
Budget Implementation Bill Submission

The Canadian Intern Association is pleased to participate in the Finance Committee's consultations regarding Part 3, Division 7 of the budget implementation bill, Bill C-59.

We submit that the amendments to the *Canada Labour Code* proposed in Division 7 offer inadequate workplace rights to students, interns, unpaid persons and entry-level employees working for federally regulated employers.

This submission sets out our position and recommendations on the impact of Division 7 on (1) employment standards; (2) occupational health and safety protections; (3) workplace data collection and statistics; and (4) employer compliance and enforcement strategies.

(1) Employment Standards

Our Position: Unpaid internships should only be permitted in conjunction with an accredited Canadian high school, college, university or professional program. Educational institutions are in a position to ensure that unpaid interns and co-op students will receive beneficial training, have avenues for complaints, will not replace entry-level positions and can access student loan programs.

The proposed exception allowing unpaid internships that are not associated with an educational institution is vague, unenforceable and will lead to inconsistent employer compliance. Under the proposed amendments, federally regulated employers would be permitted to "hire" interns for four to twelve months without pay if the internship "primarily" benefits the intern, the employer "supervises" the intern and the intern does not "replace" any employee. This exemption denies critical employment standards to Canada's most precarious, vulnerable and marginalized workers.

Currently interns working for federally regulated employers are considered employees under the *Canada Labour Code*. A Canada Labour Program policy titled "Hours of Work 802-1-IPG-002" explains that "training of longer duration, where the candidate is learning and performing certain aspects of the job" creates "a *de-facto* employment relationship." The proposed amendments in Bill C-59 would take away rights to wages and other protections, putting interns and entry-level employees in a worse position than before the amendments.

Unpaid work in the federal sector is the wrong approach. The proposed amendments allow federally regulated employers to extract work from students and interns by providing minimal training and no remuneration. Many of Canada's largest and most profitable employers would no longer be required to pay college and university students in the summer or for entry-level positions. Furthermore, the proposed amendments will not lead to more jobs for young people; rather, federally regulated employers will exploit the exceptions and replace paid employees with

students and unpaid interns. Creating a selective exception that targets these vulnerable workers is inconsistent with the trend towards universality of workplace protections, and will inevitably lead to negative differential treatment of entry-level workers.

The Finance Committee heard our submissions regarding the study on youth employment on March 27, 2014 and regarding the pre-budget consultations on October 29, 2014. We continue to emphasize that unpaid internships are problematic because they facilitate inequality, contribute to unemployment and result in employee misclassification. Young workers, students and recent immigrants often take on unpaid federal sector work out of desperation to put any form of experience on their résumés and in the hopes of gaining paid employment. We strongly urge the Government not to adopt a labour market policy that creates an underclass of no-wage, disposable young workers and embeds unpaid labour as a structural feature of the labour market.

Recommendations:

- Maintain the exception allowing unpaid internships in conjunction with educational institutions at s. 89(1.2)(a) of Bill C-59.
- Remove the exception allowing four to twelve month unpaid internships that are not associated with educational institutions at s. 89(1.2)(b) of Bill C-59.
- Extend the following workplace protections to all student and unpaid persons working for federally regulated employers:
 - Protections relating to sexual harassment under Division XV.1 of the *Canada Labour Code*;
 - Protections relating to work-related illness and injury under Division XIII.1 of the *Canada Labour Code*;
 - Protections relating to filing Canada Labour Program complaints under Division XVI of the *Canada Labour Code*.
- Limit the hours of work that can be performed by all student and unpaid persons working for federally regulated employers. We recommend prohibiting more than 8 hours of work in a 24 hour period and more than 35 hours of work in a 7 day period. Students and unpaid persons should be entitled to at least 12 hours off between shifts and at least 2 consecutive days off per week. Finally, “night work” between 10:00 PM and 6:00 AM should also be prohibited.

(2) Occupational Health and Safety Protections

Our Position: We support s. 87 of Bill C-59, which would give persons acquiring “knowledge or experience” in the federal sector occupational health and safety protections under Part II of the *Canada Labour Code*. However, it is unclear from the language of the provision whether all unpaid workers, students, interns and apprentices are included within the definition of persons acquiring “knowledge or experience.”

Recommendation: Maintain the extension of occupational health and safety protections to persons acquiring “knowledge or experience” at s. 87 of Bill C-59, but provide additional clarity on the application of Part II of the *Canada Labour Code* to all unpaid workers, students, interns and apprentices.

(3) Workplace Data Collection and Statistics

Our Position: We support s. 90 of Bill C-59, which would require employers to keep employment records for at least 36 months that are available for examination by an inspector. Despite this, currently no provincial or federal government collects data related to the prevalence of internships or the characteristics of persons engaged in unpaid labour. In addition, the Government collects no national data related to young people who are “Not in Education, Employment or Training” (“NEET”) or characteristics of persons in the NEET category.

Recommendation: Require Statistics Canada to immediately begin collecting data related to the prevalence of unpaid work and the personal characteristics of unpaid interns, students and other persons engaged in unpaid work as part of the monthly Labour Force Survey.

(4) Employer Compliance and Enforcement Strategies

Our Position: Currently the Government has no enforcement strategy with respect to internships, student programs or other forms of precarious employment in the federal sector. Precarious employment is defined by insecurity, uncertainty and lack of control, and is growing segment of Canada’s labour market. Young people often engage in precarious work such as contract, temporary, intern or freelance positions out of necessity, finding themselves in the most vulnerable part of the labour force with few workplace protections.

Recommendations:

- Require the Canada Labour Program to develop a proactive enforcement strategy tailored to reducing illegal unpaid work and employee misclassification in the federal sector. For example, the Canada Labour Program should conduct bi-yearly inspection blitzes targeting federally regulated employers of interns and student workers.
- Require the Canada Revenue Agency and Statistics Canada to develop enforcement strategies in conjunction with provincial governments to address employee misclassification and avoidance of payment Employment Insurance and Canada Pension Plan Contributions.

About the Canadian Intern Association

www.internassociation.ca

We are a federal non-profit organization founded in June 2012 that advocates against the exploitation of interns and aims to improve internship experiences.

Our campaigns educate interns, students, educators, employers and the public about internship issues such as rights to wages, employment standards, health and safety protections and freedom from harassment and discrimination. We regularly speak publicly about the challenges faced by interns and are working with academics to promote research on internships in Canada.