

Legal Compliance in Canada

1.	Legal Framework: Employment Laws	1
2.	Contracts of Employment	2
2.1.	Overview	2
2.2.	Written Employment Contracts	2
2.3.	Oral Contracts	3
2.4.	Employee Handbooks	3
2.5.	Job Descriptions	4
2.6.	Offer Letters	5
2.7.	Checklist of Do's and Don'ts	6
3.	Recruiting, Interviewing, Screening and Hiring Employees	6
3.1.	Overview	6
3.2.	Recruiting	6
3.3.	Employment Applications	6
3.4.	Pre-Employment Inquiries	7
3.5.	Pre-Employment Tests and Examinations	7
3.6.	Background, Reference, and Credit Checks	8
3.7.	Interviewing	9
3.8.	Hiring Procedures	9
3.9.	Fines and Penalties	10
3.10.	Checklist of Do's and Don'ts	10
4.	Managing Performance/Conduct	10
4.1.	Overview	10
4.2.	Coaching and Counselling	11
4.3.	Written Evaluations	11
4.4.	Warnings and Suspensions	11
4.5.	Checklist of Do's and Don'ts	12
5.	Termination of Employment of Employees for Performance or Disciplinary Reasons	13
5.1.	Overview	13

TABLE OF CONTENTS

5.2.	Separation Pay	13
5.3.	Fines and Penalties	14
5.4.	Checklist of Do's and Don'ts	14
6.	Layoffs, Reductions in Force, And/Or Redundancies as a Result of Job Eliminations or Other Restructuring	15
6.1.	Overview	15
6.2.	Reductions in Force/Layoffs/Job Eliminations	15
6.3.	Fines and Penalties	17
6.4.	Checklist of Do's and Don'ts	17
7.	Labour and Employment Law Ramifications Upon Acquisition or Sale of a Business	18
7.1.	Overview	18
7.2.	Acquisition of a Business	18
7.3.	Sale of a Business Checklist	19
8.	Use of Alternative Workforces: Independent Contractors, Fixed-Term Contract Employees, and Temporary or Leased Workers	21
8.1.	Overview	21
8.2.	Independent Contractors	21
a.	Definition	21
b.	Creating the Relationship	21
c.	Compensation	22
d.	Other Terms and Conditions	22
8.3.	Fixed-Term Contract Workers	22
8.4.	Temporary or Leased Workers	23
8.5.	Checklist of Do's and Don'ts	23
9.	Obligation to Bargain Collectively with Trade Unions: Employees' Right to Strike and a Company's Right to Continue Business Operations	24
9.1.	Overview of Employees' Right to Organize	24
9.2.	Right of Employees to Join Unions	24
9.3.	How Employees Select Unions	25
9.4.	Campaigning	25
9.5.	Unfair Labour Practices	26
9.6.	Relocation of Work/Shutdown of Business	27
9.7.	Checklist of Do's and Don'ts	27
10.	Working Conditions: Hours of Work and Payment of Wages	28
10.1.	Overview of Wage and Hours Laws	28
10.2.	Minimum Wage	28
10.3.	Overtime	29

TABLE OF CONTENTS

10.4.	Meal and Rest Periods	29
10.5.	Deductions from Wages	29
10.6.	Garnishment	30
10.7.	Exemptions to Wage and Hour Laws	30
10.8.	Child Labour	30
10.9.	Recordkeeping Requirements	31
a.	Information That Must be Maintained	31
b.	Records that Must be Retained	31
c.	Failure to Maintain Required Records	32
10.10.	Reductions in Compensation Caused by Economic Downturn	32
10.11.	Checklist of Do's and Don'ts	33
11.	Other Working Conditions, Benefits and Leaves of Absences	33
11.1.	Health and Other Insurance	33
11.2.	Pension and Retirement Benefits	34
11.3.	Vacation and Holiday	35
11.4.	Leaves of Absence	36
a.	Personal Leave	36
b.	Medical or Sick Leave	36
c.	Bereavement Leave	37
d.	Family Leave	37
e.	Pregnancy Leave	38
f.	Parental Leave	38
g.	Injury At Work	39
h.	Military Leave	39
11.5.	Checklist of Do's and Don'ts	39
12.	Workers' Compensation	40
12.1.	Overview	40
12.2.	Checklist of Do's and Don'ts	41
13.	Company's Obligation to Provide Safe and Healthy Workplace	41
13.1.	Overview of Safety and Environmental Laws and Regulations	41
13.2.	Requirements	41
13.3.	Rights of Employees	43
13.4.	Duties of Employer	44
13.5.	Specific Standards	45
13.6.	Injury or Accident At Work	46
13.7.	Workplace Violence and Harassment	47
13.8.	Fines and Penalties	47
13.9.	Checklists of Do's and Don'ts	47

TABLE OF CONTENTS

14. Immigration, Secondment and Foreign Assignment	48
14.1. Overview of Laws Controlling Immigration	48
14.2. Recruiting, Screening and Hiring Process	48
14.3. Obligation of Employer to Enforce Immigration Laws	50
14.4. Fines and Penalties	51
14.5. Secondment/Foreign Assignment	51
14.6. Checklist of Do's and Don'ts	52
15. Restrictive Covenants and Protection of Trade Secrets and Confidential Information	52
15.1. Overview	52
15.2. The Law of Trade Secrets	52
15.3. Restrictive Covenants and Non-Compete Agreements	53
15.4. Checklist of Do's and Don'ts	54
16. Protection of Whistleblowing Claims	54
16.1. Overview	54
16.2. Checklist of Do's and Don'ts	55
17. Prohibition of Discrimination in the Workplace	55
17.1. Overview of Anti-Discrimination Laws	55
17.2. Age Discrimination	56
17.3. Race Discrimination	57
17.4. Sex Discrimination/Sexual Harassment	57
17.5. Handicap and Disability Discrimination	58
17.6. National Origin Discrimination	59
17.7. Religious Discrimination	60
17.8. Military Status Discrimination	60
17.9. Pregnancy Discrimination	60
17.10. Marital Status Discrimination	61
17.11. Sexual Orientation Discrimination	61
17.12. Retaliation	61
17.13. Constructive Dismissal	61
17.14. Checklist of Do's and Don'ts	62
18. Smoking in the Workplace	62
18.1. Overview	62
18.2. Checklist of Do's and Don'ts	63
19. Use of Drugs and Alcohol in the Workplace	63
19.1. Overview	63
19.2. Checklist of Do's and Don'ts	64
20. AIDS, HIV, SARS, Bloodborne Pathogens	65
20.1. Overview	65
20.2. Checklist of Do's and Don'ts	66