

What's new in:

Privacy law & employment standards

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Privacy law in the private sector

- Federal legislation
 - *PIPEDA*
- Provincial legislation
 - Alberta
 - British Columbia
 - Quebec
- Common law (intrusion upon seclusion)
- *Criminal Code*

Employee monitoring

- Test
 - Necessary or reasonably required
 - Effective
 - Carried out in reasonable manner
 - No other less privacy-invasive alternatives

Types of monitoring

- BC Privacy Commissioner (August 2013)
 - Elevator companies
 - GPS system in vehicles
 - GPS in cell phones
- Arbitration decisions
 - Biometric attendance systems
- Upheld as reasonable

Types of monitoring (cont'd)

- Heart rate monitor?
- Keystroke logger?



Drug and alcohol testing

- *Irving Pulp & Paper* (June 2013)
 - Supreme Court of Canada
- Random alcohol testing
 - Unionized workplace
 - Not upheld in circumstances of case
- Balancing of privacy and safety
 - Safety gains minimal
 - Impact on privacy severe

Minimum Wage Advisory Panel

- Recommending process to set minimum wage
 - Appointed in July 2013
 - Consultations from September to November 2013

Minimum wage in 2003

\$6.85 / hour

\$7.35 / hour

\$7.85 / hour

\$8.35 / hour

Current status

- \$10.25 / hour
- “Freeze” periods
 - 1995 to 2003
 - 2010 to 2013
- Annual increases from 2004 to 2010
- Range
 - Alberta (\$9.95) to Nunavut (\$11.00)

Issues to be addressed

- How to set?
 - Consumer Price Index
 - Low Income Cut-Off
- How often to review?
- Notice period to employers

Employer input

- Consultation process
 - Responses due by November 7, 2013
 - Email: minimumwage@ontario.ca
 - Online: www.labour.gov.on.ca/

ESA leaves of absence

- Personal emergency leave - 10 days
- Family medical leave - 8 weeks
- Organ donor leave - 13 weeks
- Pregnancy leave - 17 weeks
- Parental leave - 35 weeks
- Reservist leave - no specified time limit

New family-related leaves

- Legislative status
 - Introduced (December 2011)
 - Reintroduced (March 2013)
 - Second reading (September 25, 2013)
 - Public hearings (December 2013)
- Purpose
 - Access to federal benefits

New family-related leaves

- Family caregiver leave - 8 weeks
 - Care and support to family member with serious medical condition
 - Significant risk of death not necessary
- Critically ill child care leave - 37 weeks
- Crime-related child death and disappearance leave - 52 to 104 weeks

Reprisal

- What is it?
 - Threatening or punishing employee in any way
 - For taking any action related to *ESA*
 - Asking questions about *ESA*
 - Asking employer to comply with *ESA*
 - Taking and attempting to take an *ESA*-related leave

Reprisal - reverse onus

- Employee's obligation:
 - Check a box on a form
- Employer's obligation
 - Prove that it did not commit a reprisal

Remedy

- Direct wage loss
 - Can be similar to reasonable notice
- Loss of opportunity of continued employment
- Damages for pain and suffering

Questions?