



INDUSTRIAL WORKERS OF THE WORLD

VANCOUVER GENERAL MEMBERSHIP BRANCH

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Enforcement Measures and Penalties

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

Note: The information in the Factsheet is effective November 30, 2002 and includes information about a new penalty system under the Employment Standards Act.

The Employment Standards Branch uses a variety of measures to enforce compliance with the *Employment Standards Act* and Regulation.

If an employee and an employer cannot resolve a problem under the Act using the Employment Standards Self-help kit, the Branch may attempt to mediate the dispute.

If mediation is successful, the Branch will help the parties write a "Settlement Agreement." As long as the parties abide by the agreement, there will be no penalty and no further involvement by the Branch.

If the parties cannot agree, the Branch will adjudicate the dispute. If it is found that the employer has violated the Employment Standards Act, the employer will have to pay a mandatory penalty in addition to any compensation owed to the employee.

In addition to penalties, the Director of Employment Standards can order an audit of the employer's payroll records. These audits are at the employer's expense.

Monetary Penalties

Effective November 30, 2002 penalties for employment standards violations are as follows:

First violation: \$500.

Violation of the same section of the Act or Regulation at the same location within three years of the first violation: \$2500.

Violation of the same section of the Act or Regulation at the same location within three years of the second violation: \$10,000.

Where a corporation is responsible for the contravention, an employee, officer, director or agent of the corporation who permits the contravention may also be penalized.

Lien for Unpaid Wages

Unpaid wages are a lien, or legal claim, against the property of the employer. The lien takes effect at the time the wages were earned. These liens take priority over all other claims, including a claim of the provincial government, except a prior-registered mortgage or debenture against land.

Paying Interest on Unpaid Wages

An employer may be required to pay interest on unpaid wages owing to an employee. Interest is calculated from the date of the employee's termination or the date the complaint was filed -- whichever is earlier -- to the date of payment. Interest is charged at the prime lending rate of the government's banker.

Demands on Third Parties

The Branch can make demands on third parties to recover money owing under a determination, settlement agreement or order under the Act.

If a third party is or will be indebted to a person who owes money to the Branch, the Branch may demand that the third party pay all or part of their indebtedness directly to the Branch. If the third party does not comply with the demand, the Branch may begin collection action directly against the third party.

Court Judgments

A settlement agreement, determination of the Branch or an order of the Employment Standards Tribunal may be filed at any time in Supreme Court and enforced as a judgment of the Court.

Seizing Assets

The Branch may seize personal or business assets of a person required to pay under a determination or order to satisfy the amount owing and the costs of the seizure.

Corporate Officer Liability

An officer or director of a corporation is personally liable for up to two months' unpaid wages per employee if the officer or director held office when the wages were earned or were payable.

An officer or director is not liable for:

- Wages, compensation for termination or termination pay in the case of bankruptcy, receivership or insolvency.
- Vacation pay which became payable after the officer or director left office.
- Money in an employee's time bank after the officer or director left office.

Security to Ensure Compliance

An employer who at any time has contravened a requirement concerning the payment of wages may be required by the Branch to post a bond, or to provide an irrevocable letter of credit or other security, to help ensure future compliance.

Publishing Violators' Names

The Director of Employment Standards may compile and publish information about contraventions of the Act and Regulation and make this information public.