

THE CANADIAN INTERN RIGHTS GUIDE



Know your rights!
Enforce your rights!
Improve your rights!

ACKNOWLEDGEMENTS

We would like to extend our greatest thanks to our Campus Partners and Labour Partners who turned the Canadian Intern Rights Guide from idea to reality. This Guide would not be possible without their solidarity and support.

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ABOUT THE CANADIAN INTERN ASSOCIATION

www.internassociation.ca

The Canadian Intern Association is a not-for-profit organization that advocates against the exploitation of interns and aims to improve internship experiences. We were founded in June 2012 and incorporated federally in July 2013.

Our work focuses on educating the public, facilitating law reform, promoting research, and encouraging media coverage in an effort to improve workplace rights for interns and students across Canada.

We **educate the public** by giving talks about intern rights at colleges, universities and conferences; by drawing attention to specific internship programs on our Wall of Shame and Wall of Fame; and by providing up-to-date information on our website and social media pages.

We **facilitate law reform** by drafting non-partisan policy proposals; by participating in government consultations regarding the impact of workplace laws on interns and students; and by assisting federal and provincial politicians with legislative drafting and law reform.

We **promote research** regarding internships and youth employment issues by collaborating with governments and academics in Canada and internationally.

We **encourage media coverage** on internship issues by publishing opinion editorials; and by regularly appearing in local, national and international newspapers, magazines, radio and television.

The Canadian Intern Association is able to accomplish its goals thanks to the hard work of our dedicated Executive Team, strategic advice from our Board of Directors, and thoughtful collaboration with our Campus Partners, Labour Partners, and Partners Organizations.

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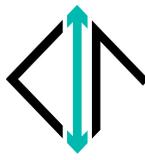
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Yana Nedyalkova is a member of the Canadian Intern Association's Board of Directors as well as a lawyer with a background in civil litigation, estates, trusts and corporate law. Yana studied law at Queen's University and Economics, International Relations and English Literature at the University of Toronto. After articling for the Office of the Public Guardian and Trustee (Ministry of the Attorney General), Yana was called to the Bar of Ontario. Yana currently holds a position as Corporate Trust Officer at Computershare Trust Company of Canada. In the past, Yana has completed internships with the United States Consulate General in Toronto and Children's Aid Society, where she benefited from excellent training and mentorship. Yana believes in the Canadian Intern Association's mission to improve working conditions for interns, as this is a growing problem affecting young people today.

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INTRODUCTION

Interns have emerged as a new category of workers who are especially vulnerable to employee misclassification and workplace rights violations in Canada.¹ While internships have existed in industries such as medicine and skilled trades for more than a century, internships have over the past decade infiltrated almost every sector of the Canadian labour market.²

Although the term “internship” (or “stage” in French) is not clearly defined in the workplace or in law, it usually refers to paid or unpaid temporary work performed by individuals looking to gain experience or make connections in a new field. An internship may take place in the public, private, or not-for-profit sector, and be a full-time or part-time position. The term “intern” (or “stagiaire” in French) is equally ambiguous and can refer to employees on a fixed term contract; students participating in experiential learning (such as an internship for academic credit, cooperative education program, or apprenticeship program); or volunteers for a not-for-profit or charitable organization.

Comprehensive data on paid and unpaid internships in Canada has not yet been collected; however, every year an estimated 300,000 unpaid internships in Canada violate employment standards and an additional 200,000 unpaid internships are undertaken for academic credit in conjunction with a post-secondary program.³ Although unpaid internships can be found throughout the Canadian labour market, they are most common in the tertiary sector and, specifically, in industries such as journalism, entertainment, marketing, and public relations.⁴

The emergence of intern workers has left many questions unanswered about this unique employment situation: When is it legal for an internship to be unpaid? Are interns entitled to the same protections as other workers? What recourse do interns have against illegal or problematic internships? How can workplace rights for interns be improved? The Canadian Intern Rights Guide seeks to answer all of these questions and more in a single document that summarizes internship laws in every Canadian jurisdiction; explains how interns can enforce their rights; and encourages improved practices and law reform.

After more than three years of advocating for intern rights, the Canadian Intern Association Executive Team found that workplaces and educational institutes lacked information on the workplace laws that apply to interns. With the help of our Campus Partners and Labour Partners, we are pleased present the first edition of the Canadian Intern Rights Guide.

HOW TO USE THIS GUIDE

The Canadian Intern Rights Guide is an educational tool for interns and students across Canada to learn about their workplace rights. While directed at students, interns, and recent graduates, this Guide is also designed to assist employers and educators that supervise internship programs as well as to facilitate law reform.

This Guide is divided into three sections that provide information for interns to “know”, “enforce” and “improve” their workplace rights. Each section includes legal information for each Canadian province as well as for internships in the federal sector. For interns who are unsure whether their internship is regulated provincially or federally, consult the Applicable Laws section below.

This first edition covers intern rights in all ten Canadian provinces and the federal sector; however, due to limited capacity, we were unable to include Canada’s three territories. If you are an intern or an intern rights advocate from Yukon, the Northwest Territories or Nunavut, we would love to partner with you for future editions of this Guide! Please reach out to us at info@internassociation.ca.

i. LEGAL DISCLAIMER

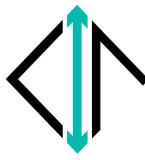
The material in this Guide should not, under any circumstances, be relied upon as legal advice. For assistance with your specific legal problem, please contact the appropriate government department, a lawyer specialized in employment law, or one of the resource centres included in this Guide.

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ii. APPLICABLE LAWS

To use this Guide, the reader must determine whether their workplace is regulated provincially or federally. In Canada, the vast majority of workers, including those classified as “interns”, are subject to laws enacted by the provincial legislatures. Each province has enacted its own employment standards legislation as well as complimentary legislation related to workplace



health and safety and human rights protections. While most workers are regulated provincially, workers in the federal sector are instead subject the *Canada Labour Code*.⁵ The *Canada Labour Code* applies to federal work, businesses or undertakings, such as banks, mobile network operators, broadcasters, and airlines.⁶

iii. INTERN RIGHTS SUMMARY

Intern rights can be grouped into three broad categories: (1) employment rights, (2) health and safety rights, and (3) human rights. Each of these three categories of rights are summarized below.⁷

- (1) **Employment rights derive from laws** that cover working conditions such as general holidays, vacation and vacation pay, hours of work, minimum wage, overtime, layoff procedures, and severance pay. The role of employment standards is to provide a “floor of rights” to which every employee is entitled. While some jurisdictions have explicitly legislated on the employment standards applicable to internships, others remain completely silent on the issue.
- (2) **Health and safety rights** are designed to safeguard the physical (and in some jurisdictions the psychological) safety of workers, as well as to protect workers from the financial hardships associated with work-related injuries and occupational diseases. Only some of Canada’s health and safety laws explicitly provide protections for students, interns, and unpaid workers.
- (3) **Human rights** prohibit discrimination and harassment in all aspects of employment and create administrative bodies that promote and enforce human rights laws. In every Canadian jurisdiction, human rights laws are applicable to and protect interns and students.

The extent to which interns hold these rights depends on the internship circumstances and applicable provincial or federal laws. With a basic understanding of these three groups of rights, interns can determine the rights that apply in their jurisdiction and how these rights can be enforced.

Under Canada’s federal and provincial workplace laws, interns are presumed to be entitled to the same employment rights, health and safety rights and human rights as other workers unless a specific exemption applies. Even if an employer or educational institution calls someone an “intern” or similar title, they may be entitled to the same workplace protections as other employees.

We hope this Guide is an invaluable tool to help you know, enforce and improve your workplace rights!



i. BRITISH COLUMBIA

Employment Rights

In British Columbia, interns are considered employees and are entitled to minimum wage unless they fall within (1) the student exemption or (2) the professional exemption, which are described below.

- (4) The student exemption applies to positions that provide “hands-on” training as part of a formal educational program (called a “practicum” under British Columbia’s *Employment Standards Act*).⁸
- (5) The professional exemption applies to people training to be professionals in designated fields such as medicine, law, nursing, engineering and accounting. Therefore, interns who are training to join one of the listed professions are not entitled to certain employment standards such as hours of work, overtime, rest period and the minimum wage.⁹

For further clarity, the British Columbia Ministry of Labour has defined “internship” as on-the-job training that continues to form an employment relationship, requiring minimum wage to be paid:

An “internship” is on-the-job training offered by an employer to provide a person with practical experience. Often internships are offered to persons who have completed a diploma or degree program and are seeking employment. Completing an internship does not itself result in an academic certificate or diploma. If the duties performed by interns fall within the definition of “work” contained in the Act, the intern falls within the definition of “employee”, and the agency using the services of an intern falls within the definition of “employer”, internships will be considered “work” for the purposes of the Act.¹⁰

Effective September 15, 2015, the hourly minimum wage in British Columbia is \$10.45 for most employees and \$9.20 for employees serving liquor as part of their regular job. Moving forward, British Columbia’s minimum wage will be tied to the Consumer Price Index and increase on September 15 of each year by the rate of inflation.¹¹

Health & Safety Rights

In British Columbia, interns are entitled to protections under provincial workers’ compensation, as well as health and safety laws. The legislation and regulations define “worker” to include:



- (b) a person who is a learner...who becomes subject to the hazards of an industry... for the purpose of undergoing training or probationary work specified or stipulated by the employer as a preliminary to employment.¹²

Workers have the right to work in a safe workplace and to be warned if any work being done may be dangerous. The employer also has to ensure the worker has the training needed to protect themselves from any possible dangers at work and avoid being exposed to materials that could make them sick.

WorkSafeBC, a public agency, provides injured workers with compensation, medical benefits, and helps workers return to work safely after their injury. A workplace injury is one that happens in the workplace, and where the injury was caused by something related to the job, including work-related diseases. When an employee is injured at work, they must tell their employer – no matter how serious the injury – and inform their doctor of the injury as soon as possible.

Employees, including unpaid interns, have the right not to perform work if they believe there is a risk of harm or accident. It is against the law for an employer to fire or punish a worker in any way for refusing to do unsafe work or for reporting unsafe work to a supervisor. The first step is to inform a supervisor and employer of any unsafe or dangerous work conditions.

Human Rights

In British Columbia, interns are entitled to protections against discrimination and harassment under the *Human Rights Code*, which defines “employment” broadly:

“employment” includes the relationship of master and servant, master and apprentice and principal and agent, if a substantial part of the agent’s services relate to the affairs of one principal.¹³

Volunteer work can also be deemed “employment” for the purposes of human rights statutes and for the obligations arising out of the law.¹⁴

The *Human Rights Code* is aimed at ensuring a minimal level of protection in the area of civil rights. These protections include equal treatment, freedom from discrimination and harassment on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital, family status, or disability.

Specifically, section 13 of the *Human Rights Code* protects individuals in the employment context:

Everyone has the right to be free from discrimination based on protected characteristics in all parts of their employment, including hiring, firing, wages, hours of work, benefits, and the work environment.



Unpaid internships can give rise to a number of human rights problems, such as sexual harassment, discrimination on the basis of age, asking prohibited questions in interview situations, and general harassment due to the subordinate position of unpaid interns.

ii. ALBERTA

Employment Rights

In Alberta, interns are considered employees and are entitled to the minimum wage unless they fall within (1) the student exemption or (2) the professional exemption, which are described below:

- (1) The student exemption applies to students engaged in “a formal course of training approved by the Director”, “in an off-campus education program provided under the *School Act*”, or “in a work experience program approved by the Minister of Enterprise and Advanced Education or the Minister of Human Services.”¹⁵ Therefore, interns whose internships are not approved by the Director, a school district, or the appropriate Minister are entitled to employment standards including the minimum wage.
- (2) The professional exemption applies to people training to be professionals in designated fields such as medicine, law, nursing, engineering and accountant. Therefore, interns who are training to join one of the listed professions are not entitled to certain employment standards such as hours of work, overtime, rest period and the minimum wage.¹⁶

Effective October 1, 2015, the hourly minimum wage in Alberta is \$11.20 for most employees and \$10.70 for employees serving liquor as part of their regular job. Alberta’s hourly minimum wage is scheduled to increase to \$15.00 per hour for all employees through a series of four increases by 2018.¹⁷

Health & Safety Rights

In Alberta, interns are entitled to protections under provincial worker’s compensation, as well as health and safety laws. The *Workers Compensation Act* defines “worker” and “learner” as follows:

“worker” means a person who enters into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise and includes...a learner.

“learner” means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry to which this Act applies for the purpose of undergoing testing, training or probationary work



preliminary to employment in an industry to which this Act applies.¹⁸

Alberta's *Occupational Health and Safety Act* defines “worker” and “occupation” sufficiently broadly to include interns and unpaid workers:

“worker” means a person engaged in an occupation

“occupation” means every occupation, employment, business, calling or pursuit over which the Legislature has jurisdiction.¹⁹

Human Rights

In Alberta, interns are entitled to protections against discrimination and harassment under the *Human Rights Act*, which prohibits discrimination against “any person” in employment.²⁰ Although the Act does not define “employment”, the interpretation of these provisions as applying to unpaid interns is consistent with the broad and liberal interpretation given to human rights legislation in Canada and the application of human rights legislation to volunteers in prior human rights case law.²¹

SK

iii. SASKATCHEWAN

Employment Rights

In Saskatchewan, interns are considered employees and are entitled to minimum wage and employment standards protections unless they fall within (1) the student exemption, (2) the professional exemption, or (3) the volunteer exemption, which are described below:

- (1) The student exemption states that “student learners” are not entitled to any employment standards, including the minimum wage. A “student learner” is an individual enrolled in an educational program at a recognized educational institution who is receiving skills training that is a requirement to receive a designation from that educational institution. The regulations clearly distinguish “student learners” from “interns,” which are defined below.²²
- (2) The professional exemption applies to certain professionals and those training to join those professions, such as medical interns, students-at-law, students in accountancy or other trainees or students. The regulations state that these employees are not entitled to employment standards related to overtime hours, overtime pay, and modified work arrangements, but are entitled to the minimum wage.²³
- (3) The volunteer exemption provides that individuals who work for a non-profit organization or institution in programs that are educational, therapeutic or rehabilitative are not entitled to minimum wage.²⁴ The effect of this section is to



exclude the use of volunteers or unpaid workers in for-profit organizations.

Saskatchewan includes persons undergoing training within their definition of employee and specifically states that “interns” are entitled to employment standards, including minimum wage:

“employee” includes... (ii) a person whom an employer permits, directly or indirectly, to perform work or services normally performed by an employee; (iii) a person being trained by an employer for the employer’s business.²⁵

“intern” means (i) a person whom an employer permits, directly or indirectly, to perform work or services normally performed by an employee; or (ii) a person being trained by an employer for the employer’s business.²⁶

Effective October 1, 2015, the hourly minimum wage in Saskatchewan is \$10.50. Saskatchewan’s minimum wage is reviewed annually using an indexation formula based on the Consumer Price Index and the average hourly wage for the past year, with increases announced on June 30 and taking effect on October 1 of each year.²⁷

Health & Safety Rights

In Saskatchewan, interns are entitled to worker’s compensation if they are “subject to the hazards of an industry...for the purpose of undergoing training or probationary work as a preliminary to employment.” The *Worker’s Compensation Act* defines “worker” and “learner” as follows:

“worker” means a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes: (i) a learner...

“learner” means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry similar to the hazards an employee in that industry faces for the purpose of undergoing training or probationary work as a preliminary to employment.²⁸

The *Saskatchewan Employment Act* is less clear as to whether interns are entitled to occupational health and safety protections, and merely provides for a broad definition of “worker” that could be interpreted to include unpaid interns and students:

“worker” means an individual, including supervisor, who is engaged in the service of an employer.²⁹

Human Rights

In Saskatchewan, interns are entitled to protections against discrimination and harassment under the *Human Rights Code*. The Code provides for the following definition of “employee”:



“employee” means a person employed by an employer and includes a person engaged pursuant to a limited term contract.³⁰

The interpretation of these provisions as applying to unpaid interns is consistent with the broad and liberal interpretation to human rights legislation in Canada and the application of human rights legislation to volunteers in prior human rights case law.³¹

MB

iv. MANITOBA

Employment Rights

In Manitoba, all interns are considered employees and entitled to minimum wage unless they fall within (1) the student exemption, (2) the professional exemption, (3) the volunteer exemption, or (4) the government training exemption, which are described below:

- (1) The student exemption states that the entire *Employment Standards Code*, which includes the right to minimum wage, does not apply to employees who are given “training or work experience for a limited period of time” through a program implemented or approved by a government authority or school board.³²
- (2) The professional exemption states that certain minimum employment standards in the *Employment Standards Code*, including the right to minimum wage, do not apply to employees who are qualified and practising in certain professions, or employed as a “student-in-training” for one of those professions.³³ Professionals and students-in-training are, however, entitled to minimum standards related to vacations, maternity leave, termination of employment, and equal wages.³⁴
- (3) The volunteer exemption states that the *Employment Standards Code*, which includes the right to minimum wage, does not apply to an employee who works as a volunteer for a religious, philanthropic, political, patriotic or charitable institution. The regulations also state that employment standards do not apply to employees working as “a volunteer camp counsellor at a residential camp that is operated by a charitable organization.”³⁵
- (4) The government training exemption states that minimum wage does not apply to employees who are given training or work experience for a limited period of time through a program implemented or approved by provincial or federal government authorities.³⁶

Effective October 1, 2015, the hourly minimum wage in Manitoba is \$11.00 per hour.³⁷

Health & Safety Rights

In Manitoba, interns are entitled to health and safety protections based on the definition of “worker” that includes persons undergoing training:



“worker” includes... “(c) any person undergoing training or serving an apprenticeship at an educational institution or at any other place.”³⁸

Interns in Manitoba are also entitled to worker’s compensation based on the definitions of “worker” and “learner”:

“worker” includes... (a) a person, whether or not under the age of 18 years, who enters into or works under a contract of service or apprenticeship, written or oral, expressed or implied, whether by way of manual labour or otherwise, [and] (b) a learner.

“learner” means any person who, although not under a not under a contract of service or apprenticeship, becomes subject to the hazards of an industry...for the purpose of undergoing training or probationary work as a preliminary to employment.³⁹

Human Rights

In Manitoba, interns are entitled to protections against discrimination and harassment in “employment or occupation”, which is broadly defined in the *Human Rights Code* to include unpaid workers:

“employment or occupation” includes (a) work that is actual or potential, full-time or part-time, permanent, seasonal or casual, and paid or unpaid; and (b) work performed for another person under a contract either with the worker or with another person respecting the worker’s services.⁴⁰

v. ONTARIO

ON

Employment Rights

In Ontario, interns are considered employees and are entitled to minimum wage unless they fall within (1) the student exemption, (2) the professional exemption, or (3) the trainee exemption, which are described below:

- (1) The student exemption states that the *Employment Standards Act* does not apply to students working as a part of a program approved by a secondary school board, college of applied arts and technology, or university.⁴¹ This includes co-ops, internships and other experiential learning placements approved by high schools, colleges of arts and technology and universities.
- (2) The professional exemption states that professionals and students training to join those professions are not entitled to certain employment standards, including minimum wage, hours of work, overtime pay, public holidays, and vacation pay.⁴²



- (3) The trainee exemption excludes persons receiving training from an employer from the *Employment Standards Act*, but only under very narrow and specific circumstances. A work is considered a “trainee” if *all* of the following conditions are met:
1. The training is similar to that which is given in a vocational school.
 2. The training is for the benefit of the intern. You receive some benefit from the training, such as new knowledge or skills.
 3. The employer derives little, if any, benefit from the activity of the intern while he or she is being trained.
 4. Your training doesn’t take someone else’s job.
 5. Your employer isn’t promising you a job at the end of your training.
 6. You have been told that you will not be paid for your time.⁴³

Interns whose internships meet all six conditions above are exempt from the *Employment Standards Act*. However, the threshold for this test is quite high, and if a single one of these conditions is not met, the intern is considered an employee and entitled to employment standards protections including minimum wage.

Effective October 1, 2015, the hourly minimum wage in Ontario is \$11.25 for most employees, and \$10.55 for students under age 18 who work 28 hours a week or less when school is in session, or work during a school break or summer holidays. The hourly minimum wage is adjusted on October 1 of each year and is tied to the Consumer Price Index.⁴⁴

Health & Safety Rights

In Ontario, interns are entitled to health and safety protections based on the *Occupational Health and Safety Act* definition of “worker”:

1. A person who performs work or supplies services for monetary compensation.
2. A secondary school student who performs work or supplies services for no monetary compensation under a work experience program authorized by the school board that operates the school in which the student is enrolled.
3. A person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution.
4. A person who receives training from an employer [and meets all six conditions of the “trainee exemption”].



5. Such other persons as may be prescribed who perform work or supply services to an employer for no monetary compensation.⁴⁵

Interns in Ontario are also entitled to workers' compensation based on the *Workplace Safety and Insurance Act* definitions of “worker” and “learner”:

“worker” means a person who has entered into or is employed under a contract of service or apprenticeship and includes... 1. A learner [and] 2. A student.

“learner” means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry for the purpose of undergoing training or probationary work.⁴⁶

Human Rights

In Ontario, interns are entitled to protections against discrimination and harassment in employment under the *Human Rights Code*.

The Human Rights Code does not define “employment”; however the Human Rights Commission and human rights case law endorses a broad definition of “employment” that covers anyone in a work-like context, including interns and volunteers.⁴⁷

vi. QUEBEC

QC

Employment Rights

In Quebec, interns are considered employees and are entitled to minimum wage unless they fall within (1) the student exemption, (2) the training exemption, or (3) the volunteer exception.

- (1) The student exemption states that Quebec's *Act respecting labour standards* does not apply to students who work during the school year “in an establishment selected by an educational institution pursuant to a job induction program approved by the *Ministère de l'Éducation, du Loisir et du Sport*.”⁴⁸ The legislation also exempts students “employed in a vacation camp or in a social or community non-profit organization” from employment standards related to hours of work and annual leave.⁴⁹
- (2) The apprenticeship exemption provided in the *Commission des normes, de l'équité, de la santé et de la sécurité du travail*'s Interpretation Guide states that apprentices and trainees receiving vocational training are entitled to wages determined by separate legislation, instead of the provincial minimum wage.⁵⁰
- (3) The volunteer exemption provided in the *Commission des normes, de l'équité, de la santé et de la sécurité du travail*'s Interpretation Guide states that volunteers are



exempt from minimum wage, but cautions that the situation must be carefully analysed to ensure that the individual is not performing work and is not, in fact, an employee. The Interpretation Guide provides criteria where individual who are “performing any work whatsoever”, in “a relationship of subordination” or working in a “profit-oriented undertaking” are very likely to be considered employees entitled to wages.⁵¹

Quebec’s *Act respecting labour standards* defines “employee” broadly to include not just “a person who works for an employer and who is entitled to a wage,” but also a worker who is “a party to a contract, under which he or she undertakes to perform specified work for a person within the scope and in accordance with the methods and means determined by that person.”⁵²

The *Commission des normes, de l’équité, de la santé et de la sécurité du travail*’s Interpretation Guide seems to squarely address the misclassification of interns when it states:

...alleging that the smooth operation of the enterprise does not require the hiring of new employees, that the applicant(s) has (have) no experience or that the workers agreed to work for free does not justify non-compliance with labour standards.⁵³

Effective May 1, 2015, the hourly minimum wage in Quebec is \$10.55 for most employees and \$9.05 for employees receiving tips. Effective May 1, 2016, the hourly minimum wage will increase to \$10.75 for most employees and \$9.20 for employees receiving tips.⁵⁴

Health & Safety Rights

In Quebec, interns are entitled to health and safety protections based on the definition of “worker” in the *Act respecting occupational health and safety*:

“worker” means a person, including a student in the cases determined by regulation, who, under a contract of employment or a contract of apprenticeship, even without remuneration, carries out work for an employer...⁵⁵

Similarly, Quebec’s worker’s compensation scheme applies to interns and under the *Act respecting industrial accidents and occupational diseases*:

“worker” means a natural person who does work for an employer for remuneration under a contract of employer or of apprenticeship.⁵⁶

10...a student is considered to be a worker employed by the educational institution in which he is pursuing his studies, or by the school board, where the institution comes under such a board if, under the responsibility of the institution, he is undergoing a training period at an establishment, without remuneration, or if his case is one of the cases determined by regulation.⁵⁷



13. A person is considered to be a worker if he does volunteer work for the purposes of an establishment, provided that his work is done with the agreement of the person who uses his services and that the latter person sends a statement to the Commission setting out (1) the nature of the activities carried on in the establishment; (2) the nature of the volunteer work; (3) the number of persons doing volunteer work for the purposes of the establishment or who are likely to do it within the current calendar year; (4) the average duration of the volunteer work; and (5) the period during the current calendar year for which protection is requested under this Act.⁵⁸

Human Rights

In Quebec interns are entitled to protections against discrimination and harassment in employment under the *Quebec Charter of Human Rights and Freedoms*:

16. No one may practise discrimination in respect of the hiring, apprenticeship, duration of the probationary period, vocational training, promotion, transfer, displacement, laying-off, suspension, dismissal or conditions of employment of a person or in the establishment of categories or classes of employment.

46. Every person who works has a right, in accordance with the law, to fair and reasonable conditions of employment which have proper regard for his health, safety and physical well-being.⁵⁹

The interpretation of these provisions as applying to unpaid interns is consistent with the broad and liberal interpretation given to human rights legislation in Canada and the application of human rights legislation to volunteers in prior human rights case law.⁶⁰

vii. NEW BRUNSWICK

NB

Employment Rights

In New Brunswick, provincial laws do not provide clear guidance on when interns and students are considered employees or entitled to minimum wage.

While the *Employment Standards Act* narrowly defines “employee” as “a person who performs work for or supplies services to an employer for wages,” the New Brunswick Labour and Employment Board wrote in 2011 that the legislation “does not allow for unpaid training time.”⁶¹ However, the case only addressed unpaid training that occurs before assuming work with the training employer, and did not address unpaid training for future employment with another employer.

Like in many other provinces, the *General Regulation* enacted under the *Act* creates an exemption from public holidays for employees working or training to work in certain professions,



such as architecture, medicine, law, dentistry, pharmacy and professional engineering.⁶² The regulation also exempts public school and community college teachers from employment standards related to vacations, and are instead governed by the *Adult Education and Training Act*.⁶³ The regulation does not refer directly to students or interns.

Effective December 31, 2014, the hourly minimum wage in New Brunswick is \$10.30 for most employees.⁶⁴ On April 1, 2016, the hourly minimum wage will increase to \$10.65.⁶⁵ The Government of New Brunswick has pledged to increase the hourly minimum wage to \$11.00 by 2017, and thereafter annually by the rate of inflation.⁶⁶ The overtime hourly minimum wage is \$15.45 per hour for employees working in excess of 44 hours per week. Since April 1, 2012, counsellors at a residential summer camp are entitled to a minimum wage of \$440 per week.⁶⁷

Health & Safety Rights

In New Brunswick, provincial laws do not provide clear guidance on whether interns and students are entitled to health and safety protections. The *Occupational Health and Safety Act* defines “employee” as “a person employed at or in a place or employment.”⁶⁸ Arguably, interns and students are entitled to health and safety protections in New Brunswick based on this definition.

New Brunswick’s *Workers’ Compensation Act* more clearly includes interns and students within its scope. The legislation defines the terms “worker” and “learner” as follows:

“worker” means a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes (a) a learner...⁶⁹

“learner” means any person who, although not under contract of service or apprenticeship, becomes subject to the hazards of an industry...for the purpose of undergoing training or probationary work supplied or stipulated by the employer as a preliminary to employment and includes a student attending an educational institution in the Province while participating in an approved work experience program at the place of business of an employer to whom this Act applies.⁷⁰

Human Rights

In New Brunswick, interns are entitled to protections against discrimination and harassment in employment under the *Human Rights Act*, which provides these protections to “any person” in employment.⁷¹ The *Human Rights Act* does not define “employment”, but the interpretation of its provisions as applying to unpaid interns is consistent with the broad and liberal interpretation given to human rights legislation in Canada and the application of human rights legislation to volunteers in prior human rights case law.⁷²



viii. NEWFOUNDLAND & LABRADOR

Employment Rights

In Newfoundland and Labrador, provincial laws provide little clarity on when interns and students are considered employees and entitled to minimum wage. Arguably, interns can be included in the broad definition of “employee” in the *Labour Standards Act*:

“employee” means a natural person who works under a contract of service for an employer⁷³

The *Labour Standards Act* clarifies the term “contract of service” and creates an exception for employees qualified or training for qualification in certain professions:

“contract of service” means a contract, whether or not in writing, in which an employer, either expressly or by implication, in return for the payment of a wage to an employee, reserves the right of control and direction of the manner and method by which the employee carries out the duties to be performed under the contract, but does not include a contract entered into by an employee qualified in or training for qualification in and working for an employer in the practice of (i) accountancy, architecture, law, medicine, pharmacy, professional engineering, surveying, teaching, veterinary science, and (ii) other professions and occupations that may be prescribed.⁷⁴

Effective October 1, 2015, the hourly minimum wage in Newfoundland and Labrador is \$10.50 for most employees.⁷⁵ The minimum overtime rate is \$15.75 per hour for employees working in excess of 40 hours per week.⁷⁶

Health & Safety Rights

In Newfoundland and Labrador, provincial laws do not provide clear guidance on whether interns and students are entitled to health and safety protections. The *Occupational Health and Safety Act* defines “worker” as “a person engaged in an occupation,” where “occupation” is defined broadly in the regulations as “an employment, business, calling or pursuit.”⁷⁷ Arguably, interns and students could fall within this broad definition.

Newfoundland and Labrador’s *Workplace Health, Safety and Compensation Act* more clearly includes interns and students within its scope. The legislation defines the terms “worker” to include apprentices and learners:

“Worker” means... a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes...

(ii) a person who is a learner, although not under a contract of service or



apprenticeship, who becomes subject to the hazards of an industry for the purpose of undergoing training or probationary work specified or stipulated by the employer as a preliminary to employment.⁷⁸

Human Rights

In Newfoundland and Labrador, interns are entitled to protections against discrimination and harassment in employment under the *Human Rights Act*, which provides these protections to “a person.”⁷⁹ The interpretation of the *Act*’s protections as applying to unpaid interns is consistent with the broad and liberal interpretation given to human rights legislation in Canada and the application of human rights legislation to volunteers in prior human rights case law.⁸⁰

PE

ix. PRINCE EDWARD ISLAND

Employment Rights

In Prince Edward Island, provincial laws provide some clarity on when interns and students are considered employees and entitled to minimum wage. Interns can be included in the definition of “employee” in the *Employment Standards Act*, which includes persons receiving training:

“employee” means a person who performs any work for or supplies any services to an employer for pay, and includes... (ii) a person who is being trained by an employer to perform work for or supply services to the employer...⁸¹

The *Employment Standards Act* does not, however, provide for specific exceptions from employment standards for students or professionals.

Effective July 1, 2015, the hourly minimum wage for Prince Edward Island is \$10.50 for most employees. Effective June 1, 2016, the hourly minimum wage will be increased to \$10.75 for most employees. Effective October 1, 2016, the hourly minimum wage will be increased to \$11.00 for most employees.⁸² The minimum wage is reviewed annually by the Prince Edward Island Employment Standards Board.

Health & Safety Rights

In Prince Edward Island, provincial laws do not provide clear guidance on whether interns and students are entitled to health and safety protections. The *Occupational Health and Safety Act* defines “worker” as “a person employed in a workplace” and defines “workplace” as “a place where a worker is or is likely to be engaged in an occupation.”⁸³

Prince Edward Island’s *Workers’ Compensation Act* clearly includes interns and students within its scope. The legislation defines “worker” to include apprentices, learners, and students:



“worker” includes (i) a person who enters into or works under a contract of service or apprenticeship, (ii) a learner or student...⁸⁴

“learner” means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry within the scope of the Act for the purpose of undergoing training or probationary work as a preliminary to employment.⁸⁵

“student” means a person who is pursuing a formal education as a full-time or part-time student and is employed by an employer for the purposes of the employer’s industry, although not as learner or an apprentice.⁸⁶

Human Rights

In Prince Edward Island, interns are entitled to protections against discrimination and harassment in employment under the *Human Rights Act*, which prohibits discrimination in employment against “any individual.”⁸⁷ The *Human Rights Act* does not define employment; however, the Human Rights Commission’s own “Know your Rights” Guide clarifies that the Code protections apply to volunteering,⁸⁸ and the application of the *Act* to unpaid interns is consistent with the broad and liberal interpretation given to human rights legislation in Canada and the application of human rights legislation to volunteers in prior human rights case law.⁸⁹

x. NOVA SCOTIA

NS

Employment Rights

In Nova Scotia, provincial laws provide some clarity on when interns and students are considered employees and entitled to minimum wage.

Under the *Labour Standards Code* “employee” is defined broadly as “a person employed to do work” and arguably would include interns and students.⁹⁰ The regulations provide several exceptions to minimum wage that are relevant to interns and students: (1) the apprenticeship exemption, (2) the training exemption, (3) the playground and summer camp exemption, and (4) the youth farmworker exemption.

- (1) The apprenticeship exemption states that apprentices under an apprenticeship agreement in accordance with the provisions of the *Apprenticeship and Trades Qualifications Act* are not entitled to minimum wage and are instead regulated by that Act.⁹¹
- (2) The training exemption states that “all persons receiving training under government sponsored and government approved plans” are not entitled to minimum wage.⁹²



- (3) The non-profit exemption states that “persons employed at a playground or summer camp operated on a non-profit basis” are not entitled to minimum wage.⁹³
- (4) The youth farmworker exemption states that “persons under the age of 16 years engaged in work on a farm whose employment is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, Christmas trees, Christmas wreaths, maple products, honey, tobacco, pigs, cattle, sheep, poultry, or animal furs” are not entitled to minimum wage.

Effective April 1, 2015, the hourly minimum wage in Nova Scotia is 10.60 for “experienced employees” and \$10.10 for “inexperienced employees.” “Inexperienced employee” and “experienced employee” are defined as follows:

“Inexperienced employee” means an employee who has not been employed by his or her present or other employer for a total period of three calendar months to do the work for which the employee is employed, but it does not include a person in the employ of an employer for whom he or she has completed three calendar months of employment

“experienced employee” means an employee who is not an inexperienced employee⁹⁴

Effective April 1, 2016, the hourly minimum wage will increase to \$10.70 for experienced employees and \$10.20 for inexperienced employees. Any future increases to the minimum wage will take place on April 1 of each year.⁹⁵

Health & Safety Rights

In Nova Scotia, provincial laws do not provide clear guidance on whether interns and students are entitled to health and safety protections. The *Occupational Health and Safety Act* defines “employee” as “a person who is employed to do work,” which could arguably include interns and students.⁹⁶

Nova Scotia’s *Workers’ Compensation Act* clearly includes certain “learners” within its scope. The legislation defines “worker” to include apprentices, learners, and certain students:

“worker”... includes (i) a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied...(iii) a learner, (iv) a student admitted pursuant to Section 6.⁹⁷

“learner” means (i) an apprentice, or (ii) any person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of any industry... for the purpose of undergoing testing, training or probationary work as a preliminary to employment.



Section 6(1) of the Act also empowers the Governor in Council to admit students under the Act’s coverage:

6 (1) The Governor in Council, may be order, admit any student of (a) a school as defined in the *Education Act*; (b) a vocational school, regional vocational school, technical institution, or nay educational facility under the supervision and management of the Minister of Education; or (c) a community college as defined in the *Community Colleges Act* to the application of this part.

However, as of January 2016, no students have been admitted into the Application of that part by the Governor in Council.⁹⁸

Human Rights

In Nova Scotia, interns are entitled to protections against discrimination and harassment in employment under the *Human Rights Act*, which prohibits discrimination against “an individual” in employment and volunteer public service.⁹⁹ Although the *Act* does not define “employment” or “volunteer public service”, the application of the Act to unpaid interns is consistent with the broad and liberal interpretation to human rights legislation in Canada and the application of human rights legislation to volunteers in prior human rights case law.¹⁰⁰

xi. FEDERAL SECTOR

Fed

Roughly six percent of Canadian workers fall under the federal labour jurisdiction and are governed by the *Canada Labour Code*.¹⁰¹ Part I of the *Canada Labour Code* regulates labour relations in unionized workplaces. Part II of the *Canada Labour Code* regulates occupational health and safety. Part III of the *Canada Labour Code* regulates employment standards.

The issue of whether a worker’s employment relationship falls under the federal jurisdiction can sometimes be a complicated matter of constitutional law. The federal government has both “direct labour relations jurisdiction” where “the work, business or undertaking’s essential operational nature brings it within a federal head of power”, as well as “derivative federal labour jurisdiction” where “the work, business or undertaking’s essential operational nature is vital, essential or integral to a federal head of power.”¹⁰²

Generally speaking, if you work for one of the following businesses or industries, you are most likely a federally regulated employee whose employment is governed by the *Canada Labour Code* as opposed to provincial workplace laws:

- banks;
- marine shipping, ferry and port services;
- air transportation, including airports, aerodromes and airlines;



- railway and road transportation that involves crossing provincial or international borders;
- canals, pipelines, tunnels and bridges (crossing provincial borders);
- telephone, telegraph and cable systems;
- radio and television broadcasting;
- grain elevators, feed and seed mills;
- uranium mining and processing;
- businesses dealing with the protection of fisheries as a natural resource;
- many First Nation activities;
- most federal Crown corporations; and
- private businesses necessary to the operation of a federal act.¹⁰³

Employment Rights

Until recently, the status of interns under the Canada Labour Code was not clear. However, the 2015 Budget Implementation Act enacted legislative exclusions from Part III of the *Canada Labour Code* (the provisions governing employment standards) for unpaid interns except to the extent provided by regulations. **NOTE: At the time of publication of this Guide, these regulations have not been established, and these provisions have not yet come into force.**

The new provisions provide that Part III of the *Canada Labour Code* does not apply to “any person who is not an employee but who performs for an employer to which this Part applies activities whose primary purpose is to enable the person to acquire knowledge or experience” (the language used to define “interns”), except to the extent provided for in the regulations, if:

- (a) the person performs the activities to fulfil the requirements of a program offered by a secondary or post-secondary educational institution or a vocational school, or an equivalent educational institution outside Canada, described in the regulations; or
- (b) the following conditions are met:
 - (i) subject to the regulations, the person performs the activities
 - (A) over a period of not more than four consecutive months that begins on the day on which they first perform them, or
 - (B) for not more than the prescribed number of hours over a period of more than four consecutive months but not more than 12 consecutive months that begins on the day on which they first perform them,



- (ii) benefits derived from the activities accrue primarily to the person performing them,
- (iii) the employer supervises the person and the activities that they perform,
- (iv) the performance of the activities is not a prerequisite to the person being offered employment by the employer and the employer is not obliged to offer employment to the person,
- (v) the person does not replace any employee, and
- (vi) before the person performs any of the activities, the employer informs them in writing that they will not be remunerated.¹⁰⁴

In simple terms, this excludes “interns” from the *Canada Labour Code*’s protections (except to the extent provided for in the regulations) if their internships is a requirement of their secondary or post-secondary program, or if their internship meets the requirements of the six-part test laid out in the legislation.

Prior to these recent legislative changes, the *Canada Labour Code* was ambiguous about whether interns are included under the definition of “employee.” The Canada Labour Program’s “Hours of Work” interpretation guide, which does not have the force of law, provides some guidance. In explaining the relationship between training time and “hours of work” which must be paid under the *Canada Labour Code*, the Interpretation Guide states the following:

Generally, work is given a broad definition of using or engaging the services of another.

...

Given the wide interpretations of the meaning of work, one can conclude the following:

1. Training required by law (e.g. hazardous products training) **does** constitute hours of work.
2. Training required by the employer (e.g. additional instruction for a new aspect of the employee’s job) **does** constitute hours of work.
3. Training initiated on the volition of the employee or developmental voluntary training which prepares the employee for another job **does not** constitute hours of work.

This interpretation does not affect the operation of s.11 of the *Canada Labour Standards Regulations*, concerning registered apprenticeship programs.

This interpretation does not apply to pre-employment testing of short duration, where hiring is contingent on successful completion of the test. However, this



should be distinguished from training of longer duration, where the candidate is learning and performing certain aspects of the job. In this latter situation, where a *de facto* employment relationship has been established, the time constitutes hours of work. Common sense should prevail in distinguishing these situations.

The following examples are provided for purposes of illustrations only and do not constitute hard and fast applications of the interpretation:

- The employer observes the candidate hooking up a truck and tractor, manoeuvring the unit in the yard and driving it on a short run. This takes half a day. This would not constitute hours of work.
- The employer requires the candidate to accompany another driver for a week. During this time, the candidate may drive the truck, assist in loading and unloading, and learn company procedures. If things work out, the candidate will be offered a job. This week constitutes hours of work.¹⁰⁵ [Emphasis in the original]

This interpretation, combined with the basic principle that you cannot contract out of employment standards and the lack of any clear statutory exclusion for unpaid internships, suggests that unpaid interns working in a *de facto* employment relationship are arguably entitled to the *Canada Labour Code's* protections.

Federally regulated employees are entitled to the provincial minimum wage of the province in which they are working.¹⁰⁶ If you are an apprentice working under federal jurisdiction, but are registered under a provincial apprenticeship act, you receive the pay set out in that act and not the minimum wage stipulated by the *Code*.¹⁰⁷

Please note that this information is subject to change as the government establishes regulations to govern unpaid internships in accordance with the legislative reforms contained in the 2015 Budget Implementation Act.

Health & Safety Rights

The 2015 Budget Implementation Act amended the *Canada Labour Code* to clearly bring unpaid interns under its protections.¹⁰⁸ Section 123(3) of the *Canada Labour Code* now provides that Division II (governing Occupational Health and Safety) also applies to “any person who is not an employee but who performs for an employer to which this Part applies activities whose primary purpose is to enable the person to acquire knowledge or experience”.¹⁰⁹

Human Rights

Interns and students working for federally regulated employers are entitled to human rights protections, such as freedom from discrimination and harassment in the workplace, under the *Canadian Human Rights Act* and *Canada Labour Code*.¹¹⁰



i. INTERNSHIP TIPS

BEFORE YOUR INTERNSHIP

- Determine your workplace rights in the context of your internship
- Clarify your internship's duration, remuneration, and expected hours of work
- Understand the tasks and assignments you are expected to complete
- Ask about office etiquette, equipment use, dress code, and break policies
- Make a budget of your expenses during your internship
- Inquire about potential opportunities when the internship ends

DURING YOUR INTERNSHIP

- Keep records of your hours, correspondence, and work produced
- Maintain a list of your responsibilities and work product
- Learn about and follow your employer's confidentiality policy
- Gather any evidence of stipends, honorariums, or other compensation you received (*e.g.* transit passes, meals, etc.)
- Keep contact information for your supervisor and colleagues
- Ask your supervisor to be your reference and write a reference letter
- Take advantage of your colleagues' contacts and networks

AFTER YOUR INTERNSHIP

- Consider whether your workplace rights were respected during the internship and whether to enforce those rights that were not respected
- Add your internship to your resume and keep your internship records
- Stay in touch with your colleagues, supervisor, and other connections you made during your internship



ii. CLAIM BACK YOUR PAY

General Steps to Recovering Wages

When an intern has been misclassified and their right to wages has been violated, they may file a claim for unpaid wages with their provincial labour ministry or, if the internship is in the federal sector, with the Canada Labour Program. The following are the key steps to “Claim Back Your Pay” with the specific information for each jurisdiction listed below.

Step 1: Information Gathering

- Acquire your employer’s name, address and contact information
- Gather information about your internship such as timesheets, records of employment, job descriptions, correspondence, and completed assignments
- Gather any evidence of stipends or honorariums that you received
- Put together any other documents that you think may assist with the complaint and investigation

Step 2: Attempt to resolve the dispute

- Talk to your employer about why you believe you are entitled to wages or another remedy based on your workplace rights
- Give a reasonable amount of time for your employer to respond
- Although attempting to resolve the dispute yourself is good practice, only some provinces require “self-help” before filing a complaint

Step 3: Submit an employment standards complaint

- Most provinces allow employment standards complaints to be filed online without a fee
- Ensure the limitation period for filing an employment standards complaint has not passed. In most provinces, you can file an employment standards complaint anytime during the internship or between 6 and 12 months of the date your internship ended.
- Some provinces allow individuals to make anonymous or third party complaints

Step 4: Wait during your investigation

- An employment standards officer will be assigned to your case and begin an investigation
- The investigation may be conducted over the phone, in writing, by investigating the employer’s premises or by requiring either or both of the parties to attend a meeting



Step 5: Receive your decision

- If successful, your employer will be ordered to pay you minimum wage for the hours you worked during your internship
- If you are unsuccessful, you may consider your rights of appealing the decision (these rights differ based on jurisdiction, see below)

At any stage, consider speaking with an employment lawyer qualified in your jurisdiction for legal information or advice.

Recovering Wages in British Columbia

BC

Complaints Process: In British Columbia, interns may make a complaint for unpaid wages to the Employment Standards Branch of the Ministry of Jobs, Tourism and Skills Training online at www.labour.gov.bc.ca/esb/forms/esb_comp.htm.

The employer will be notified of the complaint and advised to provide additional information, if required. The parties then have the opportunity to resolve their dispute with the help of a mediator. Where mediation is unsuccessful, the parties may be required to attend a hearing so both sides can present evidence. The Branch may, in some circumstances, conduct an investigation. An employer may be required to pay any outstanding wages as well as a mandatory penalty.

Self-Help Rule: Before filing the complaint, individuals are expected to try and resolve the problem directly with their employer by using the Employment Standards Self-Help Kit.¹¹¹ In response, employers are expected to review the information sent by the employee, and contact the employee to resolve the situation or pay money owing directly to the employee. The employer may agree to the request, and can therefore pay the unpaid wages directly to the employee. If an employer does not agree with the request, the employer should respond in writing, explaining why. The employee can file a complaint with the Employment Standards Branch if the employer has not responded within 15 days.

Limitation Period: A complaint must be filed within six months of an alleged contravention if the employee is still employed with the employer. In the case of a former employee, a complaint must be filed within six months of the last day of work.

Appeals: If the Employment Standards Branch issues a decision and the intern is unsuccessful, he or she may appeal the decision.

Additional Information:

- online at www.labour.gov.bc.ca/esb/complaint.htm
- by phone to Employment Standards General Enquiries at 1-800-663-3316



AB

Recovering Wages in Alberta

Complaints Process: In Alberta, interns may make an Employment Standards Complaint to the Alberta Ministry for Jobs, Skills, Training and Labour

- online at www.work.alberta.ca/employment-standards/employment-standards-complaint.html; or
- by phone to the Employment Standards Contact Centre at 780-427-3731 (Edmonton area) or 1-877-427-3731 (Toll-free).

Limitation period: A complaint must be filed within six months of the date your internship ended.

Additional Information:

- online at www.work.alberta.ca/employment-standards/Employment-Standards-Online-Inquiry.html

SK

Recovering Wages in Saskatchewan

Complaints Process: In Saskatchewan, interns may file an Employment Standards Complaint

- online at www.saskatchewan.ca/work/employment-standards/complaints-investigations-enforcement-and-fines/file-an-employment-standards-complaint/make-a-formal-employment-standards-complaint;
- by phone at 306 787 2438 (Regina), 306 933 5042 (Saskatoon), or (800) 667-1783 (Canada-wide);
- by fax at 306 933-5444; or
- by mail to Room 809, 8th Floor, 122 3rd Avenue N, Saskatoon, SK, Canada, S7K 2H6.

Limitation Period: A complaint must be filed within 12 months of the date your internship ended.

Anonymous or Third Party Complaints: Anonymous complaints can be filed by anyone including an employee or a third party such as a parent, friend, or a member of the community, and is available online at www.saskatchewan.ca/~/_media/files/lrws/es/anonymous-complaint-form.pdf

The anonymous complaint process best meets the needs employees who are and want to remain employed with an employer, and want a workplace employment standards issue addressed and corrected. A complaint can involve monetary or non-monetary issues. Written complaints with some supporting evidence are preferred. Upon receiving an anonymous complaint, the Employment Standards Division will contact and work with the employer to correct the employment standards problem. Successful anonymous complaints generally do not result in the



collection of back pay. Rather, problems are usually corrected on a “go-forward” basis, to ensure that from this point on that the provisions of the Act will be followed in the workplace.

Additional Information

- online at www.saskatchewan.ca/work/employment-standards/complaints-investigations-enforcement-and-fines/file-an-employment-standards-complaint

Recovering Wages in Manitoba

MB

Complaints Process: In Manitoba, interns may file a complaint with the Employment Standards Branch online at www.gov.mb.ca/labour/standards/forms.html.

Limitation period: 6 months from the last day worked or 6 months after the wages were due to be paid

Appeals: Appeals must be made in writing to the Manitoba Labour Board within 7 days of receiving the decision of the Employment Standards Branch.

Additional information:

- online at www.gov.mb.ca/labour/standards/doc_filing_claim_factsheet.html
- phone at 204-945-3352 (Manitoba) or 1-800-821-4307 (Canada-wide)
- email at employmentstandards@gov.mb.ca

Recovering Wages in Ontario

ON

Complaints Process: In Ontario, interns may file an Employment Standards Claim

- online at www.labour.gov.on.ca/english/es/forms/claim.php;
- by fax at 1-888-252-4684; or
- by mail to Provincial Claims Centre, Ministry of Labour, 70 Foster Drive, Suite 410, Roberta Bondar Place, Sault Ste. Marie, ON P6A 6V4.

Self-Help Rule: The self-help rule in Ontario is that employees must first contact their employer (or former employer) about the ESA rights they believe have been violated and how much they are owed. This requirement is a barrier for many employees in enforcing their rights. Fortunately, there are a number of exceptions to this general rule that allow employees to sidestep this requirement. One of these exemptions relevant for many interns is for “young workers”, which the Ministry of Labour defines as those under the age of 25.¹¹²

Limitation Periods: Interns and other employees must enforce their rights under the ESA within a certain time period. Recent changes to the ESA create different timelines for filing claims for recovery of wages depending on whether the wages “came due” before or after February 20, 2015. Generally, wages, except for vacation pay, “come due” on an employee’s regular pay day.¹¹³ For



wages that came due prior to February 20, 2015, an employee must file a claim within six months of when the wages came due. If the employer has violated the same section of the ESA more than once, this deadline is extended to 12 months so long as one such violation happened within the past 6 months. Employees also have 12 months to file a complaint with respect to vacation pay.¹¹⁴ For wages that come due after February 20, 2015, employees must file a claim within two years after the date the wages came due.¹¹⁵ For non-monetary provisions of the ESA, employees have 2 years to file a complaint, regardless of whether the violation took place prior to February 20, 2015.

Limits on Monetary Recovery: Interns should also be aware of monetary caps that may apply to their recovery of back wages. For wages that came due prior to February 20, 2015, there is a \$10,000 cap on recovery. Recent amendments to the ESA have removed this cap, effective February 20, 2015. For wages that came due after February 20, 2015, no monetary cap applies. “”

Appeals: Once the ESO’s investigation is complete, they will make their decision based on the best available evidence.¹¹⁶ The ESO will advise you of their decision in writing. If they find that your employer has violated the ESA, the ESO can issue an order against your employer if they fail to voluntarily comply with the ESO’s decision, and can also order your employer to post a notice about the ESA, and/or part or all of the ESO’s report into the complaint. Both parties have the right to appeal an ESO’s decision to the Ontario Labour Relations Board. As an employee, you may appeal the ESO’s decision by submitting an Application for Review within 30 days of the date of the letter advising you that an order has been issued against your employer, or the letter advising that the ESO has refused to issue an order.

Additional Information:

online at www.labour.gov.on.ca/english/es/pubs/guide/esclaim.php

by phone to the Employment Standards Information Centre at 416-326-7160 or 1-800-531-5551.

QC

Recovering Wages in Quebec

Complaints Process: In Quebec, interns can file a complaint with the Commission des normes, de l’équité, de la santé et de la sécurité du travail (the “CNESST”),

- online at www.services.cnt.gouv.qc.ca/smartlets/dpel.jsp; or
- by phone at 1-844-838-0808.

The *Act respecting labour standards* gives the CNESST the power to investigate and to order an employer to pay wages owed to an intern.¹¹⁷ Unless the intern agrees, the CNESST is not allowed to reveal the name the person who made a complaint during their investigation.¹¹⁸

Limitation Period: Interns must enforce their rights under the *Act respecting labour standards* within one year of the employer failing to pay the amounts owed. After this time, the claim will be prescribed and cannot be enforced.¹¹⁹

Appeals: If the CNESST refuses to accept your complaint or finds it to be unfounded, they are required to notify you by certified mail.¹²⁰ You then have thirty days to request in writing that



they revise their decision.¹²¹ They will then make a final decision and notify you within a further thirty days.

Recovering Wages in New Brunswick

NB

Complaints Process: Complaints in New Brunswick are filed through the Employment Standards Branch, Department of Post-Secondary Education, Training and Labour

- online at www2.gnb.ca/content/gnb/en/departments/post-secondary_education_training_and_labour/People/content/EmploymentStandards/EmploymentStandardsOnlineComplaintForm.html;
- by fax at [1-\(506\) 453-3806](tel:1-506-453-3806);
- by writing to the Department of Post-Secondary Education, Training and Labour, Employment Standards Branch, P.O. Box 6000, Fredericton NB E3B 5H1; or
- by visiting the nearest office of the Employment Standards Branch and speaking with an officer.

There is no requirement to take steps before filing a complaint, such as contacting the employer. There is no upper limit to the wages that can be claimed, although a complainant can only go back twelve months in seeking back pay.

Limitation Period: A complaint must be made within twelve months of an alleged violation or denial under Part III (Employment Standards) of the *Employment Standards Act*.

Anonymous complaints: The general practice of the Employment Standards Branch is not to accept third-party or anonymous complaints. The Director of the Branch may agree to keep a complainant's identity confidential if he or she believes they may face intimidation or retaliation.¹²²

Appeals: A complainant or employer can refer a decision of the Employment Standards Branch concerning a complaint or violation to the Labour and Employment Board for a hearing. The intern must make a written request to the Director within fourteen days of receiving the Branch's decision.¹²³

Additional Information:

- online at www2.gnb.ca/content/gnb/en/departments/postsecondary_education_training_and_labour/People/content/EmploymentStandards.html
- by phone at [1-888-452-2687](tel:1-888-452-2687) (toll-free)

Recovering Wages in Newfoundland & Labrador

NL

Complaints Process: Complaints are made to the Labour Standards Division within the Labour Relations Agency



- by phone at 1-877-563-1063

Complaints are generally investigated by the Director of Labour Standards. Unfortunately, the Labour Standards Division has a very rudimentary website. The simplest option is for an intern to call a Labour Standards Officer, who will walk them through the complaint process.

Limitation period: A complaint must be made within two years of the event prompting it.¹²⁴ However, when a contract of employment has ended, the intern must file a complaint within six months of the termination of their work contract.

Anonymous Complaints: Anonymous complaints are not generally accepted. The Division has the power to perform random and preventive investigations, but they require a complaint to be filed for the recovery of wages.

Appeals: If the Director makes a decision with which the intern disagrees, the intern has a right to appeal to the Labour Relations Board. Their application must be filed within thirty days of receiving the decision of the Director.¹²⁵

PE

Recovering Wages in Prince Edward Island

Complaints process: Complaints in PEI are filed with the Employment Standards Branch

- online at [www.gov.pe.ca/labour/index.php3?number=1025374 &lang=E](http://www.gov.pe.ca/labour/index.php3?number=1025374&lang=E); or
- by printing the online complaint form and mailing it to 161 St. Peters Road, 2nd Floor, PO Box 2000, Charlottetown, PE, C1A 7N8.

An investigator will generally be assigned to inquire into whether the *Employment Standards Act* has been violated and to order the employer to comply with the *Act*. Although the Branch recommends interns attempt to contact their employer beforehand to find a solution, they are not required to do so before filing a complaint.

Limitation Period: An inspector can only order an employer to pay wages that were owed and not paid in the previous twelve months.¹²⁶

Anonymous complaints: The *Act* requires the Board and an inspector to keep a complainant's identity confidential if they wish. They may only disclose it for the purposes of prosecution or if they consider it in the public interest.¹²⁷

Appeal: An intern who is not satisfied with the decision of an inspector has a right to appeal it in writing to the Employment Standards Board.¹²⁸

Additional information:

- online at www.gov.pe.ca/labour/index.php3?number=1004723&lang=E
- by phone at 902-368-5550 or 1-800-333-4362



Recovering Wages in Nova Scotia

Complaints Process: Complaints in Nova Scotia are made to the Labour Standards Division. Before receiving an application form, interns must make contact with a Labour Standards Officer to discuss their situation:

- by phone at 1-888-315-0110 or 902-424-4311;
- by email at labrstd@novascotia.ca;
- by fax at 902-424-0648; or
- by mail at 5151 Terminal Road, 7th Floor, PO Box 697, Halifax NS, B3J 2T8.

Interns are not required to attempt to settle the problem with their employer before contacting the Labour Standards Division.

Limitation Period: Complaints must be made within six months of the failure to pay wages.¹²⁹

Anonymous Complaints: The Division can investigate widespread workplace issues anonymously, but complaints related to a single employee (e.g. claiming back one intern's pay) requires a complaint and cannot be done anonymously.

Appeals: Interns can appeal the decision of the Division to the Nova Scotia Labour Board. Appeal information is available by calling 1-877-424-6730.

Additional Information:

online at www.novascotia.ca/lae/employmentrights/

Recovering Wages in the Federal Sector

Complaints Process: Complaints in the federal sector are made to the Labour Program by printing off a copy of their complaint form and mailing it to the nearest regional office, which can be found online at www.esdc.gc.ca/en/reports/labour_standards/filing_complaint.page.

Complaints in the federal sector are governed by Part III of the *Canada Labour Code*. The *Code* gives the Labour Program the power to request that an employer pay wages owed. If an employer does not comply, the Program can also issue a legally enforceable order to pay.

Limitation Period: You must file your complaint within six months of your wages being owed to you.

Appeals: An intern may appeal a decision of the Labour Program to the Minister of Labour in writing within fifteen days of receiving notice that their complaint has been rejected. A further appeal to an independent referee may be possible in special cases involving law or jurisdiction.



Additional Information:

- online at www.esdc.gc.ca/en/reports/labour_standards/filing_complaint.page
- by phone at 1-800-641-4049

iii. HEALTH & SAFETY CONTACTS

Contact the organizations below for inquiries about health and safety violations.

BC

British Columbia – WorkSafeBC

- Online at www.worksafebc.com
- Claims or rehabilitation: (604) 231-8888 or 1-888-967-5377
- Crisis Support Line: 1-800-624-2928 (24 hours)
- Emergency and accident reporting:
(604) 276-3100
1-888-621-SAFE (7233) (toll-free)
1-866-WCB-HELP (922-4357) (after hours)

AB

Alberta – Occupational Health and Safety

- online at www.worksafe.alberta.ca
- phone at (780) 415-8690 or 1-866-415-8690

SK

Saskatchewan - Occupational Health and Safety

- online at www.saskatchewan.ca/business/safety-in-the-workplace/
- phone at (306) 787-4496
- fax at (306) 787-2208

MB

Manitoba – Workplace Safety and Health

- online at www.gov.mb.ca/labour/safety
- email at wshcompl@gov.mb.ca
- phone at (204) 957-SAFE (7233) or 1-855-957-SAFE (7233)

ON

Ontario - Health & Safety Contact Centre

- online at www.labour.gov.on.ca
- phone at 1-877-202-0008 (English) or 1-877-202-0008 (other languages)
- fax at (905) 577-1316



Quebec - Commission des normes, de l'équité, de la santé et de la sécurité du travail
Siège social

QC

- online at www.csst.qc.ca
- phone at 1-844-838-0808

New Brunswick – WorkSafeNB

NB

- online at www.worksafenb.ca
- email at compliance.conformite@ws-ts.nb.ca or communications@ws-ts.nb.ca
- phone at 1 800 222-9775 or 1 800 222-9775

Newfoundland and Labrador – Service NL Occupational Health and Safety Branch

NL

- online at www.servicenl.gov.nl.ca/ohs
- phone at (709) 729-4444 or 1-800-563-5471 (24 Hours)

Prince Edward Island – Public Service Commission Occupational Health and Safety Section

PE

- online at www.gov.pe.ca/psc/ohs
- phone at 1-902-368-5491

Nova Scotia – Occupational Health and Safety Division

NS

- online at www.novascotia.ca/lae/healthandsafety
- email at ohsdivision@gov.ns.ca
- phone at (902) 424-5400 or 1-800-952-2687 (24 hours)

Federal Sector - Canada Labour Program

Fed

- online at www.labour.gc.ca/eng/health_safety/pubs_hs/complaint.shtml
- phone at 1-800-641-4049 (24 hour)



iv. HUMAN RIGHTS CONTACTS

Contact the organizations below for inquiries about human rights at work, including discrimination and harassment complaints.

BC

British Columbia – Human Rights Tribunal and Clinic

British Columbia Human Rights Tribunal

- online at www2.gov.bc.ca/gov/content/justice/human-rights/human-rights-protection and www.bchrt.bc.ca
- email at BCHumanRightsTribunal@gov.bc.ca
- phone at (604) 775-2000 or 1-888-440-8844

British Columbia Human Rights Clinic

- online at www.bchrc.net
- email at intakebchrc@clasbc.net (legal representation) and infobchrc@clasbc.net (general inquiries)
- phone at (604) 622-1100 or 1-855-685-6222

AB

Alberta – Human Rights Commission

- online at www.albertahumanrights.ab.ca
- phone at (780) 427-7661 (northern office), (403) 297-6571 (southern office) or 1-800-232-7215

SK

Saskatchewan – Human Rights Commission

- online at www.saskatchewanhumanrights.ca
- email at shrc@gov.sk.ca
- phone at (306) 933-5952 or 1-800-667-9249

MB

Manitoba – Human Rights Commission

- online at www.manitobahumanrights.ca
- email at hrc@gov.mb.ca
- phone at (204) 945-3007 or 1-888-884-8681

ON

Ontario – Human Rights Tribunal

- online at www.sjto.gov.on.ca/hrto



- [email at hrto.tdpo@ontario.ca](mailto:hrto.tdpo@ontario.ca)
- phone at (416) 326-1312, 1-866-598-0322, or 1-866-607-1240

Québec – Commission des droits de la personne et des droits de la jeunesse

QC

- online at www.cdpcj.qc.ca
- [email at accueil@cdpcj.qc.ca](mailto:accueil@cdpcj.qc.ca)
- phone at (514) 873-5146 or 1 800 361-6477

New Brunswick – Human Rights Commission

NB

- online at www.gnb.ca/hrc-cdp
- [email at hrc.cdp@gnb.ca](mailto:hrc.cdp@gnb.ca)
- phone at (506) 453-2301 or 1-888-471-2233

Newfoundland and Labrador – Human Rights Commission

NL

- online at www.justice.gov.nl.ca/hrc
- [email at humanrights@gov.nl.ca](mailto:humanrights@gov.nl.ca)
- phone at (709) 729-2709 or 1-800-563-5808

Prince Edward Island – Human Rights Commission

PE

- online at www.gov.pe.ca/humanrights
- [email at contact@peihumanrights.ca](mailto:contact@peihumanrights.ca)
- phone at (902) 368-4180 or 1-800-237-5031

Nova Scotia – Human Rights Commission

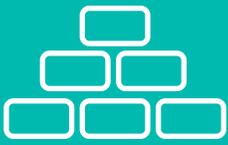
NS

- online at www.humanrights.gov.ns.ca
- [email at hrcinquiries@novascotia.ca](mailto:hrcinquiries@novascotia.ca)
- phone at (902) 424-4111 or 1-877-269-7699

Federal Sector – Canadian Human Rights Commission

Fed

- online at <http://www.chrc-ccdp.ca>
- [email at info.com@chrc-ccdp.gc.ca](mailto:info.com@chrc-ccdp.gc.ca)
- phone at 1-888-214-1090 or 1-888-643-3304



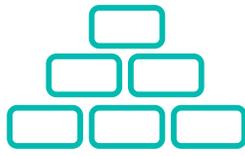
IMPROVE YOUR RIGHTS

i. HOW TO GET INVOLVED

Every year, thousands of Canadians are denied their rights when working in illegal unpaid internships. If you want to help protect people's rights to a fair wage and workplace protections, we encourage you to get involved.

Beyond enforcing your own workplace rights you can:

1. Join the Canadian Intern Association – reach out to us at info@internassociation.ca to get involved in the fight for intern rights!
2. Follow us online:
Twitter: @canadianinterns
Facebook: www.facebook.com/CanadianInternAssociation
Website www.internassociation.ca
3. Encourage your student union to become a Campus Partner! A list of our current Campus Partners is available at www.internassociation.ca/partners
4. Start initiatives on your campus, such as:
 - hosting an event on intern rights on campus – contact us at info@internassociation.ca if you'd like us to join;
 - educating students and create dialogue through posters, flyers/pamphlets, classroom announcements and newsletters; or
 - creating a student committee that works in conjunction with your career centre to prevent the advertising of unpaid internships and to help inform students about their workplace rights.
5. Contact your local Member of Parliament or provincial legislative representative asking them to push for greater workplace protections for students and interns.
6. Petition your provincial Legislature and the House of Commons for increased protections for students and interns.
7. Use social media to educate, inform, and expose exploitive employers.
8. Contact the Canadian Intern Association with any questions you have at info@internassociation.ca.



ii. EMPLOYER & EDUCATOR BEST PRACTICES

The purpose of this section of the Guide is to provide best practices for (1) employers offering and running an internship program; and (2) educators in colleges and universities who endorse, promote, or require the completion of an internship. While this section of the Guide does not provide province-specific guidance to employers and educators, it lists general principals to safeguard interns' rights while also preserving the employer's reputation.

(1) Best Practices for Employers

Your unpaid internship program might cost you.

Aside from being unethical and exploitative, organizing an illegal internship program may be a significant liability for a company. An illegal internship is one that does not follow the provincial or applicable federal legislation and is used as a disguise in order to receive free or underpaid labour.

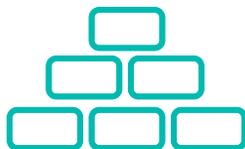
However, even if your unpaid internship program is legal, it may still be unethical, exploitative, and contrary to corporate social responsibility norms.¹³⁰ The fact that your internship falls within a statutory exemption doesn't mean that your intern shouldn't be compensated for their labour. Employers should be aware of the reputational damage they risk in running unpaid internship programs that take advantage of overbroad exclusions from employment standards.

Undervaluing the skills of young people working for your organization may end up causing more harm than profit.

For example, if the unpaid or underpaid internship makes it impossible for young people of diverse backgrounds with low household income to apply, the program may reflect poorly on your organization and may demonstrate a lack of corporate social responsibility. Research has revealed that a large percentage of people who can afford to participate in unpaid internships can afford to eat, pay rent, and travel on their own dime or their parents' dime.¹³¹ In this demographic, young people typically come from an affluent background and have other sources of income such as family support.¹³² Offering internships that violate provincial employment standards would make it difficult for the company to truthfully represent itself as an "equal opportunity employer".

Employers would be wise to follow the old adage "substance over form".

The substance of the work itself and all surrounding circumstances prevail over the name of the position or the advertised title. Just because a person is referred to as an "intern", does not necessarily mean that they are not entitled to the employment rights, health and safety rights, and human rights explored in this Guide. For example, interns are entitled to the same protections as other employees against discrimination and harassment under human rights legislation. Employers should equally focus on interns' workplace rights outlined in the relevant occupational health and safety legislation. Most importantly, employers should not presume an



individual is not an employee that is entitled to minimum wage and other employment standards simply because they call them an “intern”. Interns, like other employees, are protected by employment standards legislation unless they fall under some specific legal exemption.

Do not use excuses.

Employers should not use excuses to get around paying minimum wage when the internship does not fall under legislated exemptions. When an intern files a claim for back pay, employers often attempt to use excuses of why they think they should not be responsible for paying wages. One of the most common excuses we hear is that the interns should not be paid because they do not have any work experience. Others have made the argument that interns do not substitute paid employees because hiring of employees is not essential to the operation of the business. These excuses are not valid. The fact that the intern had agreed to work for no remuneration does not preclude their right to receive minimum wage.

Training your workforce is part of the cost of doing business.

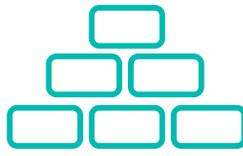
Employers reap the benefits of the training they provide to their workers. Job-specific training is a cost that should be borne by employers, and shouldn't download the cost of skills training on workers through unpaid internships.

Make your internship program stand out!

By offering an internship program that is paid, provides training, and allows the intern to gain valuable work experience, you are making an important statement about your organization. Consider offering your intern a formal mentor, evaluation sessions that promote learning, and opportunities to provide feedback.

(2) Best Practices for Educators

Colleges and universities across Canada are responsible for experiential learning programs, such as internships for academic credit, co-operative education programs, and apprenticeship programs. These programs often exempt the student or intern from certain employment standards protections, such as the right to minimum wage. The exclusion from these protections means that it is up to academic institutions to oversee and regulate these work placements. Unfortunately, many institutions fail to promote payment for students' placements. Educators should stop condoning unpaid internships, especially those offered by for-profit businesses. Many educational institutions fail to set clear guidelines for when it is appropriate for a placement to be unpaid or when it is exploitation under the guise of an internship.



Adopt a paid-first approach.

Academic institutions that oversee programs for interns who are excluded from employment standards should make best efforts to ensure all placements are paid.¹³³ Similarly, academic institutions must not turn a blind eye to or in any way support illegal unpaid internships. Under no circumstances should colleges and universities post illegal unpaid internship placements on their career development websites.¹³⁴ Career offices at colleges and universities have the power to encourage employers to provide paid placements and to avoid partnerships with employers that fail to provide equal opportunities.

Educators should be involved in oversight and supervision of the internship experience throughout its duration.

Students should be educated about their employment rights and the obligations of employers in their province. Facilitate learning by inviting guest speakers and disseminating educational materials such as brochures or guides.

Work performed can be described in weekly reports by the intern, signed by their internship supervisor and reviewed by the educator. The work has to allow the intern to contribute in meaningful ways to the workplace, to make valuable professional connections and to learn about the field.¹³⁵ Educators may draft a written learning plan with goals, with collaboration from the intern and the employer in the beginning of the internship. Oversight of whether the goals are being met should continue throughout the internship period.

If the internship is unpaid, educators should ensure that the student receives an appropriate college or university credits, and preferably pays reduced tuition during their placement.

Institutions should put a process in place for interns to provide feedback anonymously and freely share their thoughts about the experience. The feedback should be entirely confidential and not communicated to the employer in order to avoid harming the intern's reputation or prospects of getting hired in the future. If the intern's feedback is negative mid-way through the internship, there should be a system in place for the program to be re-adjusted or to switch into an alternative placement. Finally, colleges and universities should keep a statistical record of the number of interns who secure paid employment with the company after the internship ends. Statistics will test whether the socially accepted justifications for underpaid internships are correct.



iii. LAW REFORM PROPOSALS

Thus far, this Guide has set out to help former, current, or future interns navigate their workplace protections. As this Guide has highlighted, there are significant gaps in Canada’s workplace rights of interns. Accordingly, in order to provide greater protection of students, interns, trainees, and young workers in Canada, we provide the following recommendations for law reform.

(1) Close the Loopholes that Deny Interns Pay & Basic Workplace Protections

Eliminate all Unpaid Internships not Formally Linked to Academic Study

Governments across Canada should eliminate statutory exclusions for interns or “trainees” that are not formally linked to academic study. Governments should also clarify that employees who perform work for an employer are not disentitled to minimum wage and other employment standards simply by the fact that their employer calls them an “intern”. Employers have proven themselves simply unwilling or unable to appropriately self-assess the legality of their unpaid internship programs. These statutory exclusions have resulted in the explosive growth of unpaid internships, and should be repealed.

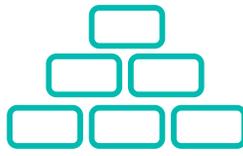
Eliminate the Exemptions for Students in Training for Certain Professions

Many provinces provide exemptions from employment standards for students undertaking training for various professions. Whatever the merits of these exclusions at the time they were enacted, they do not reflect the lived realities and the needs of students in training for these professions today. Students in professional programs face extraordinarily high tuition and cost of living. They are highly skilled workers who have undertaken years of training and incurred large sums of debt. At the very least, they should be entitled to compensation and basic workplace protections.

Strictly Narrow the Exclusions for Internships Linked to Academic Study

Governments across Canada should strictly narrow the scope of unpaid internships linked to academic study. Interns who perform work through programs governed by secondary School Boards, Colleges of Arts and Technology, and Universities should be paid in all but the most exceptional of circumstances.

Each year, students perform countless hours of unpaid work as a requirement of their high school, college of art and technology, or university programs. Reports of students simply performing work, which would otherwise be performed by employees, raise concerns about the appropriateness of certain unpaid placements and the need for greater oversight. In some industries, entry-level paid positions have been replaced with an overflowing pool of interns. Addressing exploitative unpaid internships organized through secondary and postsecondary educational institutions should be part of a broader strategy to address youth unemployment and support vulnerable youth workers. Otherwise, government funding will be spent towards



subsidizing payrolls for employers while an increasing number of youth will rely upon social programs to sustain themselves.

Extend Basic Workplace Protections to Unpaid Internships Linked to Academic Study

To the extent that the provincial and federal governments permit unpaid internships to persist, they should ensure that these interns are granted the full protections of the non-monetary provisions of employment standards legislation, along with occupational health and safety protection. “Interns” and other unpaid workers are covered by human rights legislation, but this should be clarified and made clear to unpaid interns in all jurisdictions.

(2) Improve Employer Compliance and Enforcement Strategies

Expanded Investigations

Labour regulators should undertake expanded investigations of employers’ practices in the event that a complaint results in a finding of a violation their employees’ workplace rights. Chances are that if one employee’s rights are being violated they aren’t the only one experiencing a similar violation in the workplace.

Inspection Blitzes

Labour regulators should perform more frequent inspection blitzes targeting high-risk employers who may be noncompliant in a variety of sectors. This can be done by partnering with student organizations, postsecondary institutions, and not-for-profit organizations.

Formalized System of Anonymous and Third Party Complaints

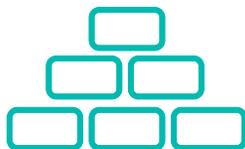
Labour regulators should provide interns and other employees the option of submitting complaints anonymously so that they can enforce their rights without having to out themselves to their employer.

Greater Oversight for Academic Internships and Placement

Provincial governments should provide greater oversight of internships offered through academic programs, and should ensure that students gain valuable experience rather than just offering free labour. We suggest some of the following proposals of which could be implemented:

- Academic institutions submit an annual report of affiliated internship programs.

This report would include details of the nature of the work, the hours and students that participated in the internship as well as a feedback component of what students thought about the internship;



- Routine inspections of internship programs; and
- Monetary fines and suspensions for unpaid internship programs that are in contravention of the law.

Enforcement Strategies Must Adapt to the Internet Age

Labour regulators must adapt their enforcement strategies to the internet age. It is imperative to address the advertising of illegal internships online and the growing practice of unpaid internships over the internet.

(3) Improve Data Collection and Increase Public Education:

Canada's provincial and federal governments do not currently collect data on the prevalence of internships or demographic information about interns. It is clear the lack of concrete data on internships in Canada is one reason for a scarcity of political will for law and policy reform. Further, in many provinces, information on the workplace rights of interns is not actively disclosed to young workers by labour regulators. We provide the recommendations below to address this issue.

Statistics Canada Must Collect Data on Unpaid Interns

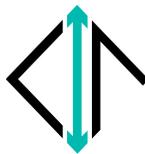
The Government of Canada must direct Statistics Canada to collect data on the prevalence of unpaid internships in Canada and the demographics of unpaid interns.¹³⁶ The Liberal Party of Canada recently committed to “initiate information-gathering in areas such as internships” in its response to our 2015 General Election Questionnaire,¹³⁷ and we look forward to the Liberal Government taking action in this regard.

Labour Regulators Should Produce Educational Materials to Inform the Public

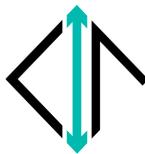
Labour Regulators should produce educational materials targeting young workers and employers to help clarify the laws surrounding internships. To disseminate this information, labour regulators should make use of social media, attend college and university events, and provide information for employers and career counsellors.

ENDNOTES

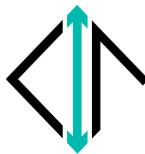
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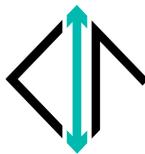
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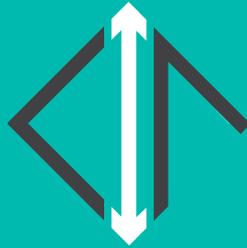


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