

Collective Agreements and the *Employment Standards Act*

The *Employment Standards Act* provides that certain basic protections found in the Act form part of any collective agreement. Other Parts or specific sections of the Act can be replaced with provisions the parties negotiate themselves.

Basic Rights Cannot be Negotiated

All employees are entitled to certain basic rights. Parties to a collective agreement may not negotiate lower standards 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 – group termination
- s. 65 – exceptions to s. 64
- s. 67 – rules about notice of termination
- s. 68 – rules about payment on termination
- Part 6 – leaves and jury duty

Matters Covered by Specific Sections of the Act

The Act contains a list of specific sections which form part of a collective agreement unless the parties choose to negotiate different provisions. These sections are:

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

Matters Contained in Certain Parts of the Act

The parties to a collective agreement may negotiate matters which are covered by the Act, such as hours of work and overtime (Part 4); statutory holidays (Part 5); annual vacation (Part 7); seniority retention, recall, termination of employment and layoff (Sec. 63). If provisions have been negotiated in these areas, they form part of the collective agreement and the corresponding Parts of the Act will not apply.

Resolving Disputes

Disputes regarding the application or interpretation of the Act relative to the terms of a collective agreement must be resolved by using the grievance procedure contained in the collective agreement.

