

Employment Law Essentials

Minimize the Risk of Employer Liability and Litigation

The roots of employment law stretch back to the time of the Black Death. From there it has evolved over the centuries to reflect the conditions of every successive age. What was called the “Law of Master and Servant” as recently as thirty years ago is now called “Employment Law.” Today, employment law is addressing the needs of the modern workplace, and contemplates such subjects as gender inclusion; the blurring of work and personal time; and corporate whistle blowing.

This program describes the current Canadian landscape in employment and human rights law. It looks at the legislation regulating employment standards, workplace conduct, dismissal, discrimination and other essential elements of the employment relationship. It also explores legal developments in emerging “hot button” areas such as the use of technology and social media in the workplace, and privacy protection.

Takeaways

- Develop a greater understanding of federal and provincial laws that regulate the workplace
- Expand your knowledge of employment standards requirements under the *Canada Labour Code* and *BC Employment Standards Act*
- Discover the essential terms to include in individual employment contracts to protect your organization from claims
- Learn how to draft enforceable restrictive covenants
- Explore best practices for the termination of an individual’s employment with or without cause, including how to evaluate whether just cause exists for summary dismissal, and/or assessing the reasonable notice period
- Become more familiar with human rights law in the complex area of employment, including prohibited acts of discrimination on the basis of race, religion, sex, gender, sexual orientation, mental and physical disability, etc.
- Gain a clearer understanding of how employment law continues to evolve, and the ways in which various political, social and economic factors impact the future direction of this area of the law
- Learn how to avoid claims for aggravated and punitive damages in wrongful dismissal claims
- Learn how to minimize the risk of disputes and litigation

Special Feature

This program includes case law studies and questionnaires to drive the learnings home.

Program Content

Employment Standards Legislation

- Federal and provincial legislation: the *Canada Labour Code*, the *BC Employment Standards Act*, etc.
- Common problems for employers

Written Employment Contracts

- Key contractual terms and conditions
- Applicable legislation
- Ensuring the enforceability of agreements
- Defining employee status, position and remuneration

Protection of the Employer's Business

- Intellectual property
- Written agreements
- Common Law protection against unfair competition
- Enforceability of restrictive covenants during and after the termination of employment, including non-competition, non-solicitation and confidentiality clauses

Business Transactions: Labour and Employment Issues

- Asset and share transactions
- Successorship
- Indemnities
- Labour relations: collective bargaining and contract negotiations
- Health and safety: the *Workers' Compensation Act*
- Pension benefits

Termination of the Employment Relationship

- Just cause and reasonable notice
- Tort law: wrongful dismissal, defamation, intimidation, misrepresentation, intentional infliction of mental suffering, bad faith, breach of contract, etc.
- Dismissal process in union and non-union contexts
- Constructive dismissal

Human Rights Law

- Discrimination issues: unfair hiring practices, sexual harassment, duty to accommodate, mandatory retirement, etc.
- Employment and pay equity
- Drug and alcohol testing
- Investigating and managing employee complaints ethically

Program Content (cont'd)

Emerging Issues

- Vicarious liability for employee misconduct
- Who owns the intellectual property created in the workplace?
- Privacy rights: monitoring employee activities on social media and other platforms
- Password protection
- Whistle blower protection

Strategies for Minimizing the Risk of Employer Liability

- Legislation compliance
- Writing clear and unequivocal employment provisions
- Drafting written agreements and policies

Program Leader

Carman Overholt (Q.C.) is the founder and Principal of Overholt Law. He works closely with senior management and human resources professionals to ensure compliance with labour, employment and human rights legislation, and the development of policies that minimize the risk of litigation and disruption of operations. He has appeared on behalf of employers before the Supreme Court of BC, the Court of Appeal for BC, the BC Human Rights Tribunal, the Employment Standards Tribunal, the BC Labour Relations Board and the Canadian Industrial Relations Board. He has also represented employers in numerous labour arbitration proceedings and in connection with collective bargaining.

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