

EMPLOYMENT STANDARDS FOR MOBILE WORKERS

EXECUTIVE SUMMARY, APRIL 2017

By Dalia Gesualdi-Fecteau and Delphine Nakache

Full report available at www.onthemovepartnership.ca



This report aims to explore and compare employment-related geographical mobility (ERGM) issues with regards to minimum employment standards (ES) of several Canadian provinces. ERGM entails “extended travel and related absences from places of permanent residence for the purpose of, and as part of, employment.”¹ The scope of such travels is variable, extending from a daily total of 3 hours to more extended absences. Minimum ES govern the basic terms and conditions of employment (wages, vacation, statutory holidays, hours of work and overtime, leaves of absence, etc.) that neither the employee nor the employer can validly contract out of. Since labour falls under provincial jurisdiction, the ES legal framework varies in each Canadian province and territory.

Our report is based on a positivist legal approach to research; its main sources are the legislation in force, the relevant case law and legal doctrine. This report deals primarily with the provinces of Alberta, British Columbia, Ontario and Quebec. However, we have also tried to address the legal situation in other jurisdictions where possible.

JURISDICTIONAL APPLICATION OF ES LEGISLATION

As a general rule, **employees who work entirely in one jurisdiction** are covered by the ES legislation of that jurisdiction. While Quebec and Ontario have a legislative provision that addresses the situation of workers performing jobs in multiple jurisdictions, Alberta and British Columbia legislation are silent on this issue, but the jurisprudence offers some useful guidance. There are important provincial variations regarding the applicability of labour standards to **employees working in whole or in part outside the province**:

- Ontario ES legislation applies if the work performed outside Ontario is a “continuation of the work to be performed in Ontario.”²
- Quebec ES legislation applies if:
 - For work executed partly outside Quebec, the employer has an undertaking in Quebec.³
 - For work executed entirely outside Quebec, the employer has an undertaking or conducts business in Quebec and the employee’s residence is in Quebec.⁴
- Alberta ES legislation applies, even if work is entirely executed outside Alberta, if it can be established that the employment relationship has the “strongest connection” to Alberta (unless the employment contract clearly specifies which law applies to the employment relationship, in which case the law identified in the employment contract prevails).
- Unless the employment contract clearly specifies which law applies to the employment relationship, British Columbia ES legislation does not apply if work is executed entirely outside British Columbia. If work is executed partly outside British Columbia and it can be established that the employment relationship has a “sufficient connection” to British Columbia, British Columbia ES legislation applies.

1 SSHRC, *On the Move: Employment-Related Geographical Mobility in the Canadian Context*, Grant application, 2011.

2 Ontario ESA, s. 3. (1)(b).

3 Quebec LSA, s.2.

4 Quebec LSA, s.2(2).

Applicability of ES legislation to temporary foreign workers (TFWs)

Provincial employment standards apply to employees, including TFWs, in most workplaces. However, TFWs may be employed in occupations that are exempt from the general ES rules; some may also be employed in occupations covered by derogatory ES. TFWs employed as domestic workers or as farm workers are likely to be either excluded from some ES or covered by derogatory ES.

In Alberta, Quebec, British Columbia, Newfoundland and Labrador and Prince Edward Island, there is no legislation that addresses specific issues regarding TFWs. In contrast, Manitoba and Saskatchewan have adopted legislations that deal exclusively with TFWs, whereas Nova Scotia has developed major amendments to its key ES, with a view to better addressing the specific vulnerabilities of TFWs..

KEY EMPLOYMENT STANDARDS

Wage and financial benefits

Alberta ES legislation provides a definition of wages as including “salary, pay, money paid for time off instead of overtime pay, commission or remuneration for work,” but as not including “overtime pay, vacation pay, general holiday pay and termination pay;” “a payment made as a gift or bonus [at the employer’s discretion];” or “tips or other gratuities” (Alberta ESC, s. 1(1)(x)). Since October 1, 2017, the general minimum wage rate is \$13.60 per hour for most employees.⁵ Employees who regularly work more than three hours a day and who are required to work fewer than three hours must receive at least three hours of pay at the minimum wage. This “three-hour minimum” rule does not apply if the employee is not available to work the full three hours and other exclusions also apply.⁶ Different categories of employees are subject to different minimum wage arrangements: salespersons, domestic employees who live in the employer’s residence, land agents and other professionals who are exempted from recording daily hours of work.⁷

Alberta has enacted provisions regarding the maximum amount that employers can charge for some common deductions – namely room and board and uniforms. An employer can, with written authorization from the employee, make deductions for the supply or cleaning of uniforms or special apparel, but cannot reduce the employee’s wages below the minimum wage or deduct more than the actual cost. An employer can, however, reduce an employee’s wages below minimum wage by \$3.35 for each consumed meal and \$4.41 per day when lodging is provided.⁸

British Columbia ES legislation provides a definition of “wage,” understood as any money paid or payable by an employer to an employee for services rendered or labour provided. This includes any incentive related to an employee’s work performance or the performance of the company.⁹ Since

5 Alberta Regulation 14/97, s. 9(a).

6 Alberta Regulation 14/97, s. 11(1).

7 Salespersons, land agents and other professionals who are exempted from recording daily hours of work are defined in s. 2(2) of the Alberta Reg 14/97. According to s. 9 (b), they are entitled to a minimum wage of \$542 per week. Domestic employees who live in the employer’s residence are entitled to at least \$2,582 per month (regardless of the number of hours worked). Note: domestic employees who do not live in their employer’s residence are entitled to at least \$11.20 per hour for all hours worked: s. 9(c) of Alberta Reg. 14/97.

8 Alberta Reg. 14/97, s. 12(1), s. 13 and s. 13(1).

9 B.C. ESA, ss. 1(a) and (b).

September 2017, the general minimum wage in British Columbia is \$11.35 per hour.¹⁰ There are specific minimum wage rates for live-in home support workers, resident caretakers, farm workers who hand-harvest certain fruit and vegetable crops, and liquor servers.¹¹

Under British Columbia ES law, an employee who reports for work must be paid for at least two hours, even if the employee works less than two hours.¹² An employee who is scheduled for more than eight hours and who reports for work must be paid for at least four hours.¹³ If work stops for a reason beyond the employer's control, the employee must still be paid for two hours or the actual time worked, whichever is greater.¹⁴ The minimum daily pay requirements do not apply when an employee who is scheduled to work eight hours or less is unfit to work or fails to comply with Occupational Health and Safety Regulations. In these two cases, the employee must nonetheless be paid for the time actually worked.¹⁵

British Columbia specifies that uniform charges can in no case be deducted.¹⁶ In fact, required uniforms must be provided and cleaned without charge.¹⁷ As for room and board, domestic workers may be charged for room and board but the amount must not exceed \$325 per month and this rate must be included in the employment contract.¹⁸

Ontario ES legislation provides a definition of "wage" understood as:

- (a) "any monetary remuneration payable by an employer to an employee under the terms of an employment contract, oral or written, express or implied
- (b) any payment required to be made by an employer to an employee under this Act, and
- (c) any allowances for room or board under an employment contract or prescribed allowances.¹⁹

The Ontario ES legislation does not foresee gratuities (tips), discretionary gifts or bonuses and travelling allowances as wage. Most employees are eligible for minimum wage, whether they are full-time, part-time, casual employees, or are paid an hourly rate, commission, piece rate, flat rate or salary. However, some employees have jobs that are exempt from the minimum wage provisions of the Ontario ESA.²⁰ Since January 2018, the general minimum wage in Ontario is \$14.00 per hour.

An employee who regularly works more than three hours a day and who is required to report to work but works less than three hours must be paid, whichever of the following amounts is the higher: three hours at the minimum wage, or the employee's regular wage for the time worked.²¹

In Ontario, the room and board provision affects the minimum wage. More precisely, the definition of wage includes allowances for room or board under an employment contract.²² Accordingly, some amounts can be taken into account when an employer provides the employee with room and/or board.²³ Room and board will only be deemed to have been paid as wages

if the employee has received the meals and has occupied the room.²⁴ The amounts that an employer is deemed to have paid to the employee as wages for room or board or both are set out below.²⁵

<p><u>Room (weekly)</u></p> <ul style="list-style-type: none"> • Private \$31.70 • Non-private \$15.85 <p><u>Meals</u></p> <ul style="list-style-type: none"> • Each meal \$2.55 • Weekly maximum \$53.55 	<p><u>Rooms and meals (weekly)</u></p> <ul style="list-style-type: none"> • With private room \$85.25 • With non-private \$69.40
---	--

There are various prescribed amounts for certain categories of workers, notably domestic workers²⁶ and harvesters.²⁷ Finally, Ontario does not have any legislative provision on uniform deductions.

Quebec ES legislation provides a definition of "wage" as "a remuneration in currency and benefits having a financial value due for the work or services performed by an employee."²⁸ Aside from a few exceptions,²⁹ all employees are entitled to the minimum wage rates, which as of May 1, 2017, is set at \$11.25 per hour for most employees and at \$9.45 per hour for employees who receive gratuities or tips.³⁰ Employees who report for work at their place of employment following an express demand of their employer – or in the regular course of their employment – and who work fewer than three consecutive hours, are entitled to an indemnity equal to three hours wages at the prevailing hourly rate.³¹

In Quebec, when an employer must provide meals to an employee, a maximum of \$2.15 per meal per day (up to \$28.00 per week) can be charged to the employee.³² As for accommodation, the maximum amount that an employer may require from the employee is \$48.45 per week for a dwelling that accommodates four employees or less and \$32.32 for a room accommodating five employees or more.³³

Quebec legislation specifies that uniforms must be supplied by the employer for all minimum wage employees. The amount charged to those who make more than minimum wage cannot bring their pay below minimum wage. Employees should never be charged when their uniform bears the company logo.³⁴

In all jurisdictions, employees generally receive additional financial benefits, such as statutory holiday pay, vacation pay and overtime pay.

10 B.C. Reg. 396/95, ss. 17, 18 and 18.1.

11 B.C. Reg. 396/95, s.15.

12 *Ibid*, s. 34. (1).

13 *Ibid*, s. 34. (2).

14 *Ibid*, ss. 34. (1) and 34(4).

15 *Ibid*, s. 34. (1).

16 *Ibid*, s. 21.

17 *Ibid*, s. 25.

18 B.C. Reg. 396/95, s. 14.

19 Ontario ESA, s. 1.

20 Rates and other rules relating to the minimum wage are set out in Ontario Reg. 285/01. Also, note that there is a specific mode of calculation for employees whose pay is based completely or partly on commission.

21 Ontario Reg. 285/01, ss. 5(7).

22 Ontario ESA, s. 1(1)(c).

23 Ontario ESA, s. 23(2).

24 Ontario ESA, ss. 12(1)(f) and 23(2).

25 Ontario Reg. 285/01: sections 5(4), 5(5) and 25(5).

26 Ontario ESA, s. 19(2).

27 Ontario ESA, s. 25(5).

28 Quebec LSA, s 1 (9). For an interpretation of this provision, see: *Leduc c Habitabec inc.*, D.T.E. 90T-751 (T.A.) (Judgement confirmed by the Québec Court of Appeal, D.T.E. 94T-1240 (C.A.)).

29 The minimum wage determined in the *Regulation respecting labour standards* does not apply to students employed in a non-profit organization having social or community purposes, such as a vacation camp or a recreational organization; to trainees under a programme of vocational training recognized by law; to trainees under a programme of vocational integration; to employees entirely on commission who work in a commercial undertaking outside the establishment and whose working hours cannot be controlled. Moreover, the employees assigned exclusively, during a pay period, to non-mechanized operations relating to the picking of raspberries or strawberries is established on the basis of yield: *Quebec Regulation Respecting Labour Standards*, s 2, 4.1.

30 *Ibid*, ss. 3-4.

31 *Ibid*, s 58. Except in the "of superior force" (*force majeure*).

32 *Quebec Regulation Respecting Labour Standards*, s 2, 4.1 and 6(1).

33 *Ibid*, ss 6(2), 6(3). With each increase in the general rate of the minimum wage, the amounts provided for in Section 6 of the RLS are increased by the percentage corresponding to the increase in the general rate of the minimum wage, without exceeding the percentage corresponding to the Consumer Price Index.

34 Quebec LSA, s. 85

Working time and overtime

Working time and overtime rules illustrate what ES legislation foresees as a “reasonable” amount of time spent at work. It is through these important provisions that workers’ rights regarding time paid and time off are foreseen, and that work-life balance can be somewhat achieved.

All jurisdictions under study have set a standard work week to determine at what point an overtime premium is due. In most jurisdictions, the standard work week is 40 hours per week (in Ontario and Alberta, the standard work week is 44 hours; the longest standard work week in Canada being in Nova Scotia and Prince Edward Island, at 48 hours per week). Overtime pay applies in all jurisdictions when an employee works over the number of set standard work week hours. In all Canadian jurisdictions, overtime pay is 1.5 times an established rate of pay (either at the worker’s regular rate or at minimum wage). The only exception is in British Columbia, where, if an employee works over 12 hours, those additional hours are paid at twice the worker’s regular rate of pay.

In Ontario, the maximum work week is 48 hours even though the parties to the employment contract can agree to a longer work week that should generally not exceed 60 hours. Other jurisdictions do not have explicit maximums in their legislation (as in Manitoba, Québec, Nova Scotia, Prince Edward Island, and Yukon). New Brunswick has an explicit provision stating that there is no maximum limit to daily, weekly or monthly workable hours.

The most common weekly rest period is of 24 consecutive hours per week. Quebec and British Columbia require longer rest periods per week (of 32 consecutive hours), but Prince Edward Island and Yukon have the longest required rest period; these legislations foresee a two-day rest period, with Sunday being one of those two days when possible.

Employment Termination-Related Protections

In most provinces, employers have the right to terminate employees but must inform them with appropriate notice. If the employer fails to give such notice, termination pay must be paid to the employee. Termination notice and pay provide employees with some financial relief while they attempt to find another job.

Termination notice provisions are contained in all ES legislations, with varying time limits within which the employer must notify employees, in writing, that their services are no longer required. All jurisdictions, with the exception of the federal sector, modulate the termination notice according to the length of the employees’ employment.³⁵ In Alberta, British Columbia, Nova Scotia, Ontario, Prince Edward Island and Quebec, the maximum notice is eight weeks. In Newfoundland and Labrador, the maximum notice is 6 weeks for workers who have been employed for 15 years or more.³⁶ When a termination notice is not given, the employee must receive termination pay. In the federal sector, British Columbia, Alberta, Quebec, Nova Scotia, Prince Edward Island and Newfoundland and Labrador, termination pay is the amount the worker would have regularly earned had they worked through the notice period. In Prince Edward Island, the legislation clarifies that this amount excludes overtime, while in Ontario, the legislation explicitly states that the employer is required to provide not only termination pay, but the benefits that the worker would have been entitled to if they had worked through the required notice period.³⁷

Severance pay may also be given to long-term employees as a reward for their long years of service. However, legislation mandating severance pay

35 In that jurisdiction, all workers who have been employed for at least three months, no matter how long they have been employed in that position, must receive two weeks’ notice. See s. 230(1)(a)) of the *Canada Labour Code*, RSC 1985, c L-2.

36 *Labour Relations Act*, RSNL 1990, c L-1, s. 55.

37 See: *Canada Labour Code*, RSC 1985, c L-2, s. 230(1)(b); *Labour Standards Code*, RSNS 1989, c 246, s.72(4); *Employment Standards Act*, RSPEI 1988, c E-6.2, s.29(4); *Labour Relations Act*, RSNL 1990, c L-1, s.53(1)(b). Alberta, British Columbia, Ontario and Quebec are examined in further details below.

is only found in Ontario and the federal ES legislations.³⁸

Finally, it is useful to mention that in Quebec, as in Ontario, employers are prohibited from retaliating in any way against employees who try to claim their entitlements under the ES legislation.³⁹ Alberta and British Columbia ES legislations do not provide employees with such protections. What’s more, Quebec’s legislation provides employees with a recourse against wrongful dismissals.⁴⁰ This provision is one of the most innovative contributions of the Quebec ES legislation. To this day, only the Canada Labour Code⁴¹ and the Nova Scotia legislation⁴² provide such protections. To benefit from it, an employee must have two years of uninterrupted service in the same enterprise.

Psychological harassment

In Canada, psychological harassment is generally seen as an occupational health issue.⁴³ The only notable exception is Quebec, where psychological harassment is understood an ES issue. Since 2004, psychological harassment is forbidden in the workplace by Quebec ES legislation. Psychological harassment is defined as “any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee’s dignity or psychological or physical integrity and that results in a harmful work environment for the employee.”⁴⁴ The legislation also specifies that “[a] single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.”⁴⁵ Every employee has a right to a work environment free from psychological harassment, and employers must take “reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it.”⁴⁶

In 2016, four temporary foreign workers saw their psychological harassment files upheld by Quebec’s Labour Board. To justify its decision, the Board underlined their unhealthy housing, their restriction to the farm, their inhumane schedules and the confiscation of their passports.⁴⁷

ES ENFORCEMENT

In all jurisdictions, ES legislation provide a process through which employees can ensure the enforcement of their labour rights through a complaint-driven process.

38 In Quebec, the severance pay issue is foreseen in the *Civil Code*; section 2091 stipules that “either party to a contract for an indeterminate term may terminate it by giving notice of termination to the other party. The notice of termination shall be given in reasonable time, taking into account, in particular, the nature of the employment, the specific circumstances in which it is carried on and the duration of the period of work”: *Civil Code of Quebec*, CQLR c C-12, s 2091.

39 See Quebec LSA, s 122. In case of reprisals, several other labour laws also provide remedies. See: *Act respecting industrial accidents and occupational diseases*, CQLR, c A-3.001, s 32; *Act respecting occupational health and safety*, CQLR, c s-2.1, s 30; *Code du travail*, RLRQ, c C-27, s 15; *Canadian Charter of Rights and Freedoms, Ps I of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK)*, 1982, c 11, ss 82, 134.

40 *Ibid*, s 124.

41 *Canada Labour Code*, RSC 1985, c L-2, s. 204-246. The employee must have at least one year of uninterrupted service for the same employer (s 240(1) a)).

42 *Labour Standards Code*, RS, c 246, s 1, s 71. The employee must have at least 10 years of uninterrupted service for the same employer. Gilles Hébert and Gilles Trudeau underline that this norm is directly inspired by the content of collective agreements, insofar as the employers’ obligation to justify the dismissal of a unionised employee by a good and sufficient cause is widely used and recognised. See: Gilles Hébert et Gilles Trudeau, *Les normes minimales du travail au Canada et au Québec*, Cowansville, Les Éditions Yvon Blais, 1987, p 160.

43 On this specific issue, see Katherine Lippel, « Law, public policy and mental health in the workplace », (2011) 11 *Healthcare papers* 20 and Katherine Lippel et Anette Sikka, « Access to Workers’ Compensation Benefits and Other Legal Protections for Work-Related Mental Health Problems : a Canadian Overview », (2010) 101:1 *Revue canadienne de santé publique/Canadian Journal of Public Health* S-16.

44 Quebec LSA, s 81.18 al 1.

45 *Ibid*, s 81.18 al 2.

46 *Ibid*, s 81.19.

47 *Orantes Silva et 9009-1729 Québec inc.*, 2016 QCTAT 2155.

In Québec, the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) is the administrative body in charge of handling these complaints. In Alberta, it is the Employment Standards branch of the Ministry of Jobs, Skills, Training and Labour, and in British Columbia, it is the Employment Standards Branch of the Employment, Business and Economic Development Ministry. In Ontario, employees can either make a complaint under the ESA or opt for civil proceedings to the Ministry of Labour.

In Quebec, ES legislation allows the CNESST to ensure that decisions rendered outside Quebec under a regulation that shares similar objectives to those pursued by the CNESST are enforced in Quebec.⁴⁸ In Ontario, the ESA allows for the reciprocal enforcement of orders with all Canadian provinces and territories.⁴⁹ The reciprocal enforcement scheme may apply more broadly than the Ontario ES legislation itself. In Alberta, the ES legislation allows for the reciprocal enforcement of orders with the following Canadian provinces and territories: British Columbia, Yukon Territory, Saskatchewan, Northwest Territories, Manitoba, Nova Scotia, Ontario, New Brunswick, Nunavut, and Newfoundland and Labrador.⁵⁰ Quebec and Prince Edward Island are not listed as reciprocating provinces. In British Columbia, the Lieutenant-Governor in Council may declare a jurisdiction to be reciprocating if satisfied that reciprocal provisions exist, even if the jurisdiction is outside of Canada.⁵¹

E-RGM RELATED ISSUES

How does labour law fare with regards to mobile workers? Analysis of the legislation and relevant case law provides some useful answers to this question.

Travel time/commuting time

In the context of E-RGM, it is particularly important to determine under which circumstances travel time can count as work time (i.e. hours of work) because this has an impact on numerous benefits, such as overtime or vacation pay calculations.

As a general rule, the time it takes employees to travel from their home to their work is not “work time” but “commuting time” and is not included in their hours of work. However, all time spent traveling for the benefit of the employer once the employee arrives at the worksite equates to work time and must be paid. Yet there are very specific circumstances under which commuting time will count as work time:

- 1) When employees are required by their employer to travel to another location to perform work **AND** that this unusual location involves more time or inconvenience than travelling from home to the usual workplace.
 - While in British Columbia and Ontario, all time spent traveling to and from the unusual location is to be counted as work time, in Alberta, hours of work only begin on arrival at that unusual location. In Quebec, though we found very little case law on this issue, it seems that commuting time will be considered as time spent at work when employees leave their home to reach an unusual workplace, such as a client's place of business.
- 2) When employees are required by their employer to keep a company vehicle overnight and to drive it to and from work each day (Ontario and British Columbia only).
- 3) When employees must “pick up materials or perform other tasks on the way to work or home” (i.e. work-related duties – only for Alberta).

In Ontario, Alberta, and British Columbia, when employees are directed to a designated pick-up point from which they are taken to the job site

by employer-arranged transportation, the trip from the pick-up point to the worksite is paid travel time. However, if employees are given the choice of providing their own transportation to or from the work location or if they report to a certain point from which they may take an employer-provided transportation, the trip from the pick-up point to the worksite won't be paid travel time. In Quebec, case law is not clear in this field. In some decisions, time spent traveling from a meeting point set by the employer to the workplace is deemed to be work time and therefore compensated. In other decisions, “work time” is to be distinguished from “preparatory time,” the latter being not compensable.

Travel costs

In Alberta and British Columbia, there is no specific legislative provision regarding mandatory payment for employment-related travel costs to employees. In Ontario, the only provision that exists applies to foreign nationals and stipulates that if an employer paid fees or incurred any other costs for hiring a foreign national (including travel costs), these costs cannot be charged to the worker and cannot be deducted from the worker's wage.⁵² In Quebec, the ES legislation requires the employer to reimburse the employee for “reasonable expenses” incurred while traveling at the request of the employer (i.e., transportation expenses, lodging, meals etc.).⁵³ However, in the event of a “justified” dismissal, employees could have to cover the cost for their repatriation from the remote workplace to their home.⁵⁴ In contrast, Newfoundland and Labrador ES legislation stipulates that when the employment is terminated by the employer at a remote site, the employer must always provide transportation for the employee without cost to the employee to the nearest point at which regularly scheduled transportation services are available.⁵⁵

Court proceedings

If employees believe that their labour rights have been violated, ES legislation generally provides a process through which they can file a complaint against their employer. In reality, however, mobile workers can face specific barriers when they wish to address violations of their labour rights. This is notably the case for TFWs. First, the system is complaint driven, and TFWs are less likely than Canadian workers (or permanent residents) to file a complaint against their employer, due to lack of awareness of their rights, unfamiliarity with the language, self-censorship to protect their jobs (especially when jobs are tied to work permits) and fear of intimidation and reprisal. Second, the process is lengthy, and time limitations on work permits create a significant obstacle as these workers are expected to leave the country once their work permit has expired. Finally, the requirement to participate in-person at court proceedings is a deterrent for TFWs: clearly, many of them won't be able to further their case once they have gone back home after expiration of their work permit (unless they have the financial means to go back to Canada to attend the hearing). This procedural requirement (i.e., to attend a hearing in-person) is also likely to affect Canadian mobile workers. For example, there could be huge financial implications associated with physical attendance at a hearing in British Columbia for workers who reside in New Brunswick. Although Canadian jurisdictions sometimes allow witnesses to testify by means of videoconferencing, provincial courts are still reluctant to use such technology, as they seem to believe that evidence and arguments should be presented orally in open court.

52 Ontario EPFNA, ss. 8(1) and 8(2). If the worker is employed under the federal government's Seasonal Agricultural Worker Program (SAWP), some of these deductions are allowed under this temporary migration program. As a reminder, the Agreement for Employment regarding SAWP workers stipulates that employers must arrange and pay for the round-trip transportation (e.g. plane, train, boat, car, bus) of the migrant worker to the location of work in Canada, and back to the worker's country of residence. A portion of these costs can be recovered through payroll deductions in all provinces, except in British Columbia, however the employer is not allowed to deduct more than the maximum amounts specified in the contract. Of important note: SAWP does not allow money to be deducted from workers' wages for the cost of travel between their point of arrival in Canada and their place of employment.

53 LSA (s. 85.2).

54 *Commission des normes du travail c. Service de forage Orbit Garant inc.*, 2014 QCCQ 6187.

55 Quebec LSA, S. 43.12.

48 Quebec LSA, s. 39.0.0.1.

49 Ontario ESA, s. 130.

50 Alberta ESC, s. 113; Alberta Reg. 14/97, s. 55.

51 B.C. ESA, s. 119.