before the Meeting**

Schedule the meeting in a private location, and at a time when you know you won't be interrupted. If at all possible, don't take phone calls or answer your cell phone.

It is often wise to arrange for a third party to be with you to act as a witness or provide support to the employee. It should be a person who can be trusted to be honest and 'neutral', and who will keep the discussion confidential.

Make sure you have all of the necessary documentation that you need. This will be different depending on the step in the process. (e.g. Step 1, make notes as you go along; Step 2, prepare the written warning beforehand)

#### **Extreme Misconduct:**

Some cases of misconduct are so severe that you may need to skip some steps in the process. For example, assaults, stealing, and gross insubordination might all justify immediate action. But don't fire anyone on the spot! Suspension for a 'cooling off' period will always do more good than harm, and give everyone involved a chance to consider their options.

Termination is a serious action and not to be done in haste. You need to investigate and confirm what happened and who was responsible. Plus, it's almost always less work to try to turn an employee around than to go through the time and expense of the firing and hiring process.

You will find more detailed information on terminating employment in Chapter 5.

### ***Recognition – A Job Well Done!***

Although salary and benefits may be the most direct form of recognizing what an employee contributes to your company, there is compelling research and anecdotal information demonstrating that a pay cheque is not the only form of recognition that makes a difference in

encouraging and motivating employees. Showing appreciation and expressing praise for going the extra mile on behalf of your company can go a very long way.

In a small company, it is probably not possible or practical to develop a formal “Recognition Program”. Nonetheless, if the research is right, then you can expect to get a real payback from paying attention to what your employees are doing well and, as famous business author Ken Blanchard says – *“catch them doing something right”*.

When this happens, take the opportunity to use recognition as another form of reward. The action you take will have the best chance of being effective if you follow some of these simple recommendations:

- Recognize your employee immediately so there is a clear link between what they did and what you are recognizing them for.
- Be consistent. Provide similar types of rewards for similar types of achievements. For example, don’t give one employee a handshake and another employee a day off for similar accomplishments.

Figure out the types of reward that might make sense in your company and that you can afford, e.g.

- A simple “thank you” hand shake – one-on-one or in front of a group of colleagues
- A written “thank you”
- A gift card for merchandise from a department store, tool supply house, sporting goods store etc., as appropriate
- A half day or day off with pay
- A dinner out at the Company’s expense
- A gift for the family if the job has put demands on the employee that you know would have effected his/her family lately – e.g. lots of overtime, travel away from home

Figure out the type of performance that you are looking for in a specific area of your business and recognize individual or team performance that you want to encourage; for example, safety, customer service, or attendance.

Other ways of providing recognition to employees include:

- Ask employees for their ideas and opinions – and use them if you can.
- Give an employee an opportunity to learn something new – either on-the-job or through a training program.
- Get an employee to take on a different and more responsible role for a short time – e.g. as vacation relief.

- Assign him/her to a project or problem-solving team.

Some things you should know...

When it comes to employee performance, you get what you reward. So if you see something you like, figure out how to reward it in a way that means something to employees, and it is very likely to motivate them to keep it up.

Don't overdo it. Constant compliments from you for work that simply meets expectations will eventually have no meaning.

## Chapter 5: EMPLOYEE RESIGNATION, TERMINATION & RETIREMENT



### Overview

The resignation or termination of employment covers a variety of situations and you need to know what you are obligated and entitled to do in each case. This Chapter will cover five topics, as well as the applicable legislation and required action for each of the following:

- Voluntary Resignation
- Retirement
- Layoff
- Involuntary Dismissal for Cause
- Involuntary Dismissal without Cause
- Canada Revenue Agency Regulations

### ***First things First -- Legislation and Regulations***

The Employment Standards Act and Regulations, and Canada Revenue Agency regulations apply to employment termination.

According to the Termination of Employment Fact Sheet provided by the Ministry of Labour and Citizens' Services, the *"B.C. Employment Standards Act does not take away an employer's right to terminate an employee with or without cause. The Act requires that employees who are terminated receive compensation based on length of service."*

<http://www.labour.gov.bc.ca/esb/facshts/termination.htm> (Appendix 6 - Page 150)

After 3 consecutive months of employment, the employer becomes liable to pay an employee compensation for length of service when they are terminated by the employer. This liability is deemed to be discharged if the employee is given written notice of termination as follows:

- one week's notice after 3 consecutive months of employment;
- 2 weeks' notice after 12 consecutive months of employment;
- 3 weeks' notice after 3 consecutive years of employment, plus one additional week for each additional year of employment, to a maximum of 8 weeks' notice;
- is given a combination of written notice and money equivalent to the amount the employer is liable to pay, or

- the employee terminates the employment, retires from employment, or is dismissed for just cause.

The Termination of Employment Fact Sheet from the Ministry of Labour and Citizens' Services (Appendix 6, Page 150) <http://www.labour.gov.bc.ca/esb/facshts/termination.htm> also advises the following:

Notice or compensation is not required if:

- The employee has not completed three consecutive months of employment.
- The employee quit or retired.
- The employee was dismissed for just cause.
- The employee worked on an on-call basis doing temporary assignments, which he or she could accept or reject.
- The employee was employed for a definite term.
- The employee was hired for specific work to be completed in 12 months or less.
- It was impossible to perform the work because of some unforeseeable event or circumstance (other than bankruptcy, receivership or insolvency).
- The employee refused reasonable alternative employment.
- If a definite term or specific work is extended for at least three months past its scheduled completion, the definite term and specific work exceptions described above would not apply.

No compensation is required if an employee is given advance written notice of termination equal to the number of weeks for which the employee is eligible. Note that this *must* be in writing.

An employee can also be given a combination of written notice and compensation equal to the number of weeks' pay for which the employee is eligible.

An employee cannot be on vacation, leave, temporary layoff, strike or lockout, or be unavailable for work due to medical reasons during the notice period.

If employment continues after the notice period ends, the notice is of no effect.

Once written notice has been given, the employer may not alter any condition of employment, including the wage rate, without the employee's written consent.

Other important definitions from the Act, Part 1, Definitions include:

- The start date of employment: A person becomes an employee when first reporting to work as required by an employer. Prior to employment the employer and prospective employee usually agree to certain conditions of employment including an employment start date. Employment commences once a person performs work or reports to work as required by the employer for the first time after agreeing to become an employee.
- Length of service: “Length of service” is the length of time from the employee’s first day of work to the date of termination. Periods of absence due to pregnancy or parental leave, employer approved leaves of absence, jury duty, or temporary layoff, whether paid or unpaid, are included in the employee’s length of service and are considered continuous for the purposes of termination entitlement.

### ***Voluntary Resignation by an Employee***

So, you hired this guy a couple of years ago and he was as green as grass. You’ve invested time and money in providing the training and coaching he has needed to become the semi-skilled technician he is today. He has just advised you that he is resigning two weeks from today.

Although there is no requirement under the Employment Standards Act for an employee to give notice of resignation, he has done so.

#### **Step 1: What you could do, as sound business practices...**

Ask why he is resigning – for a couple of reasons:

- To see if there is anything you can do that would get him to agree to continue to work for you – even if only until the end of the busy season;
- To see if there are aspects of employment with you that caused him to resign that should be fixed so that you don’t lose other employees for the same reason.

Try to make this situation as positive as possible, because he will be talking about your company to others, for example:

- Offer to provide a reference; and
- Ask if you can keep in touch with him and use his contact information – you never know how he might respond to a job offer from you at a later date.

#### **Step 2: What you have to do, based on the Employment Standards Act...**

When he gives notice of resignation, you must either...

1. Accept it and allow him to work out the notice period or,

2. Decline to accept it and pay him compensation which is the lesser of:
- the notice given by the him; or
  - the employee’s statutory entitlement under the relevant section of the Act, as outlined in the following chart:

Length of Employment	Length of Notice
3 months but less than one year	One week
1 year or more but less than 3 years	Two weeks
3 years or more but less than 4 years	Three weeks
4 years or more but less than 5 years	Four weeks
5 years or more but less than 6 years	Five weeks
6 years or more but less than 7 years	Six weeks
7 years or more but less than 8 years	Seven weeks
8 years or more	Eight weeks

If you initially accept the employee’s notice, and then terminate the employee during the notice period, he may be entitled to compensation, equal to the lesser of:

- the remaining notice period; or
- the employee’s statutory entitlement under this section of the Act as outlined in the chart above.

Within six calendar days after the last working day, you must pay him all wages owing to him (less required statutory deductions) on the termination date.

“Wages” as defined by the Employment Standards Act include:

- accrued statutory holiday pay
- overtime wages
- unpaid vacation pay

- any money held in a time bank
- compensation for length of service
- group termination pay
- money earned and due at the time of termination and afterwards (e.g., commissions, incentive pay related to hours of work production or efficiency)

Closing a time bank: On termination of employment or on receiving the employee's written request to close the time bank, the employer must pay the employee any amount credited to the time bank.

### **Step 3: What you should do, to protect yourself against future risk...**

Beware of the 'I quit ... you're fired!' situation. Ask the employee to put in writing, for your records, the fact that he/she is voluntarily resigning. The reason you do this is to have clear evidence that this resignation has been voluntary, because questions often arise as to whether an employee has actually resigned or was dismissed by the employer.

The Employment Standards Branch and Tribunal will use the following test to see if resignation has been voluntary:

*"There must be clear and unequivocal evidence supporting a conclusion that this right has been voluntarily exercised by the employee involved. There is both a subjective and objective element to the act of quitting: subjectively, an employee must form an intention to quit; objectively, that employee must carry out an act that is inconsistent with further employment".*

The "act that is inconsistent with further employment" carried out by your employee would be the signed note or letter from him indicating that he has voluntarily made the decision to resign from employment with you.

### **Step 4: Here's what you have to do, based on Canada Revenue Agency regulations...**

If your employee leaves or there's an interruption of earnings, you have to report these hours on a Record of Employment (ROE): <http://www.cra-arc.gc.ca/tax/business/topics/payroll/calculating/ei/roe-e.html>.

Hours of work are used by Human Resources and Social Development Canada to determine if workers are entitled to EI benefits and for how long. Employers have to keep records of and report total hours of insurable employment for the last 53 consecutive weeks (or less if the period of employment is shorter).

## ***Employee Retirement***

As of January, 2008, there is no mandatory retirement age in BC. When an employee chooses to retire, an employer is not required to pay compensation for length of service. (See the Termination of Employment Fact Sheet from the Ministry of Labour and Citizens' Services (Appendix 6, Page 145) <http://www.labour.gov.bc.ca/esb/facshts/termination.htm> .

For this reason, the requirements for handling a retirement are the same as those for a voluntary resignation by an employee as outlined above.

## ***Employee Layoff***

### **Layoff and Notice of Termination**

You are not required to give notice of termination or pay in lieu of notice to an employee who you lay off temporarily.

If a layoff becomes a termination, then you would be required to provide notice of termination or compensation in lieu of notice as outlined in the Employment Standards Act (see chart above – Voluntary Employee Resignation).

### **You should know that...**

A week of layoff is a week in which an employee earns less than 50 percent of his or her weekly wages at the regular rate, averaged over the previous eight weeks.

A temporary layoff becomes a termination when:

- A layoff exceeds 13 weeks in any period of 20 consecutive weeks; or
- When a temporary layoff becomes a termination, the last day worked is the termination date and the employee's entitlement to compensation for length of service is based on that date.
- A 'layoff' other than a temporary layoff is considered a termination.
- A layoff due to lack of work is not considered a termination for just cause, and you are required to give notice of termination or pay in lieu of notice.

A week's pay is calculated by totalling the employee's wages, excluding overtime, earned in the last eight weeks in which the employee worked normal or average hours, and dividing the total by eight

(see Termination of Employment Factsheet, page 145 or <http://www.labour.gov.bc.ca/esb/facshts/termination.htm>)

## ***Employee Dismissal for Cause***

So, you hired this guy a couple of years ago and he was as green as grass. When you hired him the two of you agreed on some performance objectives:

1. The skills he would be expected to master in 12 months
2. Levels of productivity at 3, 6 and 9 and 12 months
3. Expected hours of work
4. Expected work schedule
5. Adherence to Company Policies

You put this in writing and both of you signed it. You thought you were good to go and expected him to be reliable and become competent in the job in about 12 months.

You've invested time and money in providing apprenticeship training and coaching for him, but he has continued to disappoint you. He hasn't really picked up the skills as quickly as you needed him to, he arrives late with lame excuses, he isn't a team player, he's always asking for extra time off and, to top it off, some of the tools provided to him by the Company have turned up missing and you think he has taken them.

You have decided that his performance is not what you expected or what you need for your business and you have decided to dismiss him for cause.

This is where your human resource practices regarding Performance Management and Progressive Discipline (as outlined in Chapter 4) will either support or undermine your decision, because in this case the onus is on you, as the employer, to show that the employee has been provided with...

- a clear understanding of the job, and your expectations regarding his performance in that job
- regular follow-up and feedback regarding performance
- clear direction about how his performance has needed to change and/or improve
- an opportunity to demonstrate improved performance
- management support to assist him in making the required performance improvement (e.g. sufficient training, supervision and coaching).

In addition, management has to demonstrate a *higher standard of performance than the employee*. So, if it has been the practice to lend Company tools to employees from time to time, then this

employee would not necessarily see his behaviour as something that would be grounds for dismissal.

If you have made the performance management process a regular part of how you interact with all of your employees both on a regular basis (not once a year, and at least once every three months), then you may be in a position to dismiss an employee for just cause.

If you know you don't have the documentation, or that your argument for dismissal for cause is weak, then consider that a successful lawsuit by the employee would probably cost you much more than following the procedures for dismissal without cause and paying the necessary compensation.

### **Step 1:**

Before you do anything else, review the above points and determine if you really can dismiss for cause. If in doubt it might be well worth the time and cost associated with obtaining a legal opinion to determine whether or not dismissal for just cause could be substantiated – or if by taking that step you will be risking legal action by that employee against you.

There are many factors that could be considered by the courts in this type of situation. For example, how long has this been going on, how frequently has this occurred, how serious is it (e.g. theft vs. poor work performance), has policy been ignored by other employees in other situations in the workplace, etc.

If there is just cause for dismissal then an employer does not have to provide written notice or compensation for length of service. (See the Employment Standards Just Cause Fact Sheet at <http://www.labour.gov.bc.ca/esb/facshts/pdfs/just-cause.pdf> or Appendix 6, Page 152)

### **Step 2:**

Here's what you have to do, based on the Employment Standards Act...

Part 3 – Wages, Special Clothing and Records, *"If employment is terminated...Section 18 (1) An employer must pay all wages owing to an employee within 48 hours after the employer terminates the employment."*

Part 4 – Hours of Work and Overtime, Section 42 (5)

On termination of employment or on receiving the employee's written request to close the time bank, the employer must pay the employee any amount credited to the time bank.

Refer to the [Employment Standards Branch - Just Cause Fact Sheet](#) or Appendix 6, Page 152 for additional information.

### Step 3:

#### Communicating the Decision to Terminate

- Beforehand – Prepare and then schedule the meeting: A good time for this type of meeting is at the end of the day when other employees aren't around. It may be reasonable for you to have someone else join you and the employee (i.e., his/her supervisor; another manager) as witness to what is said and done.
- Prepare the severance payment: If you are providing pay in lieu of notice, then figure out the payment and have a cheque ready to hand to the employee. If you are providing a combination of notice and pay, then provide the payment cheque when the working notice period is complete.
- Prepare a letter: Make a judgment call on whether or not you want to provide a letter. It is often easier for the employee and you if you provide details about his last pay, continued benefits, coverage, etc.
- Prepare a response to request for reference: Don't raise this topic yourself, but have an answer ready if the employee asks you about it.
- You might want to make notes or even write a script of what you intend to say – so that you cover all the details.
- During the meeting communicate the decision: Figure out what you are going to say. Don't beat around the bush. Get right to the point with a sentence that makes the reason for the meeting clear: "Bob, the reason for this meeting is to tell you that the Company is terminating your employment effective today (or next week, end of month, etc.)". Make sure that it is clear that this decision is final.
- Briefly summarize the reason for your decision. You are not obliged to provide details. However, if you have been providing regular feedback and documenting performance issues, then refer to that information. Allow for questions or clarification, but don't get into an argument about the decision.
- Notice or Pay in Lieu of Notice: Tell the employee what you are offering as notice, a notice period, or pay in lieu of notice.
- Have answers to questions from the employee:
  - When will I receive my last pay cheque?
  - How many vacation days will I be paid for? (if applicable)

- When do I receive my severance?
  - When will I receive my ROE?
  - What are you going to record on the ROE as reason for termination?
  - Will any of my benefits continue to be covered – and for how long?
  - How can I arrange to get my personal belongings?
  - What will you say if you are called for a reference?
- Some additional pointers on the termination interview:
    - Limit to meeting to 10-15 minutes.
    - Show respect for the individual at all times because this may be extremely difficult for the employee.
    - Be professional and do not try to make small talk.
    - Begin by explaining that the decision to terminate has been made and is not reversible.
    - Allow for questions to clarify what you have said – *but don't get into a discussion or argument over the rightness or wrongness of the decision.*
    - Discuss why you would like the person to leave immediately (e.g. to avoid running into co-workers).
    - Obtain any Company property.
    - Arrange for employee to pick up personal belongings.
    - Arrange for a ride home, if needed.
    - Accompany the person to the door.
  - Following the Meeting: Communicate your decision to the rest of your employees. Communicate your decision to other contacts the employee may have as a result of his job (e.g. supplier; customer), and arrange to let them know how they will be contacted in future. Complete the necessary documentation for CRA.

You should know that...

The following, taken from the Employment Standards Branch - Just Cause Fact Sheet:

<http://www.labour.gov.bc.ca/esb/facshts/justcaus.htm> , or Appendix 6, Page 152, are examples of what may constitute just cause:

- Theft;
- Fraud and dishonesty;
- Assault or harassment of co-workers;
- Breach of duty;

- Serious wilful misconduct;
- Conflict of interest, especially if it involves provable loss to the employer;
- Serious breach of company rules or practices;
- Serious undermining of the corporate culture;
- Chronic absenteeism or tardiness;
- Unsatisfactory performance.

## ***Employee Dismissal Without Cause***

If there is no just cause for dismissal and your decision to dismiss the employee still stands, then this would be considered dismissal without cause.

According to the [Termination of Employment](#) factsheet provided by the Ministry of Labour and Citizens' Services, the "*B.C. Employment Standards Act does not take away an employer's right to terminate an employee with or without cause.*", and the following requirements are outlined in "Employer's Frequently Asked Questions"  
<http://www.labour.gov.bc.ca/esb/employers/faq.htm#termination>

If you choose to terminate the employment of one of your employees you must either give them written working notice of termination or termination pay equal to the amount of notice the employee is entitled to.

The requirement is for one week's notice after three months of employment and two weeks after one year. An employee is entitled to one week of working notice or compensation for each additional year to a maximum of 8 weeks (same as the chart above in Voluntary Resignation of an Employee).

You must pay the employee *all* wages owing (including termination pay) within 48 hours after the termination occurs.

Despite the fact that the Employment Standards Act stipulates the amount of compensation or notice that employees who are terminated should receive, there is no guarantee that the courts would find this to be sufficient compensation or notice if the terminated employee took legal action. The advice and recommendations you would receive from legal counsel would put you in a better position to mitigate the risks associated with dismissal without cause.

Follow the steps in "Employee Dismissal for Cause" on the previous pages.

For additional information you will find a Factsheet at the government web address, [Termination of Employment](#) or in Appendix 6, Page 152.



## Chapter 6: SAFETY



### Overview

As an employer, your top priority on any given day is to send your workers home as healthy as they were when they arrived on the job. Everyone benefits.

Preventing injuries is the best way to minimize your workers compensation premiums. However, your effort to protect staff from harm also says a lot about your commitment to them and builds positive morale.

### *First things First – Legislation and Regulations*

Legislation and regulations that apply to workplace safety and that you are required to comply with are the [Workers Compensation Act](#), [Occupational Health and Safety Regulation](#), and [First Aid Regulation](#).

Part 3, Division 3, Sections 115 to 124 of the Workers Compensation Act covers the [General Duties of Employers, Workers and Others](#).

This Chapter will deal primarily with the workers’ compensation system in BC – WorkSafeBC, the agency that provides support in helping employers deal with safety issues and build strong safety programs in workplaces.

### **WorkSafeBC**

The workers’ compensation system in BC is a no-fault insurance system that protects employers and workers. Employers registered with WorkSafeBC pay premiums that fund the system and in return cannot be sued for the costs of a work-related injury, disease or fatality.

[WorkSafeBC](#) is the organization that administers the [Workers Compensation Act](#) for the B.C. Ministry of Labour and Citizens' Services. The Act gives WorkSafeBC legal authority to:

- set and enforce occupational health and safety standards;
- assist injured or disabled workers and their dependants; and
- assess employers and collect funds to operate WorkSafeBC.

Just as importantly, WorkSafeBC is dedicated to promoting workplace health and safety for the workers and employers of this province. They consult with and educate employers and workers, and monitor compliance with provincial Occupational Health and Safety Regulations.

The publication, a [Small business primer: A guide to WorkSafeBC](#), was developed by WorkSafeBC in partnership with the [Canadian Federation of Independent Business \(CFIB\)](#). This publication will answer most of your questions about WorkSafeBC and is a great example of the effort made by WorkSafeBC to provide useful information for small business owners. It also contains useful tips on setting up a working safety program. You may also want to consult, [How to Implement a Formal Occupational Health and Safety Program](#).

You can download these free of charge on line, or order them from the WorkSafeBC Employer Service Centre at 604-244-6181 or toll-free in BC 1-888-922-2768 during regular business hours.

## **WorkSafeBC Q&A**

Some very basic questions about WorkSafeBC are answered for you in the following pages.

### *Why do I pay premiums?*

[WorkSafeBC](#) collects [insurance premiums](#) from employers to cover the cost of workplace insurance that will protect workers, employers and their dependents from financial hardship in the event of [workplace injury or disease](#). Premiums are based on the assessable earnings of your workers. The premiums collected from you pay the costs associated with work-related injuries and diseases, including health care, wage loss, rehabilitation, and administration. This is also protection for you against costly and lengthy lawsuits.

### *What do my employees have a right to know about coverage?*

As an employer, you are legally obligated to make a copy of the Workers' Compensation Act and the OHS Regulation readily available for review by workers, in order that they can understand the owner/employer's, the supervisor's and the worker's obligations under the Act. Providing access to electronic versions is acceptable if you have satisfied the obligations as described in the Guidelines Workers Compensation Act Part 3 Division 3 ([Guideline G-D3-115\(2\)\(f\)](#)). See the relevant excerpt from the Act below.

### *What is my obligation to a contractor or subcontractors?*

If you contract out any of your work, ask your subcontractors whether or not they carry their own coverage. If they do, ask for their WorkSafeBC account numbers. If they do not, you may be required to provide coverage for them.

To determine whether or not a subcontractor is registered with WorkSafeBC, you can obtain a [clearance letter](#) using one of the following two options:

1. Visit [WorkSafeBC](#) website and under “Insurance” click “Get a clearance letter”; or
2. Call the Clearance Section at 604-244-6180 in the Lower Mainland or 1-888-922-2768 toll-free in BC, or fax them at 604-244-6390.

#### *What services are provided by WorkSafeBC?*

Not only does registration protect you from lawsuits, there are also many special benefits. The following is a list of their services:

- Register employers for workplace insurance coverage.
- Educate employers about injury prevention.
- Develop and enforce health and safety requirements for workplaces.
- Provide counselling support to workers and employers following a critical incident at work.
- Evaluate and pay claims to injured workers.
- Help workers return to work as quickly and safely as possible.
- Help workers find alternative work if they are unable to return to their previous occupation.
- Administer disability and death benefits.
- Support research to prevent and reduce injuries and occupational diseases.

#### *What is a work-related injury or disease?*

To be eligible for compensation from WorkSafeBC, a worker must have sustained a personal injury or disease that arose out of and in the course of their employment. For an injury, this generally means that the worker must have been working when hurt and the injury must have been caused by something to do with the job. For a disease, this means that the disease contracted must be caused by the work or the work environment in order for it to be covered by WorkSafeBC.

### **WorkSafeBC Support for Employer Rights and Responsibilities**

#### **Employer’s Rights and Responsibilities**

You will find a complete list of employer rights and responsibilities of your workers on Page 8 of the [Small business primer: A guide to WorkSafeBC as well as in Part 3 Division 3, Sections 115 to 124 of the Workers Compensation Act -- General Duties of Employers, Workers and Others](#)

This chapter will cover many commonly asked questions about employer obligations as well as the assistance provided by WorkSafeBC regarding seven major topics:

- Workplace Safety Committee Requirements

- Mandatory Workplace Safety Training
- WorkSafeBC Rights and Responsibilities Training Program
- Responding to an employee accident – Q&A
- Responding to a critical incident – Q&A
- Safe Companies Program

### **Workplace Safety Committee Requirements**

It is a legal requirement to have a Health and Safety committee in a business that has more than 20 workers and, in businesses with more than nine employees but less than 20 it is a legal requirement to, at a minimum, have a Health and Safety Representative.

Pages 16-17 of the [Small Business Primer](#) provide useful information on setting up a workplace safety program. The publication, [How to Implement a Formal Occupational Health and Safety Program](#), is also very helpful.

### **Mandatory Workplace Safety Training**

Effective, July 2007, amendments were made to the WorkSafeBC [Occupational Health and Safety Regulation](#) that require all BC employers to provide orientation and training on safe work procedures and how to identify safety hazards on the job, to all workers exposed to new workplace hazards, all new workers and all young workers.

A "new" worker is defined to include the following:

- employees new to a workplace;
- employees who return to a workplace where the hazards of that workplace have changed during their absence;
- employees who are affected by a change in the hazards of a workplace; and
- employees who relocate to a new workplace where the hazards are different.

A "young" worker is defined as an employee younger than 25 years of age.

There are specific topics that must be covered in the orientation and training of new and young workers and these are:

- the worker's right to refuse to perform unsafe work;
- hazards to which workers might be exposed;
- violence in the workplace;

- personal protective equipment;
- policies and procedures to be followed when working alone or in isolation; and
- general occupational health and safety topics.

In addition, you must provide additional training or orientation to a new or young employee if he/she is unable to perform work tasks safely or if he/she requests it.

The new regulations and [Health and Safety Guidelines](#) also include further explanatory notes.

The WorkSafeBC publication, [How to Implement a Formal Occupational Health and Safety Program](#), also contains both a New Worker Orientation Checklist and a Safety Orientation for Supervisor Checklist that are very helpful in determining that you have covered all of the bases. Refer to page 93 for how to order publications.

### **WorkSafeBC Rights and Responsibilities Training Program**

The [Rights and Responsibilities Training Program](#), a self-paced, interactive, on-line training program provided by WorkSafeBC, is a good resource for helping new and young workers understand and learn more about safety rights and responsibilities. It can also serve as a great review for you, your experienced employees and your supervisors.

### **Responding to an Employee Accident – Q&A**

*What do I do when an employee is injured on the job?*

As an employer, your responsibilities when a worker is injured on the job include:

- Providing first aid if necessary and calling 911.
- Transporting the injured worker to the nearest location where medical treatment can be obtained. You are also responsible for paying for transportation.
- Reporting the incident/injury to WorkSafeBC within three business days of the injury's occurrence or within three business days of you or your representative becoming aware of the injury.
- Submitting an [Incident and Injury Report](#) (electronic Form 7) or completing and sending the [Employer's Report of Injury or Occupational Disease](#) (Form 7 - PDF 270kb) to WorkSafeBC. View [benefits](#) of submitting your report online. (PDF 146kb)
- Reporting fatalities and serious injuries immediately to our Prevention Emergency Line at 604-276-3301 in the Lower Mainland or toll-free 1-888-621-7233.

See [pages 18-20 of the Small Business Primer](#) for additional details.

*What happens if I fail to report an injury?*

Failure to report an injury, preventing an employee from reporting an injury, or encouraging an employee to not report an injury are all offences against the Act and can result in fines. As an employer, you are not usually required to report an injury to WorkSafeBC if your employee does not lose time from work and does not seek medical attention. However, [some accidents and incidents](#) do need to be reported regardless of injuries.

*What should my employee do if he/she misses work time due to an injury?*

If your employee misses work time as a result of his or her injury, ensure that he or she calls [Teleclaim](#) as soon as possible to report the injury to WorkSafeBC. Teleclaim is available to workplaces throughout B.C., Monday through Friday, from 8 a.m. to 4 p.m., at 1 888 WORKERS (1 888 967-5377), or #5377 for Telus, Rogers, and Bell mobility customers.

Otherwise, ensure that he or she completes and sends an [Application for Compensation and Report of Injury or Occupational Disease](#) (Form 6) to WorkSafeBC.

When filling out the Incident and Injury Report online or completing the Employer's Report of Injury or Occupational Disease (Form 7), it is important to supply the [correct payroll information](#) (See Appendix 5, Page 149 for wage rate information: Instructions for your payroll department) concerning the injured worker.

## **Responding to a Critical Incident – Q&A**

WorkSafeBC coordinates critical incident interventions for work-related traumatic events. If you have any questions or wish to arrange an intervention, please contact the Critical Response Liaison at 604-233-4052 or toll free within B.C. at 1-888-621-7233 local 4052.

For urgent or after-hours calls, please phone the emergency pager toll-free at 1-888-922-3700. Your call will be answered immediately between the hours of 9:00 a.m. and 11:00 p.m., seven days a week.

*What is a workplace critical incident?*

A workplace critical incident is an event — like a serious injury, fatality, or robbery — that causes emotional or psychological trauma in people exposed to the incident directly, or indirectly. It is a sudden, powerful event outside the range of normal experience — and outside of the worker's control.

These reactions are normal responses to stressful or abnormal events. Workers' feelings about their jobs and the workplace can be seriously affected, and the whole workplace may suffer after a critical incident. Effects may include poor morale, decreased productivity, increased accidents and sick time, higher disability claims, and greater staff turnover.

### *What is the employer's role in a critical incident?*

Employers can effectively manage critical incidents with clear policies and procedures that are humane, sensitive, and responsive to workers. Intervention procedures may reduce the intense reactions of workers to an incident and assist them in returning to their duties. Types of interventions that could be held include a defusing session, a debriefing session, a critiquing session or a corporate review. These intervention procedures are described in the following questions and answers.

### *What is a defusing session?*

Held within 6 to 8 hours of the incident, a defusing session is a brief confidential, non-judgmental group meeting of workers affected by the incident. It is critical to have experienced people specially trained to conduct a defusing session; this can include trained peers. Your employee who is trained to conduct a defusing session explains the physical, emotional and mental reactions that workers may be experiencing, and how to take care of their emotional and physical health.

### *What is a debriefing session?*

A debriefing session is ideally held within 24 to 72 hours after an incident. It is a confidential, non-judgmental discussion of the continuing effects of a traumatic incident on workers. The purpose of this session is to alleviate the trauma of affected workers, and to assist in the recovery process. Debriefing focuses on the emotional well being of workers – it does not attempt to find the cause of the accident or assign blame. Sessions should be led by trained professionals and participation is voluntary.

### *What is a critiquing session?*

A critiquing session is held a few weeks after the incident. Employers, supervisors, and workers review all aspects of the incident to uncover deficiencies in the handling of the incident, and provide corrective solutions. The session looks at how the incident was handled, how it could have been handled better, how it could have been prevented, and the effectiveness of the intervention. Related company policies, safety regulations, safe work procedures are also reviewed.

### *What is a corporate review?*

Within 30 days of an incident, an employer conducts a broad review of all steps taken in response to the incident, including:

- First aid
- Emergency procedures
- Critical incident debriefing
- Accident investigation
- Corrective responses
- Claims management

The purpose of a corporate review is to assess the effectiveness of company's procedures, how the company responded, and suggest other corrective steps that should be put in place. This does not replace an accident investigation.

[Aftermath - An Initial Response to Critical Incidents](#) – video on critical incidents – is available to purchase or borrow through WorkSafeBC

For more information

Contact the Canadian Traumatic Stress Network (CTSN)  
Phone: 1-866-288-2876

WorkSafeBC Video Catalogue

A listing of films, videos, and slide tape presentations available for loan or purchase.

Source: WorkSafeBC

[\(PDF 395 KB\)](#).

## Related Websites

Resource	Website Address
Workers Compensation Act	<a href="http://www.qp.gov.bc.ca/statreg/stat/W/96492_00.htm">http://www.qp.gov.bc.ca/statreg/stat/W/96492_00.htm</a>
Occupational Health and Safety Regulation	<a href="http://www2.worksafebc.com/Publications/OHSRegulation/Home.asp">http://www2.worksafebc.com/Publications/OHSRegulation/Home.asp</a>
First Aid Regulation	<a href="http://www2.worksafebc.com/Publications/OHSRegulation/Part3.asp?ReportID=33081">http://www2.worksafebc.com/Publications/OHSRegulation/Part3.asp?ReportID=33081</a>
Canadian Federation of Independent Business (CFIB)	<a href="http://www.cfib.ca">www.cfib.ca</a>
Teleclaim	<a href="http://www.worksafebc.com/claims/report_injury/what_to_do_when_a_worker_is_injured/default.asp">http://www.worksafebc.com/claims/report_injury/what_to_do_when_a_worker_is_injured/default.asp</a>
Health and Safety Guidelines	<a href="http://www2.worksafebc.com/Publications/OHSRegulation/Home.asp">http://www2.worksafebc.com/Publications/OHSRegulation/Home.asp</a>
WorkSafeBC Rights and responsibilities training	<a href="http://www.raiseyourhand.com/DScourse/UDUTU%20-%20wcb%20rights%20and%20responsibilities%20course/Course393/Course393.html">http://www.raiseyourhand.com/DScourse/UDUTU%20-%20wcb%20rights%20and%20responsibilities%20course/Course393/Course393.html</a>

WorkSafeBC Contact Information	
Email WorkSafeBC	Complete the <a href="#">online form</a> so we can meet your specific needs.
Emergency and accident reporting	Monday – Friday, 8:30 a.m. - 4:30 p.m. Toll-free in BC: 1-888-621-7233  After hours (Richmond) Toll-free in BC: 1-866-922-4357
Critical incident response	Seven days a week, 9:00 a.m. - 11:00 p.m. <a href="#">Contact information</a>

	<p>Lower Mainland: 604-233-4052</p> <p>Toll free in BC: 1-888-621-7233 local 4052</p> <p>Urgent or after-hours calls - Emergency pager toll-free in BC: 1-888-922-3700.</p>
Provincial Call Centre	<p>Monday-Friday 8:00 a.m.-4:30 p.m.</p> <p>Lower Mainland: 604-231-8888</p> <p>Toll-free in BC: 1-888-967-5377</p>
Teleclaim	<p>Claims Call Centre</p> <p>Lower Mainland: 604-244-6181</p> <p>Toll-free in BC: 1-888-922-2768</p>
All Claims correspondence: Worker	<p>Toll-free fax: 1-888-922-8807</p> <p>Greater Vancouver fax: 604-233-9777</p>
All Claims correspondence: Employer	<p>Toll-free fax 1-888-922-8803</p> <p>Greater Vancouver fax 604-233-9722</p>
Prevention Information line	<p>Lower Mainland: 604-276-3100</p> <p>Toll-free in BC: 1-888-621-7233</p>
Teleclaim posters and wallet cards that feature the telephone number Free of Charge and Delivered Free	<p>Order at <a href="http://www.worksafebcstore.com">www.worksafebcstore.com</a></p> <p>Toll-free in BC: 1-866-319-9704</p>

WorkSafeBC Guides for Employers	Description
<a href="#">Access to information and protection of privacy at WorkSafeBC</a>	This pamphlet serves as a guide as to when and how you can access information from WorkSafeBC under the FIPPA. Order #PH89
<a href="#">Guide to the amended Workers Compensation Act, 2002</a>	Brochure summarizing the legislative changes to the Workers Compensation Act. Order #PH6
<a href="#">Guide to the Bill 63 amendments to the Workers Compensation Act</a>	Brochure summarizing the legislative changes to the Workers Compensation Act. Order # PH15
<a href="#">Applying for a variance of the OHS Regulation</a>	A guide to applying for a variance of the OHS Regulation. Order # PH87
<a href="#">Claims review and appeal guide for employers</a>	For WorkSafeBC claim decisions. Order #PH7
<a href="#">Guide to completing your Employer Payroll and Contract Labour Report</a>	A guide to help employers report their payroll and pay their premiums. Order # N/A
<a href="#">Hire Worker Program: Hiring assistance for B.C. employers</a>	The Hire a Worker Program gives employers access to skilled workers without incurring the usual costs associated with advertising, recruitment, and training. Order #PH42
<a href="#">Return to work is good business</a>	Return to work benefits everyone in the workers' compensation system. Besides retaining healthy, qualified employees, an employer can save money through "loss prevention". Order #PH55
<a href="#">Small business primer: A guide to WorkSafeBC</a>	This publication was developed in partnership with the Canadian Federation of Independent Business (CFIB) in an effort to provide useful information for small business owners. Order #BK88

WorkSafeBC Guides for Workers	Description
<a href="#">Benefits and services: A handbook for workers</a>	Takes injured workers step by step through the workers' compensation system. Provides information on the types of benefits offered, workers' rights and responsibilities, and returning to work.  Order #BK25
<a href="#">Claims review and appeal guide for workers and dependants</a>	For WorkSafeBC claim decisions.  Order #PH8
<a href="#">For Families: A guide for families coping with a work-related death or terminal illness</a>	Provides information on WorkSafeBC benefits that might be available to families of workers who died in a work-related accident and to workers with a terminal occupational disease. Also includes information on legal issues, access to WorkSafeBC reports, and other resources.  Order #BK20
<a href="#">Managing your WorkSafeBC claim: The basics of workers' compensation</a>	Provides basic information about how and when to make a compensation claim and the kinds of help provided by WorkSafeBC.  Order #PH20
<a href="#">Your road to recovery and beyond: A guide for seriously injured workers and their families</a>	Provides information on WorkSafeBC benefits that might be available to workers who were seriously injured on the job and to their families. Also includes information on access to resources outside WorkSafeBC and statements from seriously injured workers. The printed book is made available to workers identified as seriously injured.  Order #BK53
<a href="#">What to do when a worker is injured?</a>	(see web link)

### How to order publications, forms, and videos from WorkSafeBC

If you wish to purchase occupational health and safety books, brochures, videos, posters select the items from [www.worksafebcstore.com](http://www.worksafebcstore.com). If you are in B.C. you may order directly from the web site.

E-mail: [customer.service@worksafebcstore.com](mailto:customer.service@worksafebcstore.com)

Fax: 604-232-9703 or toll-free fax: 1-888-232-9714

Phone: 604-232-9704 or toll-free 1-866-319-9704

Hours: 8:30 a.m. to 4:30 p.m. (PST), Monday to Friday

A shipping and handling fee will be charged for Health and Safety materials, in addition to the cost of the products.

If you have questions about an order — contact the WorkSafeBC Store Customer Support Team at the phone number above

To borrow videos from the WorkSafeBC Library See [Video loans](#)

To download or stream videos See [Featured videos](#)



## Chapter 7: TRAINING



### Overview

Business people and authorities across the country are recognizing the critical importance of training to successful competition both at home and on the international scene. Fortunately they are putting resources behind this reality; new and updated training programs have been coming on stream.

The marine service industry in BC is fortunate to have three relatively new training programs designed specifically for our industry: the Marine Foundations Program, Marine Repair Technician apprenticeship and the Marine Mechanical Technician apprenticeship launched in 2009. These are recognized and certified by the Industry Training Authority.

In addition, many boatyard and marina companies are investing in specialty training events and manufacturers' training programs.

Most company owners/managers recognize that training is more than learning how to do the work. It provides a career path for employees and enhances their commitment to the industry generally and the company specifically. Employers who support and encourage their workers to become involved in training programs usually experience less turnover and more job satisfaction in the workplace.

Besides providing a way to increase skill in the workplace, training can also be the source of industry wide standards for techniques and performance.

More information on careers and training for the industry in BC can be found at: [www.bcmarineservice.com](http://www.bcmarineservice.com)

### ***The British Columbia Training Tax Credit Program***

In 2007 the Province of BC introduced the Training Tax Credit Program. This provides a strong financial incentive for both employers and employees to become engaged in apprenticeships.

#### **Employer Benefits**

- Basic tax credit of 10% of each employee's wages each year to a maximum of \$2000/year for the first two years of apprenticeship training

- Completion tax credit of 15% of each employee's wages for completing Level 3 of an apprenticeship program to a maximum of \$2,500/employee
- Completion tax credit of 15% of each employee's wages for completing Level 4 of an apprenticeship program to a maximum of \$3,000/employee.

In a nutshell, an employer that sponsors an employee that completes a four-level apprenticeship program will benefit up to \$9,500.00 in *refundable* tax credits against business income. So not only do you have a qualified and skilled employee, but also a financial benefit for sponsoring them.

### **Employee Benefits**

- Basic tax credit of \$1,000.00 for each of the first two years of an apprenticeship program
- Completion tax credit of \$2,000.00 for completion of Level 3 of a program
- Completion tax credit of \$2,500.00 for completion of Level 4 of a program.

An employee/apprentice who completes an apprenticeship will receive \$6,500.00 in *refundable* tax credits over the 4 years of training.

At the time of publication the government of BC was considering increasing the tax credit. Further information and forms are available at: [http://www.sbr.gov.bc.ca/business/Income\\_Taxes/ttc/](http://www.sbr.gov.bc.ca/business/Income_Taxes/ttc/)

Or contact:

#### **Ministry of Small Business and Revenue**

Income Taxation Branch

Telephone: 250-387-3332

Service BC: 1-800-663-7867

Fax: 250-356-9243

### ***Industry Training Authority and Industry Organizations***

Apprenticeship is widely recognized as the most effective and practical way for most people to learn and develop skills in a trade. It has several advantages over more conventional training:

- the worker can earn income while learning at the same time
- apprenticeships are well funded and less expensive than full time programs
- older workers and those already established in the workforce can engage in training without losing income

- apprenticeships are certified by the province through established standards and examinations

Many will argue that true skill can only be learned by doing, and it develops over time on the job. This is the basic premise of all apprenticeships.

### **The Industry Training Authority (ITA)**

In British Columbia the Industry Training Authority is *“the provincial crown agency responsible for overseeing B.C.’s industry training and apprenticeship system, providing a skilled workforce for industry and career development opportunities for British Columbians.”*

The ITA web site is at: [www.itabc.ca](http://www.itabc.ca)

The ITA provides funding for training programs and oversees the registration of apprentices, tracks their progress, supervises Certificate of Qualifications (C of Q) exams and ensures that apprentices meet the requirements of the trade before certification.

Information on what industrial apprenticeships are available, program descriptions and the location of institutions that offer training for them are all found on the [ITA web site](#).

### **The Transportation Industry Career Development Association (*transCDA*)**

In 2008 *transCDA* was established as an Industry Training Organization that represents the training and workforce development interests of several related industries. The marine service industry is now represented by *transCDA*.

*TransCDA* works as a go-between the marine service industry and the ITA. It is responsible for negotiating funds and ITA support related to:

- reviews and updates to existing industry programs and apprenticeships
- developing and establishing standards for new training programs and apprenticeships
- determining what training institutions will be funded to deliver programs, when deliveries will take place, etc.
- overseeing the examination and competency assessment process for apprenticeships
- maintaining the quality standards for industry training programs
- working with the industry to support workforce recruitment and career development

*transCDA* maintains the Recreational Marine Services Organization web site at:  
[www.bcmarineservice.com](http://www.bcmarineservice.com)

### **West Coast Boatyard Association (WCBA)**

The WCBA is an organization of boatyard owners and managers that has been instrumental in developing marine service industry training programs and representing the industry with the ITA.

With the advent of *transCDA*, the WCBA plays an advisory role in determining revisions and development of new training programs, program standards and workplace assessment. Contact the WCBA at: [westcoastboatyard@shaw.ca](mailto:westcoastboatyard@shaw.ca)

The WCBA web site is at: [www.westcoastboatyardassociation.com](http://www.westcoastboatyardassociation.com)

### ***Marine Repair Technician Apprenticeship (MRT)***

The MRT is a four level apprenticeship that can take between two and six years to complete. It is designed for workers in any occupation in the marine service industry, since it provides theory training for all aspects of boatbuilding and repair, but leaves high level skill specialization to the workers experience in the workplace. It has been in place in BC since 1998.

The theory training consists of studies in subjects such as:

- mechanical/electrical installations
- marine engines and associated systems
- composites (fibreglass) technology
- marine woodwork
- sailboat rigging
- boat design and performance

Trade skills are selected from a list of 55 boatyard areas of expertise that must be perfected on the job. These skills are workplace assessed with the assistance of a Competency Assessment Facilitator employed by the industry.

### ***Marine Mechanical Technician Apprenticeship (MMT)***

The MMT apprenticeship is a new competency based program that is just entering the pilot training phase at the time of this publication. The theory training is composed of three core levels and five endorsements:

- diesel engines
- gasoline engines
- outboard engines
- stern drives
- inboard drive trains

The program is completely competency based, which means that there is no time on the job requirement – completion and certification is determined by completion of the training (or challenge exams) and certification of competency in the workplace. Like the MRT, the workplace skills are assessed with the assistance of a Competency Assessment Facilitator employed by the industry.

The MMT certification is expected to become the exclusive mechanical apprenticeship for the marine service industry. Once in place it will take the place of the Inboard/Outboard Mechanic and Marine Engine Mechanic certifications.

### ***Other Apprenticeships***

There are two other marine industry specific apprenticeships in BC; the Inboard/Outboard Mechanic and Marine Engine Mechanic.

#### **I/O Mechanic**

The I/O Mechanic apprenticeship is offered to those who are specializing in stern drive systems and outboard engines. It is a four year apprenticeship and is expected to be replaced by the new MMT program.

#### **Marine Engine Mechanic**

The Marine Engine Mechanic program is a four year apprenticeship focussing on large inboard diesel installations. There is no marine training program associated with this apprenticeship. Trainees attend two levels of the BC Heavy Duty Mechanic program. It is expected to be replaced by the new MMT program.

#### **OPET Programs**

OPET (Outdoor Power Equipment Technician) apprenticeships are essentially ‘small engines’ programs that deal with all manner of outdoor recreation and occupational equipment. Some OPET programs cover smaller outboard repair and maintenance, depending on the curriculum of the institution.

## ***Pre-employment and Foundations Programs***

Pre-employment, Entry Level Technical Training (ELTT) and Foundations programs are all designed to provide more or less basic training in advance of entering the workforce. They range in length from a few weeks to a few months, and are not appropriate for people already employed.

The Marine Foundations program is a 4 or 5 week pre-employment program for anyone interested in finding a career in the marine service industry. It provides background on boat types and design, basic materials and techniques, basic tool use, safety, etc. and an introduction to the various industry workplaces. Prospective new workers can be encouraged to take this program before taking a job in the industry.

The I/O Mechanic program has a Foundations program offered by some colleges that ranges from 25 – 30 weeks full time.

## ***Manufacturer's Training***

Most engine manufacturers and many producers of other systems or equipment offer (or sometimes require) their own training programs. These are intensive and last for as little as one day up to a week or two. Often OEM training takes place only at company headquarters, which may be located in Eastern Canada or the USA. There may or may not be a tuition charge for this training, but travel and accommodation expenses can be significant.

OEM training may be a requirement for dealership certification with some manufacturers. In other cases this training may be the only practical way to learn the technology and procedures for repair of some kinds of equipment, i.e. watermakers, gensets, electronic installations, etc.

## ***Standards, Assessment, and Quality Assurance***

### **Practical Assessment Standards**

Modern apprenticeship training programs are competency based, which means that successful completion of the training depends on actual demonstration of practical skills, either in an institutional setting or the employee's workplace, on the job.

In order to assess the trainee's performance, these training programs establish standards for performance – minimal requirements based on industry expectations for productivity and profitability. At the same time there is usually a strong quality assurance component to such

standards – not only must the job be done safely and on time, but it must meet a standard for such things as durability, functionality, appearance, etc.

The advanced competencies of the MRT and MMT apprenticeships are assessed based on a standard that replicates actual workplace requirements. These standards look at the ‘whole job’, not just single specific tasks. In other words they assess ability to take on an economic piece of work, such as installing a VHF radio – everything from advising the customer to locating the unit/antenna, proper installation, proper wiring – to clean up and paperwork.

A ‘value added’ benefit to your business from such apprenticeship standards is that they can be used for assessing quality and the performance of anyone in the organization, not just apprentices.

### **Workplace Competency Assessment and CAF**

Workplace assessment for recreational marine apprenticeships is the responsibility of the employer. You (or some experienced supervisor on your team) are expected to monitor the performance of the employee in terms of the competencies and standards set out in the apprenticeship. Fortunately, this is just an extension of ordinary supervision the goes on (or should be) on a daily basis regardless.

*transCDA* employs a Competency Assessment Facilitator (CAF) who acts as a resource person to help you meet your responsibilities for workplace assessment of apprentice employees. The CAF visits your company occasionally or on request to work with you and your apprentices to make sure the process is planned, understood and functioning as it should.



## Appendix 1 – Hiring, Job Descriptions

You can print and/or photocopy these pages or else use it as a basis to set up your own form.

### Job Description Questionnaire

#### **Instructions:**

This questionnaire asks about a specific position. It is concerned with results expected from the position, but not an individual's performance on the job.

Complete each section as accurately as possible, but please be brief and to the point.

#### **Position Identification:**

Title: \_\_\_\_\_

Title of Immediate Supervisor: \_\_\_\_\_

Questionnaire completed by: \_\_\_\_\_

#### **Scope of Position:**

Summarize the overall function and main purpose of this position. This should be a concise description, explaining why your job exists and the results it is accountable to deliver.

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#### **Areas of Responsibility and Performance Indicators:**

Complete the following chart as follows:

List four or five major areas of responsibility in order of importance;

Identify several typical activities within each area;

Describe the Key Performance Indicators (results the position is accountable to deliver).

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Major Areas of Responsibility	Typical Activities	Expected Results (be specific)

**Other Important Facts about the Position:**

What kinds of final decisions are made?

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What kinds of shared decisions are made?

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Initiative/Independence of action:

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Develop Budgets? If yes, size of budgets?

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Supervisory Responsibility:

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Degree of responsibility for HR activities: Hire, fire, lay off, transfer, promote?

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## Sample Job Description - 1

Title: Outboard Technician

Reports to: (service manager)

### Responsibilities:

- communicates with customers to understand engine problems
- performs PDI and routine maintenance operations
- keeps track of service bulletins and manuals, etc.
- troubleshoots and repairs engines
- orders parts and shop supplies as needed
- travels to customers' boats to service engines
- keeps track of work orders, time and materials

### Working Conditions:

- about ½ time in shop and bench work
- about ½ time on customers' boats, travelling back and forth, etc.
- overtime expected in busy springtime season
- some heavy lifting
- some exposure to bad weather, cold, etc.

### Personal characteristics:

- pleasant attitude and good communicator with customers
- able to work with upset customers (boat not available for weekend, etc.)
- able to work independently without direct supervision
- well organized, able to plan ahead for tools, parts, etc. when going to customers' boats

### Knowledge, Skills and Abilities:

- journeyman in I/O Mechanic or MMT (preferred)
- if not journeyman, at least 5 years experience with outboards
- familiar with Mercury products
- familiar with electronic (computerized) engines

### Employment Advancement:

- lead hand
- service manager

## Sample Job Description - 2

Position: Service Manager  
 Reporting to: (company owner)

### Purpose of Position:

To coordinate and manage day to day operations of the service department.

To provide leadership to shop employees, parts staff and clerical staff.

To provide overall supervision of service department activities, productivity and quality.

Prime Responsibilities	Shared Responsibilities
Supervise service department team Ensure quality of service/repairs Maintain service parts and shop supplies inventory control Ensure proper billing and paper flow	Maintain good customer relations Productivity and profitability

### Skills and Competencies:

Technical Skills	Effectiveness Behaviours
Thorough marine service and repair knowledge and experience	Troubleshooting and problem-solving Leadership skills Technical communication skills Performance Management skills Organizational ability Respect/integrity/commitment Conflict resolution skills Facilitation skills Negotiating skills Training skills

### Key Contacts:

- (company owner)
- service department and parts staff
- customers
- suppliers

Performance Measures:

- inventory control
- budget compliance
- overtime percentages
- safety (OSHA frequency)
- customer satisfaction (through survey)

**Sample 'Help Wanted' Advertisements**

**Newspaper or Magazine Ad**

This kind of ad can be enhanced with artwork, photos and of course, your logo.

**Marine Parts Person**

ABC Marine offers complete sales and service for major lines of marine engines. We are a leading edge organization based in Vancouver, BC for over 25 years with sales throughout British Columbia.

We are seeking a highly motivated parts person who is looking for more than just a job. You bring over 5 years of parts counter experience, industry knowledge, technical savvy, and a genuine love of people.

Responsibilities will include customer service and sales, team supervision, and sales training. Good computer skills are required.

Please send your resume and cover letter to [abc@xyzmarine.com](mailto:abc@xyzmarine.com) before December 15, 2009.

**Sample Classifieds Advertisement**

This is one way to try to reach a broad audience with less investment. It can also create a sense of excitement about your organization. You're usually paying by the word, so be frugal.

XYZ Marine is growing! Parts Person, Boatyard Labour. Industry knowledge and proven success required. Send your resume with references to [abc@xyzmarine.com](mailto:abc@xyzmarine.com) by Dec 15.

**Sample Online Job Board Posting**

You have an opportunity to put out much more information on internet job boards.

**Job Title: Parts Department Manager**

ABC Marine is a dynamic, goal oriented company, always striving to improve in every way. We are seeking a Parts Person with these same qualities to become part of the team and manage our parts department.

**Purpose of Position:**

To lead our parts team by example with a focus on maximizing results and customer satisfaction in each and every transaction.

To take responsibility for all aspects of customer service, stocking, ordering and inventory control with primary focus on sales and marketing.

**Qualifications:**

A minimum of 5 years parts sales experience, preferably in the marine industry

A commitment to customer satisfaction

A strong work ethic

Well organized and attentive to detail

Proven ability to lead by example

Proven multi-tasking ability

Strong understanding of internet searching, ordering software and communications

A passion for success!

We are looking for a dynamic individual to start immediately and enjoy a competitive base pay with attractive performance bonuses.

Email your resumes to: [abc@xyzmarine.ca](mailto:abc@xyzmarine.ca)

**Sample Employment Application**

Position Applied for: \_\_\_\_\_ Date: \_\_\_\_\_

SURNAME		FIRST NAME		MIDDLE
ADDRESS		CITY	PROV	POSTAL CODE
			HOME PHONE	
			BUSINESS PHONE	

Are you legally authorized to work in Canada? \_\_\_\_\_ Yes \_\_\_\_\_ No

If not, and you are selected for employment, you will be required to submit proof of work authorization issued by Canada Employment and Immigration.

Do you have any disability or health condition which may interfere with your ability to perform the duties of the position applied for? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, please specify:

--

**EDUCATION & TRAINING (if attaching resume, do not complete this section)**

	Name/Location	Dates Attended	Course	Grade/Degree/Diploma
Secondary/High School				
Technical School/College				
Other				

EMPLOYMENT HISTORY (if attaching resume, do not complete this section)

1.	EMPLOYER AND LOCATION	FROM	TO
SUPERVISOR'S NAME:		PHONE NUMBER:	
POSITION:		REASON FOR LEAVING:	
MAJOR DUTIES:			

2.	EMPLOYER AND LOCATION	FROM	TO
SUPERVISOR'S NAME:		PHONE NUMBER:	
POSITION:		REASON FOR LEAVING:	
MAJOR DUTIES:			

3.	EMPLOYER AND LOCATION	FROM	TO
SUPERVISOR'S NAME:		PHONE NUMBER:	
POSITION:		REASON FOR LEAVING:	
MAJOR DUTIES:			

I certify the information provided on this application or attachments/resume is true and complete and hereby authorize Company XYZ Marine to contact any references or employers listed above to verify the information submitted unless otherwise indicated. I understand that if any information in this application or attachments/resume is found to be untrue or incomplete, my application may be rejected or I may be dismissed in the event I am the successful applicant.

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

This information has been collected, and will be used and maintained, in accordance with the Freedom of Information and Protection of Privacy Act.

**Sample Reference Check Form**

Name of Job Applicant: \_\_\_\_\_

Individual Contacted: \_\_\_\_\_

Position of Individual Contacted: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Phone Number: \_\_\_\_\_

**MOST IMPORTANT QUESTIONS:**

(Ask your most important questions first. You may only get a few minutes with the person giving the reference.)

WHEN DID CANDIDATE WORK FOR YOU? (START DATE: \_\_\_\_\_ END DATE: \_\_\_\_\_) (or rough recollection).

WHAT JOB DID HE/SHE HOLD WITH YOU?

DID HE/SHE HAVE THE SKILLS REQUIRED FOR THAT JOB?

WHAT WAS HIS/HER ATTENDANCE RECORD LIKE?

WOULD YOU REHIRE?

IF YES/NO – WHY?

If you are concerned that you are not getting “real” information about shortcomings, then get specific: “You say that (repeat the general statement); could you give me an example”

If you are interested in more information, and the person will take the time, carry on with the next questions on the Checklist.

**General Overview**

We’re considering hiring him/her and would appreciate your comments on strengths, areas for improvement and how I might best manage him/her. Anything you tell me will be held in the strictest confidence. \_\_\_\_\_ has spent considerable time with us, attending interviews where we have reviewed his/her career and plans for the future. I was particularly interested in his/her experience when he/she reported to you. If you don’t mind, why don’t we start with a very general question:

<p>Strengths, Assets, Things you Like and Respect about the candidate, what you particularly appreciated about him/her as an employee ...</p> <p>Interrupt strengths to get clarification if necessary.</p>	<p>Shortcoming, Weaker Points and Areas for Improvement ...</p> <p>Get longest list of shortcomings possible, and then go back for clarification.</p>
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**Responsibilities/Accountabilities**

Would you please clarify what \_\_\_\_\_’s responsibilities and accountabilities were in that position?

Overall Performance Rating

On a scale of excellent, good, fair or poor, how would you rate \_\_\_\_\_’s overall performance? Why?

Would you rehire \_\_\_\_\_?

Confirmation of Dates/Compensation

**Good/Bad Fit**

Let me tell you more about the job \_\_\_\_\_ is applying for. (Describe the job) Now, how do you think \_\_\_\_\_ might fit in that job? (ask for specifics that are relevant to the job, e.g. Safety Record)

Good Fit Indicators	Bad Fit Indicators

Don’t forget to thank the former employer for his/her time and trouble!

## Sample Offer of Employment Letter

Date

PRIVATE AND STRICTLY CONFIDENTIAL

Name

Address

City, Province

Postal code

Dear (Name),

I am pleased to offer you the position of (Title) for XYZ Marine. You will report to me as the (Title). The terms and conditions of your employment with Company are set out in this letter.

Term:

Your employment as (Title) will commence on start date. (ADD PROBATIONARY PERIOD CLAUSE, IF APPROPRIATE)

Employment status: e.g. full time, part-time

Hours of Work:

Breaks:

Position and Duties:

You shall carry out all duties assigned to you in the position of (Title). These duties include but are not limited to the following:

(Duties)

(Duties)

In addition you shall perform other duties that the Company may assign to you from time to time.

Location:

The location of your position will be at our boatyard in (LOCATION), British Columbia.

Base Wage:

Your monthly/hourly base salary/pay will be \$XXX /hour commencing upon your start date, based on a 40 hour work week.

#### Incentive Program (IF PROVIDED) - Examples

You will be eligible to participate in the Company's profit share (incentive) program. You will receive an hourly rate when performing maintenance.

#### Savings Program (OR PENSION IF PROVIDED)

The Company will provide an additional X% of your annual income in the form of a savings program, paid monthly into an RRSP in your name at a financial institution of your choice.

#### Benefits:

After your probationary period you will be eligible for coverage under the XYZ Marine Benefits Program. The Company will pay the premiums for the following: (e.g. fill in the blanks)

Provincial Medical Services Plan (refer to page for schedule who might be subsidized)

Group Extended Health Plan (e.g. if there is a waiting period, then specify that)

Group Dental Plan (e.g. if there is a waiting period, then specify that)

#### Training:

We will support you in the (name) apprenticeship. We will pay all assessed fees and ½ of your tuition fee, as long as you continue the program and achieve passing grades.

#### Company Policies:

We would like you to be aware of some of our programs and policies and have attached a copy for your reference: Group Benefits Summary; Overtime Policy; Conflict of Interest Policy; Employment Harassment Policy; Drug and Alcohol Abuse Policy.

#### Confidentiality and Non-Competition:

You agree that as a result of the performance of your duties as an employee you will acquire knowledge of the business of the Company. You agree that except with the permission of the Company, you will not use or disclose such non-public information to any unauthorized person so long as you are subject to an employment agreement with this Company or at any time thereafter.

You also acknowledge and agree that you will not represent yourself as an employee of XYZ marine if you are not actually working as an employee of the company.

You acknowledge that you have reviewed the above terms and you agree that all of the restrictions in this agreement are necessary and fundamental to the protection of the legitimate business interests of the Company.

We look forward to having you on our team and we are certain that you will make a significant contribution to the success of XYZ Marine. If the enclosed is acceptable to you, please sign the

enclosed copy of this letter and return it to me by (DATE). This letter will constitute your Employment Agreement with the Company.

If you have any further questions regarding this offer, please feel free to contact me directly.

Yours truly,  
ABC COMPANY

MANAGER  
TITLE

I have been provided a copy of this letter and attached policies and understand the content. I hereby accept the terms and conditions of employment as outlined above.

Read and accepted this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

Attachments:

Overtime Policy; Employment Harassment; Breaks; Benefits Document; Drug and Alcohol Abuse

## Employment Records Factsheet

Ministry of Labour and Citizens' Services  
Employment Standards Branch  
Province of British Columbia

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the Employment Standards Act and Regulation for purposes of interpretation and application of the law. May 2004.

### Payroll Records

The Employment Standards Act requires an employer to keep the following records for each employee:

- The employee's name, date of birth, occupation, telephone number and residential address.
- The date the employment began.
- The employee's wage rate, whether paid hourly, by salary or on some other basis.
- The hours worked on each day, regardless of the basis by which the employee is paid.
- The benefits paid to the employee.
- The employee's gross and net wages for each pay period.
- The amount of and reason for each deduction from the employee's wages.
- The dates of the statutory holidays taken by the employee and the amounts paid.
- The dates of the annual vacation taken, the amounts paid, and the days and amounts owing.
- The dates taken and amounts paid from the employee's time bank, and the balance remaining.

Records must be kept in English at the employer's principal place of business in British Columbia.

These records must be kept for two years after the employment ends.

### Averaging Agreements

If an employer has implemented an averaging agreement, the employer must keep all records relating to it for two years after the employment ends.

### Special Clothing Records

If an employer and employees have agreed that the employer will reimburse employees for the cost of cleaning and maintaining special clothing, the employer must keep records of the agreement and the amounts paid for two years.

### Statutory Holiday Substitution Records

If an employer and a majority of employees have agreed to substitute another day for a statutory holiday, the employer must keep records of this agreement for two years.

## Employment Standards Act - Quick Reference Guide for Employers

Ministry of Labour and Citizens' Services  
Employment Standards Branch  
Province of British Columbia

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the Employment Standards Act and Regulation for purposes of interpretation and application of the law. July 2002

Employees are entitled to the protection of the Act whether they are employed on a part-time, full-time, temporary or permanent basis, and whether they are paid by the hour, by salary or commission, or by piece rate. Failure by an employer to comply with the Act may result in penalties being assessed.

**Keeping Records:** Employers must keep records for each employee showing the employee's wage rate; the hours worked each day; benefits paid; gross and net wages for each pay period; deductions taken; dates of statutory holidays and vacations taken, and amounts paid. These records must be kept whether the employee is paid by the hour, by salary or commission, or by piece rate. For more information see the factsheet [Keeping Records](#).

**Hours of work:** When scheduling employees, employers must observe the requirements regarding meal breaks, time off between shifts, scheduling split shifts, hours free from work each week, minimum daily pay and overtime. For more information see the factsheet [Hours of Work and Overtime](#).

**Rates of Pay:** Regardless of whether an employee is paid by the hour, by salary or by commission, employers must ensure that payment equals at least minimum wage for all hours worked. Minimum wage is \$8.00 per hour unless the first job/entry level minimum wage rate of \$6.00 per hour applies. Piece rates for farm workers are set out in the Employment Standards Regulation. For more information, see the factsheet [Paying Wages](#).

**Paydays :** All employees must be paid at least twice a month. A pay period may not exceed 16 days. All money earned, including overtime and statutory holiday pay, must be paid within eight days after the end of the pay period. Wages must be paid in Canadian currency and may be paid by direct deposit to an employee's bank account if authorized in writing by the employee.

**Vacation and Vacation Pay:** An employer must give an employee an annual vacation of at least two weeks after 12 months of employment, and three weeks after five years of employment. After being employed for five calendar days, an employee is entitled to receive annual vacation pay of at least 4% of all wages earned for the first five years of employment and 6% after that. For more information, see the factsheet [Annual Vacation](#).

Statutory Holidays : Employees who have been employed for 30 calendar days, and have worked 15 of the 30 days before a statutory holiday, are entitled to statutory holiday pay of an average day's pay. In addition, eligible employees who work on a statutory holiday are entitled to be paid time-and-one-half. For more information, see the factsheet [Statutory Holidays](#).

Leaves and Jury Duty : Employers must grant the following types of unpaid leaves: pregnancy, parental, family responsibility, compassionate care, bereavement and jury duty. For more information, see the factsheet [Leaves and Jury Duty](#).

Deductions from wages: An employer may only deduct wages as required or permitted by this Act or by other legislation (e.g. income tax, CPP, EI). An employer cannot require an employee to pay any portion of an employer's business costs, nor can an employer deduct advances and accidental overpayments from wages unless the employee has given written authorization. For more information, see the factsheet [Deductions from Wages](#).

Termination : An employer may terminate an employee if sufficient written notice or compensation in lieu of notice is provided. Employers must pay final wages within 48 hours of terminating an employee or within 6 days if the employee quits. For more information, see the factsheet [Termination of Employment](#).

## Appendix 2 – Leaves & Vacations

### Leaves and Jury Duty Factsheet

Ministry of Labour and Citizens' Services  
Employment Standards Branch  
Province of British Columbia

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the Employment Standards Act and Regulation for purposes of interpretation and application of the law. October 2006

The Employment Standards Act requires employers to grant employees the following periods of unpaid leave. An employee does not need to work for a specified period to qualify for leave.

#### Pregnancy leave

A pregnant employee is entitled to up to 17 consecutive weeks of unpaid pregnancy leave. This leave may start no earlier than 11 weeks before the expected birth date, and must end no earlier than six weeks after the birth date unless the employee requests a shorter period.

If pregnancy leave is not requested until after the birth of a child or after termination of the pregnancy, the employee is entitled to up to six consecutive weeks of leave beginning on the date of birth or termination date.

An initial period of leave may be extended up to six consecutive weeks if an employee is unable to return to work for reasons relating to the birth or termination of a pregnancy.

A request to return from leave earlier than six weeks from the birth must be made in writing at least one week before the proposed return date.

An employer may require an employee to provide a doctor's certificate in support of a request for leave or a leave extension.

#### Parental leave for birth and adopting parents

A birth mother who takes pregnancy leave is entitled to 35 consecutive weeks of unpaid parental leave. A birth mother must begin her parental leave immediately after her pregnancy leave ends, unless she and the employer agree otherwise.

If a birth mother does not take pregnancy leave then a birth father, or an adopting parent is entitled to up to 37 consecutive weeks of unpaid parental leave. The leave can begin anytime within 52 weeks of the birth or placement of the child.

An initial period of parental leave may be extended up to five consecutive weeks if the child requires an additional period of parental care.

An employer may require an employee to provide a doctor's certificate or other evidence that the employee is entitled to the leave or leave extension.

#### Request for Leave

The Act says that a request for pregnancy or parental leave must be made in writing at least four weeks before the proposed start date. However, the courts and the Employment Standards Tribunal

have said that failure to give written notice does not affect the employee's entitlement to the leave. Employees are encouraged to tell their employers the date they will be going on leave well in advance and to put it in writing to avoid misunderstandings.

#### Family responsibility leave

An employee is entitled to up to five days of unpaid leave in each employment year to meet responsibilities related to the care, health or education of any member of the employee's immediate family.\*

"Employment year" means a year beginning on the date the employee commenced employment.

Family Responsibility Leave does not accumulate from year to year.

#### Compassionate care leave

An employee can take up to eight weeks of unpaid leave within a 26 week period for a gravely ill family member.

The employee must obtain a medical certificate which states that the family member is gravely ill with a significant risk of death within 26 weeks.

"Family member" means someone who is:

- in relation to an employee:
- a member of an employee's immediate family
- an employee's aunt or uncle, niece or nephew, current or former foster parent, ward or guardian
- the spouse of an employee's sibling or step-sibling, child or step-child, grandparent, grandchild, aunt or uncle, niece or nephew, current or former foster child or guardian
- in relation to an employee's spouse:
- the spouse's parent or step-parent, sibling or step-sibling, child, grandparent, grandchild, aunt or uncle, niece or nephew, current or former foster parent, or a current or former ward; and
- anyone who is considered to be like a close relative regardless of whether they are related by blood, adoption, marriage or common law partnership.

#### Bereavement leave

An employee is entitled to up to three days of unpaid leave on the death of a member of the employee's immediate family.\* These days do not have to be consecutive, or start on the date of death.

\*"Immediate family" means the spouse, child, parent, guardian, sibling, grandchild or grandparent of an employee; and any person who lives with the employee as a member of the employee's family.

#### Jury duty

An employee who is required to attend Court as a juror is considered to be on unpaid leave for the period of the jury duty.

#### Employment considered continuous

If an employee is on any of the leaves referred to in this factsheet or on jury duty, employment is considered continuous for the purposes of calculating annual vacation and termination entitlements, as well as for pension, medical or other plans of benefit to the employee.

An employer must continue to make payments to any such plans unless the employee chooses not to continue with her or her share of the cost of a plan. The employee is also entitled to all increases in wages and benefits that the employee would have received if not on leave.

#### Conditions of employment to remain the same during leave

An employer may not terminate an employee, or change a condition of employment, because of a leave or jury duty without the employee's written consent.

#### Return to work

When the leave or jury duty ends, an employee must be returned to his or her former position or to a comparable position. It is the employer's responsibility to contact the employee to make arrangements for the employee's return to work

## Annual Vacation Factsheet

Ministry of Labour and Citizens' Services  
Employment Standards Branch  
Province of British Columbia

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the Employment Standards Act and Regulation for purposes of interpretation and application of the law. August 2005.

### Eligibility

Both full-time and part-time employees are eligible for annual vacations and vacation pay. If an employer agrees to give an employee more vacation or vacation pay than the Act requires, the Branch can enforce this agreement.

### Annual Vacation

An employee is entitled to two weeks of annual vacation after 12 consecutive months of employment.

After five consecutive years of employment an employee becomes entitled to three weeks of annual vacation.

Annual vacation leave must be given within one year of when the employee becomes entitled to the annual vacation.

If a person is employed for more than five calendar days but less than one year, the employee is not entitled to take annual vacation, but still qualifies for vacation pay.

The sale, lease or transfer of a business does not typically interrupt consecutive employment. The time an employee is on an approved leave under the Act does not interrupt consecutive employment.

### Vacation Pay

A person is entitled to vacation pay after being employed for more than five calendar days.

In the first four years in which an employee is entitled to take annual vacation, the employer must pay vacation pay of at least four per cent of all wages paid to the employee in the preceding year.

After completing five years of employment, the employer must pay vacation pay of at least six per cent of all wages for the fifth and following years of employment. The six percent of all wages is based on the total wages paid to the employee in the preceding year.

Any vacation pay received by an employee is counted as part of the total wages paid in a particular year.

### Paying Vacation Pay

Vacation pay is payable at least seven days before the start of the annual vacation, or on regular pay days if agreed to in writing by the employer and the employee.

An employer cannot reduce an employee's annual vacation or vacation pay because the employee was paid a bonus or sick pay, or was previously given a vacation longer than the minimum. However, annual vacation or vacation pay may be reduced if an employee asked for and was given annual vacation in advance.

If an employee ends his or her employment, an employer has six days to pay all outstanding wages, including any outstanding annual vacation pay. If an employer terminates an employee, the employer must pay all outstanding wages, including any outstanding annual vacation pay, within forty-eight hours.

### Scheduling Vacations

- An employer must schedule an employee's annual vacation in periods of one or more weeks unless the employee requests shorter periods.
- An employer must make sure an employee takes all vacation within 12 months of the employee becoming entitled to it. Within these 12 months, the employer has the right to say when the vacation will be taken.
- If a statutory holiday occurs during a vacation, an employee who qualifies for the statutory holiday is entitled to be paid statutory holiday pay for that day. The employee, however, is not entitled to an additional day off.

The Act does not permit an employee to work through an annual vacation and be paid for this time as well as receive vacation pay.

## Appendix 3 – Employee Status, Privacy, Harassment

### Employee or Independent Contractor Factsheet

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the Employment Standards Act and Regulation for purposes of interpretation and application of the law. May 2007.

More information is available through the Employment Standards Branch and contact information can be found at the following web address: <http://www.labour.gov.bc.ca/esb/contact/branch.htm> please [contact the Employment Standards Branch](#).

Who is considered an employee?

Section 1 of the Employment Standards Act (the Act) defines an employee as follows:

Employee includes:

- A person, including a deceased person, receiving or entitled to wages for work performed for another,
- A person an employer allows, directly or indirectly, to perform work normally performed by an employee,
- A person being trained by an employer for the employer's business,
- A person on leave from an employer, and
- A person who has a right of recall.

The Act applies to those persons who are employees, but it does not apply to persons who are independent contractors. A person who is an independent contractor is considered to be self-employed.

Just because someone is called an independent contractor does not mean that he or she is one.

Persons working in an employment relationship are employees for the purposes of the Act, regardless of whether they are employed on a part-time, full-time, temporary, or permanent basis.

Determining who is an employee within the meaning of the Act is based on various tests that have been developed by the courts, the Employment Standards Branch and the Employment Standards Tribunal.

These tests include:

**Control** — Is the person under the direction and control of another regarding the time, place, and way in which the work is done? Is the person hired, given instruction, supervised, controlled or subject to discipline? Did the person answer a help wanted ad, was told what to do, how to do it, and when to do it? Did the person have to do the work him or herself, or could that person give the work to another to do? Does the person perform work normally or previously performed by an employee?

The greater the degree of control, the greater the likelihood of the person being found to be an employee.

Ownership of tools — Does the person use tools, space, supplies and equipment owned by someone else? If so, this would indicate an employment relationship. However, it is recognized that some employers require employees to provide their own tools or vehicles.

Chance of profit — Does the person have a chance of profit? If their income is always the difference between the cost of providing the service, and the price charged for the service, the worker may be someone other than an employee.

Risk of loss — Is the person at risk of losing money if the cost of doing a job is more than the price charged for it? If not, this would indicate an employment relationship.

Payment — Does the person receive payments of regular amounts at set intervals? Does the person receive payments regardless of customer satisfaction or customer payment? If so, this would indicate an employment relationship.

In general, the degree to which the party who pays for the service provided controls the supply of material and tools, and retains direction and control of the activities, increases the likelihood that the Director will find the relationship to be one of employer/employee.

### Common Misunderstandings

A common misunderstanding is that one or a combination of the following factors establishes an independent contractor relationship:

Agreement: A person who signs an independent contractor agreement is not necessarily an independent contractor. It is not what you say you are, but the reality of the work relationship that determines if you are an employee or not. In addition, any agreement to waive employment standards entitlements is prohibited by the Act.

Charges GST: GST filing numbers are provided upon request, and the requester may or may not be in a lawful position to charge GST.

No Deduction for Income Tax, EI or CPP: It may be that the employer is simply breaking two laws by not complying with the Income Tax Act and the Employment Standards Act.

Person sets own hours and is not actively supervised: The business may simply be informally run with an emphasis on getting results rather than operating under strict rules of attendance and control.

Works for several businesses: A person may be “moonlighting.”

Submits a bill for labour provided: It may be nothing more than a record of hours worked; in effect, a time card.

Drives his or her own vehicle/provides own tools: It may be a condition of employment that a person provides a vehicle so as to perform the work. In some sectors employees are expected to provide a set of tools for their use at work.

Payment by commission or other forms of pay incentive do not necessarily indicate a chance of profit or risk of loss; these are simply ways of tying pay to productivity.

### Volunteers

Volunteers are persons who choose to provide services for non-profit organizations or charities for which they do not expect compensation. In a profit-based organization, any person allowed, directly

or indirectly, to perform work normally done by employees is considered to be an employee, not a volunteer.

Examples:

A drywall business hired a worker as a painter. The company had the worker sign a written agreement in which the worker declared himself to be an independent contractor. The company bought the paint, and supplied the brushes, the ladders and other equipment. The company paid the worker an hourly rate. The company told the worker what to do, when to do it and decided if it was done satisfactorily. The worker did not have a business license.

It was decided that the worker was an employee because:

- He performed work normally done by an employee.
- The work was integrated into the company's business.
- The company had direction and control over the worker.
- The worker had no chance of profit.
- The written agreement had been signed as a way to collect unpaid earnings.

A sales person who sold products on behalf of one business, operated with limited supervision in the territory assigned to him. He was paid on a commission basis and did not have statutory deductions taken from his earnings. He used his own vehicle, and from time to time his own computer for business purposes.

The occasional use of personally owned computer programs and the failure to take statutory deductions from earnings indicate the person is an independent contractor. However, the degree of control, the lack of chance of profit, and the integration of the person into the business resulted in a finding that the person was an employee.

## **Protection of Personal Information**

### **1. POLICY & PROCEDURE**

1.01 [Company] is committed to protecting the privacy of its employees, clients/customers and confidential business information.

1.02 Employees are obligated to ensure that personal information to which they may have access remains confidential, is only used for the purposes for which it was collected, is not disclosed without authorization or used for personal gain.

1.03 Employees are required to follow all procedures regarding collection, use, and disclosure of personal information as set out in this policy.

1.04 Employees who disclose personal information, contrary to this policy will be subject to disciplinary measures, up to and including discharge for cause.

1.05 [Privacy Manager] is accountable for the implementation of this policy. Any issues or questions regarding this policy should be directed to [Privacy Manager]

## 2 PURPOSE

2.01 All employees at one time or another may receive personal, privileged and/or confidential information which may concern other employees, company operations or clients/customers. The purpose of this policy is to preserve the privacy of employees, clients and [Company], by outlining employee obligations and procedures for dealing with personal, privileged and/or confidential information.

## 3 SCOPE

3.01 This policy applies to all employees, contractors, subcontractors of [Company] or anyone else who is granted access to personal, privileged and/or confidential information.

## 4 RESPONSIBILITY

4.01 Employees are responsible for:

- keeping their own employee files current regarding name, address, phone number, dependents, etc.
- being familiar with and following policies and procedures regarding personal information;
- obtaining the proper consents and authorizations prior to disclosure of personal, privileged and/or confidential information;
- immediately reporting any breaches of confidentiality to their Supervisor;
- keeping private passwords and access to personal, privileged and/or confidential data;
- explaining this policy to clients and referring them to [Privacy Manager] if necessary;
- relinquishing any personal, privileged, confidential or client information in their possession before or immediately upon termination of employment.

4.02 Supervisors are responsible for:

- notifying employees of the purposes of the collection, use and disclosure of employee personal information and obtaining consent from employees;
- ensuring policies and procedures regarding collection, use and disclosure of personal information are consistently adhered to;
- responding to requests for disclosure only after the proper release is obtained;

- cooperating with [Privacy Manager] to investigate complaints or breaches of policy;
- obtaining from terminating employees prior to their termination any personal, privileged, confidential or client information in their possession;
- ensuring that disclosure of personal information or personal health information to a Third Party is done with the approval of the [Privacy Manager] in order to minimize risk of non-compliance with applicable legislative or regulatory regimes.

4.03 Human Resources and/or Payroll personnel are responsible for:

- ensuring that appropriate consents have been obtained from employees with respect to the collection, use and disclosure of employee personal information;
- maintaining systems and procedures to ensure employee records are kept private;
- obtaining the proper consents and authorizations prior to disclosure of information contained in employee records;
- responding to employees' requests for access or corrections to their files;
- ensuring proper disposal of unnecessary files/information;
- maintaining separate files to ensure that personal health information is protected;
- ensuring that disclosure of personal information or personal health information to a Third Party is done with the approval of the [Privacy Manager] in order to minimize risk of non-compliance with applicable legislative or regulatory regimes.

4.04 The [Privacy Manager] is responsible for:

- internal compliance with applicable policies or legislation;
- cooperating with supervisors, human resources and/or payroll personnel in developing internal policies for the collection, use and disclosure of personal information and personal health information of employees and clients;
- monitoring and responding to Third Party requests for personal information or personal health information;
- ensuring appropriate consents are obtained for the collection, use and disclosure of personal information and personal health information;
- where collection, use or disclosure is permitted without prior consent, notifying individuals of the collection, use and disclosure of personal information and/or personal health information after such occurrence.

## 5 DEFINITIONS

5.01 "Contact information" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business e-mail or business fax number of the individual.

5.02 “Employee personal information” means personal information about an individual that is collected, used or disclosed solely for the purposes reasonably required to establish, manage or terminate an employment relationship between the organization and that individual, but does not include personal information that is not about an individual's employment, contact information or work product information. Employee personal information also includes information that may relate to the work performance of the individual, any allegations, investigations or findings of wrongdoing, misconduct or discipline but does not include contact information or job description.

5.03 “Personal information” is any information about an identifiable individual and includes employee personal information. Personal information also includes information such as race, ethnic origin, colour, age, marital status, family status, religion, education, medical history, criminal record, employment history, financial status, address, telephone number, WCB claims information and any numerical identification, such as Social Insurance Number.

5.04 “Personal health information” is information about an identifiable individual that relates to the physical or mental health of the individual, the provision of health care to the individual, the individual's entitlement to payment for health care, the individual's health card number, the identity of providers of health care to the individual or the identity of substitute decision-makers on behalf of the individual.

5.05 “Third parties” are individuals or organizations other than the subject of the records or representatives of [Company]. Note that in certain circumstances, the company may be entitled to provide personal information to an external party acting as an agent of [Company].

5.06 “Work product information” means information prepared or collected by an individual or group of individuals as a part of the individual's or group's responsibilities or activities related to the individual's or group's employment or business but does not include personal information about an individual who did not prepare or collect the personal information.

## 6 REFERENCES

Personal Information Protection Act (PIPA) (British Columbia)

Personal Information Protection and Electronic Documents Act (PIPEDA) (Canada)

Workers Compensation Act (British Columbia)

## 7 PROCEDURE

### 7.01 Employee Records

(a) An employee's supervisor, higher level managers, human resources and payroll personnel shall have access to employee records containing employee personal information. An employee's supervisor, higher level managers, human resources and payroll personnel will have access to an employee's personal health information if the [Privacy Manager] determines that such access is

permissible and necessary. Personal information and personal health information will not be disclosed outside of the organization without the knowledge and/or approval of the employee. Notwithstanding the foregoing, [Company] will cooperate with law enforcement agencies and will comply with any court order or law requiring the use or disclosure of personal information without the employee's consent.

(b) Employees may request access to review their own file by making arrangements with the [Human Resources] department. Employees shall provide at least twenty-four (24) hours notice to the [Human Resources] department. Employees may obtain a copy of any document in their file which they have signed previously. No material contained in an employee file may be removed from the file. A representative of the [Human Resources] department will be present during viewing of the file. Notwithstanding the foregoing, an employee is not allowed access to his or her file if the file contains information which would reveal the identity of an individual who has provided personal information about that individual and the individual providing the personal information does not consent to disclosure of his or her identity. If that information can be severed from the file, the employee may have access.

(c) An employee may provide a written notice of correction related to any data contained in the employee's file. The notice of correction shall be provided to the [Human Resources] department. If [Company] is satisfied on reasonable grounds that such a request should be implemented, the information shall be corrected as soon as reasonably possible and the corrected personal information will be sent to each organization to which the personal information was disclosed during the year before the date the correction was made. If no correction is made, [Company] shall annotate the personal information under its control with the correction that was requested but not made.

(d) Employee requests for disclosure of their own personal information to Third Parties must be accompanied by a completed, signed and dated Authorization to Release Information form. Attachment A to this policy is used for this purpose. This form should also be used in dealings with insurance companies with respect to employee benefits and to provide confirmation of earnings to financial institutions for lending purposes.

(e) Unless retention of personal information is specified by law for certain time periods, personal information that is no longer required to fulfill the identified purpose shall be destroyed, erased or made anonymous within [twelve (12) months] after its use.

## 7.02 Client Information

(a) Personal, privileged and/or confidential information about customers and clients may only be collected, used, disclosed and retained for the purposes identified by [Company] as necessary, and only after such purpose has been disclosed to customers and clients prior to collection, and their consent obtained.

(b) Employees must ensure that no personal, privileged and/or confidential client information is disclosed without the client's consent and then only if security procedures are satisfied.

(c) Client information is only to be accessed by employees with appropriate authorization.

(d) Unless retention of personal information is specified by law for certain time periods, personal information that is no longer required to fulfil the identified purpose shall be destroyed, erased or made anonymous within [twelve (12) months] after its use.

### 7.03 Work product information

Work product information may be collected, used or disclosed without consent and employees do not have the right of access to this information.

7.04 Notwithstanding Paragraphs 7.01(e) and 7.02(d) personal information that is the subject of a request by an individual or a Privacy Commission shall be retained as long as necessary to allow individuals to exhaust any recourse they may have under PIPEDA or PIPA.

7.05 Concerns or complaints related to privacy issues must be made, in writing, to the [Privacy Manager] setting out the details of the concern or complaint. The [Privacy Manager] shall investigate the matter forthwith and make a determination related the resolution of the concern(s) or complaint(s).

7.06 No employee shall be disadvantaged or denied any benefit of employment by reason that [Company] believes that an employee will do anything referred to paragraphs (a), (b), or (c) below or by reason that an employee, acting in good faith and on the basis of reasonable belief,

- (a) has disclosed to a Privacy Commissioner that [Company] or any other person has contravened or intends to contravene a provision of PIPEDA or PIPA related to the protection of personal information;
- (b) has refused or stated the intention of refusing to do anything that it is in contravention of a provision of PIPEDA or PIPA related to the protection of personal information;
- (c) has done or stated an intention of doing anything that is required to be done in order that a provision of PIPEDA or PIPA related to the protection of personal information not be contravened.

7.07 An employee who is found to be in breach of this policy will be subject to discipline up to and including discharge for cause.

## 8 ATTACHMENTS

Attachment A - Authorization to Release Personal Information

AUTHORIZATION TO RELEASE PERSONAL INFORMATION

I, \_\_\_\_\_ [Employee's Name], hereby authorize [Company] to release personal information listed below to \_\_\_\_\_ [Third Party].

Choose whichever apply:

Confirmation of employment and salary information (usually used for banking/lending purposes).

All employment information in company's possession, including dates of hire, positions held, information relating to performance and attendance (both objective and subjective), salary information and all related matters (usually used for reference checking purposes).

Any medical information in the company's possession (including absences, medical notes or reports (usually used for sick leave, disability benefits or health insurance).

Other (specify information to be released):

I hereby release and discharge the [Company] from any claim whatsoever relating to the [Company] acting in accordance with this Authorization.

Employee's Signature

\_\_\_\_\_  
Date

## Employment Harassment - Sample Policy and Procedure

### A Guide for Understanding and Preventing Harassment in the Workplace

Harassment is any unwelcome physical, visual or verbal conduct related to any of the prohibited grounds of discrimination. Behaviour that insults or intimidates is harassment if a reasonable person would have known that the behaviour was unwelcome.

For the purposes of this policy the types of behaviour which constitute harassment include, but are not limited to, verbal abuse, threats, offensive comments and actions deliberately designed to demean, belittle or humiliate an individual or group, and non-consensual and physical contact, and can occur:

- at the workplace;
- at employment related social functions;
- in the course of work assignments outside the workplace;
- at work-related conferences or training sessions;
- during work-related travel;
- over the telephone, if the conversation is a result of work-related responsibilities or a work related relationship; or
- elsewhere, if the person harassed is there as a result of work-related responsibilities or a work related relationship.

Employees are responsible for ensuring that their behaviour or comments relative to any of the prohibited grounds of discrimination set out above are not unwelcome, offensive or intimidating to others.

Should any employee believe that the behaviour of a co-worker or supervisor constitutes harassment, the most simple and effective way to end the harassment is to ask or tell the person to stop. However, if this does not resolve the situation or if an employee feels too intimidated to object, the matter should be reported a supervisor. The best way to do this is to include in writing:

- the name of the alleged harasser;
- the details of the alleged harassment such as the date, time, place and circumstances of the misconduct; and
- the names of any witnesses to the incident(s)

Complaints need to be investigated in a prompt and appropriate manner. The employer must not disclose the name of the employee or the details of the complaint except as is necessary for the purposes of investigating the complaint and/or taking disciplinary measures in relation to the misconduct.

If an employee is not satisfied the Company has investigated or dealt fairly with the matter, the employee may wish to proceed with a complaint under the British Columbia Human Rights Code.

Employees found to have harassed other employees must be subject to discipline, which may, dependent on the circumstances, include dismissal.

In the event the complaint is dismissed, if the Company concludes the complaint was made in bad faith, or was frivolous, vexatious or malicious, the complainant may be subject to disciplinary measures.





**Performance Review Form**

Employee		Date Hired
Job Title	Salary	Date of Review

Evaluation of Performance	S/W*	Comments
Team Player		
Meets Deadlines		
Organizational Skills		
Communication Skills		
Leadership Ability		
Interaction With Co-Workers		
Attendance		
Quality of Work		

\*S=Strength; W=Weakness

**Employers' Comments**


**90-Day Goals**

---


Date of Next Evaluation: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Manager's Signature: \_\_\_\_\_

## Performance Appraisal and Development Plan

Employee Name:	Supervisor/Manager:
Job Title:	Appraisal Period:

The purpose of the Performance Appraisal is to:

Provide a fair and accurate summary of the employee's key accomplishments and performance against goals for the review period.

Evaluate the employees' competence in key job areas.

Enhance employee/supervisor communication through the setting of mutually agreed upon goals and through performance related feedback.

Establish a development plan for continuous performance improvement.

### Instructions

**Establish Goals.** Working with the employee, establish goals for the upcoming performance review cycle. Make sure that the agreed upon goals are:

- Clear and concise
- Challenging
- Achievable
- Measurable. Define what effective performance against the objective will be.

**Prepare for the Performance Appraisal.**

As you come to the end of the performance review cycle, begin your preparation for the performance appraisal.

Ask the employee to provide you with their assessment of performance against their established goals, and for their ideas for areas of future development.

Solicit input from other managers, the employee's co-workers, or internal or external customers. Input should be requested from individuals who have a first hand knowledge of the employee's work and work behaviors.

Review your performance notes, records of feedback and coaching meetings, and any other written material or third party reports which are available.

Complete Sections One, Two, Three and Four of this form.

Section One – Annual Goals: At the beginning of the appraisal period identify no more than five goals for the appraisal period. Generally, at least three of the goals must be outcome/results measures directly related to the work performed on the job or to organizational objectives. The other goals may be related to employee development.

For each goal, define in detail an “Effective Performance” level of achievement. The definitions of “Effective Performance” can be qualitative or quantitative or both.

Goal	Effective Performance	Actual Performance

Additional Comments:

## Section Two – Evaluations:

Describe the employee’s technical competence/job knowledge, and discuss how the employee uses his/her skills in performance of his/her job.

Discuss the employee’s results orientation and initiative. Discuss the ability to set reasonable goals and meet commitments, obtain relevant information, evaluate alternative solutions, and make decisions.

Describe the employee’s interpersonal skills. Discuss the ability to identify and meet internal and external needs, willingness to share information, perform as a team player.

For managerial and supervisory employees: Describe the employee’s ability to staff, motivate, and develop people. Discuss delegation of workloads, coaching, recognition, communication, and role modeling.

Section Three – Rating and Comments: Rate the employees’ overall performance using the attached Rating Definitions, and provide comments supporting your rating.

Section Four – Development Plan: List suggested actions that the employee should take to improve performance or develop new skills.

Section Five – Employee Comments:

Section Six – Signatures:

**Reviewing Manager:** \_\_\_\_\_

**Employee:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## Appendix 5 – Wages and Benefits, WorkSafeBC

### WorkSafeBC Wage rate information

Instructions for your payroll department

Recent legislative changes concerning benefit entitlement affect the manner in which WorkSafeBC calculates and pays compensation benefits to injured workers. As well, new appeal legislation now restricts the WorkSafeBC's ability to change decisions concerning wage rates and compensation benefits after 75 days. As a result, it is very important that the correct payroll information concerning your injured worker is provided to WorkSafeBC at the onset of a claim.

Therefore, when you supply earnings information to WorkSafeBC please include the items below in your worker's total earnings figures. Use boxes 21 and 22 in the Employer's Report of Injury and Occupational Disease, commonly referred to as the Form 7, when reporting the following:

Regular earnings including any overtime earnings (WorkSafeBC will include overtime earnings when calculating compensation benefits where it is determined that the worker has a regular pattern of working overtime)

Earnings during illness — include the earnings that you paid your worker while he or she was off work for short-term illness (e.g., sick bank)

Vacation pay — include only if all of the following apply:

If your worker loses entitlement to vacation pay while disabled

Amounts paid out to your worker (as opposed to time off with pay)

Payments representing vacation pay earned prior to the date of injury; these payments may be either outstanding and owed to your worker, or they may already have been paid out

Please do not include the following in your worker's earnings figure:

Long-term disability (LTD) benefits that you or an LTD insurer paid directly to your worker

WorkSafeBC benefits paid by WorkSafeBC directly to your worker

Wages you paid your worker for which WorkSafeBC reimbursed you either partially or fully

Special expenses paid to your worker due to the nature of the employment (e.g., car or tool allowances)

Amounts that represent a reimbursement or per diem allowance for travel or meal expenses

Employers' portion of Canada Pension Plan contributions, Employment Insurance premiums, tax deductions, and other payroll deductions

Amounts that represent payment to your worker for rental of equipment

Following the above will help avoid unnecessary phone calls from WorkSafeBC to your payroll department. Including the right amounts will ensure that your injured worker's compensation benefits are correctly calculated in accordance with law and policy.

The instructions apply for both short- and long-term wage rate calculations. If you are uncertain about any of the above descriptions or any other questions you may have in this area, please contact the WorkSafeBC officer responsible for the management of the claim.

## Appendix 6 – Termination of Employment Factsheet

Ministry of Labour and Citizens' Services  
Employment Standards Branch  
Province of British Columbia

This factsheet is not a substitute for legal advice.

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the Employment Standards Act and Regulation for purposes of interpretation and application of the law. July 2002

The B.C. Employment Standards Act does not take away an employer's right to terminate an employee with or without cause. The Act requires that employees who are terminated receive compensation based on length of service.

### Compensation Eligibility

An employee who is terminated may be eligible for compensation based on the following formula:

After three consecutive months of employment - one week's pay. After 12 consecutive months of employment - two weeks' pay

After three consecutive years - three weeks' pay, plus one week's pay for each additional year of employment to a maximum of eight weeks.

A week's pay is calculated by:

Totalling the employee's wages, excluding overtime, earned in the last eight weeks in which the employee worked normal or average hours, and dividing the total by eight.

The sale, lease or transfer of a business does not typically interrupt an employee's period of continuous employment.

No compensation required with working notice.

No compensation is required if an employee is given advance written notice of termination equal to the number of weeks for which the employee is eligible. Please note that this notice **MUST** be in writing.

An employee can also be given a combination of written notice and compensation equal to the number of weeks' pay for which the employee is eligible.

An employee cannot be on vacation, leave, temporary layoff, strike or lockout, or be unavailable for work due to medical reasons during the notice period.

If employment continues after the notice period ends, the notice is of no effect.

Once written notice has been given, the employer may not alter any condition of employment, including the wage rate, without the employee's written consent.

Notice or compensation is not required if:

- The employee has not completed three consecutive months of employment.

- The employee quit or retired.
- The employee was dismissed for just cause.
- The employee worked on an on-call basis doing temporary assignments, which he or she could accept or reject.
- The employee was employed for a definite term.
- The employee was hired for specific work to be completed in 12 months or less.
- It was impossible to perform the work because of some unforeseeable event or circumstance (other than bankruptcy, receivership or insolvency).
- An employer whose principal business is construction employed the employee at one or more construction sites.
- The employee refused reasonable alternative employment.
- The employee was a teacher employed by a board of school trustees.
- If a definite term or specific work is extended for at least three months past its scheduled completion, the definite term and specific work exceptions described above would not apply.

#### Temporary Layoff

An employer is not required to give notice of termination or pay compensation if an employee is laid off temporarily.

A week of layoff is a week in which an employee earns less than 50 percent of his or her weekly wages at the regular rate, averaged over the previous eight weeks.

When a temporary layoff becomes a termination, the last day worked is the termination date and the employee's entitlement to compensation for length of service is based on that date.

A temporary layoff becomes a termination when:

A layoff exceeds 13 weeks in any period of 20 consecutive weeks, or

A layoff other than a temporary layoff is considered a termination.

#### Wrongful Dismissal

"Wrongful dismissal" is different than termination under the Employment Standards Act. Employees may wish to sue their ex-employers in the courts for wrongful dismissal. Anyone considering this option would need to seek independent legal advice.

#### If an Employee Quits

Employees who voluntarily terminate their employment are not entitled to written notice of termination or compensation pay. Final wages, including any outstanding wages such as annual vacation pay, statutory holiday pay and overtime either worked or in a time bank, must be paid to the employee within six days after the employee's last day of work. The Act does not require the employee to give notice to the employer.

## Just Cause Factsheet

Ministry of Labour and Citizens' Services  
Employment Standards Branch  
Province of British Columbia

This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the Employment Standards Act and Regulation for purposes of interpretation and application of the law. July 2002

The purpose of this factsheet is to help employers and employees understand the meaning of just cause as it applies under the Employment Standards Act.

Some employees who are terminated without just cause sue for wrongful dismissal through the courts. That is different than a complaint made to the Employment Standards Branch under the Act. A person cannot pursue both remedies, so anyone who is unsure of what is best for them should seek legal advice. The Employment Standards Branch cannot provide this advice.

### The Employer's Right to Fire

An employer has the legal right to terminate an employee. The Act does not affect this right. It does require that an employer who wishes to terminate an employee must give the employee an appropriate amount of written working notice, compensation in lieu of such notice, or a combination of the two. What is appropriate is determined according to the employee's length of service. For this reason the Act refers to compensation paid in lieu of notice as "compensation for length of service." More information is available in the factsheet Termination of Employment.

An employer does not have to give written notice or compensation for length of service to an employee who is dismissed for "just cause."

### Burden of Proof

In order to be relieved of the requirement to give written notice or to pay compensation for length of service upon terminating an employee, the onus is on the employer to prove that just cause for termination exists.

### What Constitutes Just Cause?

Following are some examples of what may constitute just cause:

- Theft;
- Fraud and dishonesty;
- Assault or harassment of co-workers;
- Breach of duty;
- Serious wilful misconduct;
- Conflict of interest, especially if it involves provable loss to the employer;
- Serious breach of company rules or practices;
- Serious undermining of the corporate culture;

- Chronic absenteeism or tardiness;
- Unsatisfactory performance.

### Serious Infractions

Serious infractions which involve things like theft, fraud, dishonesty, conflict of interest or wilful misconduct may require only one provable incident to justify dismissal without written notice or compensation for length of service.

The extent to which employment misconduct constitutes just cause must be considered on a case-by-case basis. One test is whether it can be said that the employee behaved in a manner totally inconsistent with the continuation of employment.

Wilful misconduct can be defined as a situation where the employee knew what to do and did not do it, or knew what not to do and deliberately did it. A mistake or error in judgment, especially if due to inexperience or lack of training, is not wilful misconduct.

### Other Circumstances

Unsatisfactory performance or instances of minor misconduct such as absenteeism or tardiness do not normally relieve an employer of the requirement to give written notice or to pay compensation for length of service when terminating an employee.

Where an employer seeks to rely on unsatisfactory performance or instances of minor misconduct to prove just cause, it must show that:

A reasonable standard of performance was established and communicated to the employee;

The employee was clearly warned that his or her performance was below the established standard and that continued failure to meet the standard would result in dismissal;

The employee was given a reasonable amount of time to meet the required standard of performance; and

The employee still failed to meet the standard.

Where the dismissal is related to the inability of the employee to meet the requirements of the job, and not to any misconduct, the employer must be able to show that reasonable efforts were made (e.g. additional training or supervision) to assist the employee to meet the expectation.

### Condoning Unsatisfactory Performance or Behaviour

The employer must consistently apply company rules or practices. The employer cannot argue just cause if an employee is terminated for misconduct the employer has excused in the past, or that it permits in other employees.

If an employer has forgiven misconduct, or if it has failed to take action, it cannot later use that misconduct to prove just cause. In order to be relied on as proof of just cause, serious misconduct must result in dismissal at the time, or within a reasonable amount of time after an employer has conducted an investigation.

### Example:

An employee is caught stealing a small amount of money from the employer's till. The employee explains that she needed to pay her child's soccer fees, and that she intended to replace the money

on the next payday. The employer decides not to terminate the employee. A month later, the employee is late for work two days in a row and is terminated. The employer cannot use the theft to prove just cause for terminating the employee.

