



INDUSTRIAL WORKERS OF THE WORLD

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Employees Covered By Collective Agreements

This Employment Standards Factsheet is also available in a [printable pdf format](#)

The *Employment Standards Act* allows employees and trade unions to negotiate terms and conditions of employment so long as the parties to a collective agreement maintain certain basic protections, and so long as the parties can show they have considered the protections afforded by the Act.

The Act provides three levels of protection for employees who are covered by a collective agreement.

- The first level of protection ensures that all employees receive certain basic rights such as payment of minimum wages.
- The second level of protection ensures that the parties to a collective agreement have addressed certain specific issues in their negotiations.
- The third level of protection ensures that the parties have addressed certain general issues in their negotiations.

Any disputes regarding whether a collective agreement provides adequate protection must be resolved through the grievance procedure.

Level One Protection

Parties to a collective agreement may not negotiate a lower standard than those contained in the following sections of the Act:

- s. 9 – employment of children
- s. 10 – no charge for hiring or providing information
- s. 16 – employers required to pay minimum wage
- s. 21 – deductions
- s. 64 & 65 – group termination
- s. 67 – rules about notice of termination
- s. 68 – rules about payment on termination

Part 6 – leaves and jury duty

Level Two Protection

This level of protection provides the parties a greater level of flexibility in the following **specific subjects**:

- s. 17 - paydays
- s. 18 (1) payment of wages when employer terminates
- s. 18 (2) payment of wages when employee terminates
- s. 20 - how wages are paid
- s. 22 - assignment of wages
- s. 23 - duty to make assigned payments
- s. 24 - how an assignment is cancelled
- s. 25 (1) or (2) - special clothing
- s. 26 - payments by employer to funds, insurers or others
- s. 27 wage statements
- s. 28 (1) - content of payroll records
- s. 28 (2) - payroll records requirements

If parties to a collective agreement can show they have negotiated *any* provision relating specifically to the above sections of the Act, then those provisions apply to the employees, whether the provision provides for a greater or lesser benefit than the Act.

If the collective agreement does not contain a provision relating specifically to the above sections of the Act, then that specific section of the Act applies.

For example, if a collective agreement contains a provision that allows monthly paydays, then monthly paydays will be permitted, even though this provision does not comply with the Act.

However, if a collective agreement contains no provision relating to paydays, then section 17 of the Act applies to the employees covered by the collective agreement.

Level Three Protection

This level of protection provides the parties to a collective agreement with flexibility in the following **general areas**:

- Hours of work and overtime
- Statutory holidays

- Annual vacations
- Seniority retention, recall, termination and layoff

If a collective agreement contains *any* provision relating to hours of work and overtime, then Part 4 of the Act does not apply to the employee covered by the collective agreement.

If a collective agreement contains any provision relating to statutory holidays, then Part 5 of the Act does not apply.

If a collective agreement contains any provision relating to annual vacation or vacation pay, then Part 7 does not apply.

If a collective agreement contains any provision relating to seniority retention, recall, termination and layoff, then Section 63 does not apply.

On the other hand, if a collective agreement does not contain *any* provision relating to one of these subject areas, then the corresponding part of the Act applies to the employees covered by the collective agreement.

Resolving Disputes

Any disputes regarding whether the Act or the collective agreement applies to an employee or a group of employees must be resolved under the grievance provisions of the collective agreement.

Direct deposit of wages

An employer must deposit wages directly to an employee's bank account if authorized by the employee in writing or by a collective agreement (s. 20).

Reinstatement upon return from leave

Upon returning to work, the employee is to be placed in the same or a comparable position. If an employer's operations are suspended or discontinued, the employer must comply with seniority provisions of the applicable collective agreement.

Group terminations

Part 8 of the Act contains a number of specific rules and exemptions that apply to group terminations where there is a collective agreement in force. Affected employees should consult Part 8 and their collective agreement.