

Labour & Industrial Relations

Economic Growth, Tourism and Culture

ANNUAL REPORT 2022

Government Entity Overview

The Labour & Industrial Relations Division is responsible for providing the policy and governmental support to several statutory entities:

- Industrial Relations Branch (Labour Conciliation Services)
- Labour Relations Board
- Employment Standards Branch
- Employment Standards Board
- Office of the Worker Advisor
- Office of the Employer Advisor
- Workers Compensation Appeal Tribunal

The Division also provides the Minister with advice on policy issues that impact the workforce more generally, including International Labor Organization conventions and protocols, as well as Federal/Provincial/Territorial and regional initiatives to improve workplace laws and regulations.

The Division has nine permanent staff positions.

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Key Indicators

Highlights

- Employment increased by 5.4% or 4,300 in 2022, to an all-time high of 84,200.
- PEI's unemployment rate averaged 7.6% in 2022, down 2.1 percentage points from 2021 and the lowest annual rate on record.
- The youth unemployment rate (ages 15 to 24) decreased by 2.2 percentage points to 11.9%. Employment for this age group increased 2.4%.
- Total labour force averaged 91,200 persons, an increase of 3.1% from 2021.
- Total unemployed persons on PEI averaged 6,900 in 2022, a 19.8% decrease and the lowest annual number since 1983.
- Notable employment gains were seen in Construction (24.1%), Manufacturing (19.7%), Public Administration (13.2%), and Professional, Scientific and Technical (16.7%).
- Notable losses occurred in Transportation and Warehousing (-26.9%), Forestry, Fishing, Mining, Quarrying, Oil and Gas (-24.1%), and Wholesale and Retail Trade (-3.4%).
- PEI's average hourly wage rate was \$26.95 in 2022. This is an increase of \$1.61 or 6.4% over 2021.
- The average hourly wage rate was \$26.38 for females and \$27.53 for males in 2022.
- The average weekly wage increased by 6.5% to \$1,007.31.
- Average weekly wages have increased 33.6% since 2012, the fifth fastest among provinces. The national average over this period was 32.2%.
- In 2022 national employment increased by 750,700, or 4.0%, over 2021.
- The national unemployment rate averaged 5.3%.

A total of 19,980 persons were unionized as of December 2022. This includes only employees who fall under Provincial labour codes. (Information provided by Unions to Labour and Industrial Relations Division, December 2022. This information is only collected every two (2) years).

Annual Labour Force Survey data released by Statistics Canada on January 30, 2023 showed that employment increased in all provinces in 2022. Among the provinces, Prince Edward Island had the highest rate of growth, increasing by 5.4%, or 4,300 persons.

Labour Canada quotes major collective bargaining settlements for all industries in Prince Edward Island in 2022 provided base rate wage adjustments averaging 2.5% annually.

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According to the Labour Force Survey, PEI's average hourly wage rate was \$26.95 in 2022. This is an increase of \$1.61 or 6.4% over 2021. The average hourly wage rate for Canada was \$31.96 in 2022, an increase of 4.2% over 2021. Since 2012, PEI's average hourly wage has increased by 33.2%, while the average rate for Canada has increased by 31.9% over the same period.

The inflation rate from January 2022 to January 2023 was 7.0%. (PEI Department of Finance)

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Legislative Changes

In 2022, the following legislative changes were made:

- The *Temporary Foreign Worker Protection Act* was passed, not yet proclaimed.
- The *Emergency Leave Regulations* were enacted under the *Employment Standards Act*.
- A one-time “day of mourning” (September 19th) was enacted, by way of regulation under the *Employment Standards Act*, on the passing of Queen Elizabeth II.

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Mandate

The Labour and Industrial Relations Division administers the *Employment Standards Act*, *Youth Employment Act*, and *Labour Act*. These *Acts* establish and regulate basic terms and conditions of employment and the relationship between workers and employers such as payment of wages, vacation pay, statutory holidays, notice of termination, minimum wage rates, overtime pay, maternity and parental leave protection.

The mandate of the Division is to assist in providing stable and fair workplace environments for industry and labour through policy leadership. The Division provides administrative support to the Employment Standards Board and Labour Relations Board, and Workers Compensation Appeal Tribunal.

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Labour Conciliation Services

During the reporting period, the Minister appointed a Conciliation Officer for eight matters:

- Canadian Blood Services / Nova Scotia Union of Public and Private Employees – settled
- Holland College (Administrative and Supports) Prince Edward Island Union of Public Sector Employees – settled
- Association of Commercial & Industrial Contractors / United Brotherhood of Carpenters and Joiners of America, Local 1338 - settled
- Amalgamated Dairies Limited / Union of Food and Commercial Workers, Local 864 – settled
- Schurman Concrete Limited / International Union of Operating Engineers, Local 942 – settled
- Education Negotiating Agency / Canadian Union of Public Employees, Local 3260 - arbitration
- University of Prince Edward Island / UPEI Faculty Association – strike - settled
- Whisperwood Villa / Prince Edward Island Union of Public Sector Employees - arbitration
- Cavendish Farms / Union of Food & Commercial Workers, Local 864 - settled
- Holland College Early Learning Centre / Prince Edward Island Union of Public Sector Employees - settled
- University of Prince Edward Island / International Brotherhood of Electrical Workers, Local 1928 - settled

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Labour Relations Board

Stephen Carpenter, Chair
Nancy Birt, KC, Vice Chair
Michele Dorsey, KC, Deputy Chair
Shawn Shea, Chief Executive Officer
Hazel Walsh, Secretary

Employer Representatives

Greg Doyle
Judy Hughes
Dan Hughes
Linda Gaudet

Employee Representatives

Cathy MacKinnon
Tracy Robertson
Paula Caulier
Craig Walsh

Shawn Shea is the Chief Executive Officer of the Board and a full-time staff member of the Division.

The Labour Relations Board is located in the Sherwood Business Centre, 161 St Peters Road. It provides a quasi judicial process to address applications made by either management or labour. The Board provides a timely resolution for matters and strives for balance and fairness in its decision making.

The Board received 8 applications in addition to 11 which were carried over from previous years for a total of 19 applications; 6 have been granted, 2 were denied, 5 were withdrawn, 5 are pending, 1 is stayed.

The Board held

- 9 Board hearings
- 2 Panel only hearings

Employment Standards Division

Robert Yeo is the Employment Standards Officer for the Division. His role is a blend of public education, regulatory inspection and enforcement. The Division provides factual information to the public through telephone contact, office interviews, information seminars, routine inspections and distribution of Departmental literature.

Public Education

During the reporting period of January 1, 2022, to December 31, 2022, the Division

- printed and distributed over 4000 pieces of information and legislation to Regional Services Centres, all Access PEI centres, on the website www.peiemploymentstandards.com and at our office in the Sherwood Business Centre, 161 St Peters Road

The Chief Labour Standards Office visited approximately 275 individual employers.

Investigation

During the reporting period, the Division

- handled approximately 10000 inquiries
- conducted 75 office interviews
- investigated 145 formal complaints

Enforcement

During the reporting period, the Division

- conducted 6 proactive inspections / audits
 - issued 18 formal Orders to employers for non-payment of monies owing to former / current employees totalling \$31,814.31
 - filed judgments with the Supreme Court on behalf of 8 employees totalling \$58,096.96
 - 62 investigations resulted in the collection of \$26,567.20 for employees
-

Employment Standards Board

Wayne Vessey, Chair
Blake Jelley, Vice-Chair
Hazel Walsh, Secretary

Employer Representatives

Fraser MacDougall
Michael Podger
Elizabeth Noonan

Employee Representatives

Dianne Arsenault
Angela MacDonald
Teresa Hennebery

The primary role of the Employment Standards Board is to hear appeal presentations from employers or employees regarding alleged violations of the *Employment Standards Act* (the *Act*). In accordance with the *Act*, the Board annually makes a recommendation to the Lieutenant Governor in Council on changes to the Minimum Wage Order. A report on the review and recommendation was published in September 2022.

During the reporting period, the Board held

- two full Board meetings (yearly meeting and the minimum wage recommendation meeting)
- two consultation sessions to receive input from both employers and employees on recommendations regarding the Minimum Wage Order

The Board recommended an increase of \$0.80 to the minimum wage bringing it up to \$14.50 per hour effective the 1st of January 2023 with a further increase of \$0.50 effective the 1st of October, 2023, bringing the minimum wage to \$15.00 per hour. These increases will keep Prince Edward Island's minimum wage on par or above with six (6) provinces.

Office of the Worker Advisor
Maureen Peters, Worker Advisor
Jana Shaw, Intake Officer

Located in the Sherwood Business Centre, 161 St Peters Road, the Office of the Worker Advisor provides independent information, advice and assistance (free of charge) to workers, and/or their dependants, on matters involving Workers Compensation. This includes issues arising pursuant to the *Workers Compensation Act* and Regulations, the *Occupational Health & Safety Act*, and Board policies and procedures.

This position is created and funded through the application of Section 85 of the *Workers Compensation Act* for Prince Edward Island. It provides for the service of a Worker Advisor to assist injured workers in respect of claims for compensation. Furthermore, Section 85(2) of the *Act*, the Workers Compensation Board (the Board) shall make annual grants in such amounts appropriate to cover the costs of providing services under this section of the *Act*. For the *calendar year 2022*, the recorded funding disbursement by the Board for the operation of the Office of the Worker Advisor was \$183,500.00.

The Worker Advisor may assist and/or represent the worker and/or their dependants before the Board at the Customer Service level and the Internal Reconsideration level, as well as before the Workers Compensation Appeal Tribunal (WCAT) and the PEI Court of Appeal.

2022 Case Activity Overview

The Office of the Worker Advisor noted a decrease in the number of Internal Reconsideration Requests and Notices of Appeal filed:

New Files Opened **13**

Internal Reconsideration
(1st appeal level) submissions **20**

WCAT:
(2nd appeal level) Notices of Appeal Filed **14**

Hearings Attended **8**

Office of the Employer Advisor

Erinn G. Moore, Employer Advisor
Julia Sorrey, Program Assistant

This Annual Report highlights the activities of the Office of the Employer Advisor for the period of January 1, 2022 – December 31, 2022, inclusive.

About the Office of the Employer Advisor

The legislative authority for the creation of Office of the Employer Advisor is provided at Section 85(1)(b) of the Workers Compensation Act. The Office became operational on February 16, 2004. The mandate of the Office is to assist PEI employers and employer associations with the statutory interpretation and application of both the Workers Compensation Act and the Occupational Health and Safety Act, as well as policies, procedures and practices of the Workers Compensation Board of PEI, which are derived from those primary authorities.

The Employer Advisor provides independent advice and assistance in the areas of claims management, classifications and assessments, workplace health and safety and appeals. Services available from the Office of the Employer Advisor include education and training, assistance and representation during the appeal process, research and analysis, along with information sharing. Operational funding for the 2021 calendar year was provided to the Department of Economic Growth, Tourism & Culture by the Workers Compensation Board of PEI through employer assessments levied by the Board. There are no fees charged for our services and the Office operates independently from the Workers Compensation Board.

WCB-related Activity

The Office of the Employer Advisor represented a number of Island employers in the preparation and presentation of their appeals, or responses to Worker appeals, to both the Internal Reconsideration Officer and the Workers Compensation Appeal Tribunal.

In 2022 there were 35 new files opened, dealing with diverse matters such as: claim procedure and acceptance; questions regarding Worker entitlement; new evidence issues; return-to-work and accommodation; re-employment obligations; appeal procedures; cost

relief for employers regarding claim costs; pre-existing conditions; assessment rate questions and experience rating inquiries. The Employer Advisor participated in two (2) WCAT appeals throughout the year as a responding party.

Additionally, numerous telephone and e-mail inquiries from individual employers and employer associations were answered, relating to various aspects of the Employer Advisor mandate, involving both the Workers Compensation Act and the Occupational Health and Safety Act, and the attendant OHS Regulations, as well as various queries regarding Board policies, procedures and practices.

The Employer Advisor also submitted feedback on many WCB Draft Policies that were open for public consultation during the calendar year 2022. Specifically, the Employer Advisor reviewed proposed draft policies and provided feedback in regard to the following policies: POL-09, POL-85, POL-76, POL-90, POL-93, POL-117, and POL-165.

In 2022 the Employer Advisor continued its participation in the regular monthly Appeal Working Group (AWG) meetings with the Workers Compensation Board (Service Quality 2 Coordinator and Internal Reconsideration Officer), along with the Worker Advisor and the WCAT Coordinator.

Professional Development

The Office of the Employer Advisor participated in teleconference calls with the six other members of the Canadian Association of Employer Advisors throughout the year. These teleconferences are usually held on a quarterly basis, and provide an excellent opportunity for information sharing for Employer Advisors regarding their programs, and developments in workers' compensation in their respective jurisdictions.

The Employer Advisor remotely attended numerous continuing education and training sessions in 2022 via videoconference or teleconference, pertaining to Occupational Health & Safety, Workers' Compensation, or administrative law topics generally.

Communications and Client Relations

During the calendar year twelve issues of the Employer Advisor's electronic newsletter were produced and circulated via e-mail to employers and their management staff, employer

associations, public sector managers, and other interested parties. The monthly e-mail distribution list presently includes over 300 hundred PEI employers, and continues to expand.

Workers Compensation Appeals Tribunal (WCAT)

Chair

Gordon MacFarlane

Vice Chairs

Ron MacLeod

Susan Robinson

Employer Representatives

JP Desrosiers

Marion Miller

Scott Stewart

Stacey Wyand

Worker Representatives

Chelsea Gotell

Shelly Higgins

Cynthia McCardle

Michelle Lafford * Resigned August 12, 2022

Coordinator

Michele Ling

Mandate

WCAT's mandate is to review final decisions of the Workers Compensation Board and to ensure compliance with the *Act*, regulations and policy. Its mission is to provide a timely, fair and independent appeal process consistent with the legislation and the rules of natural justice and to render decisions which are a fair reflection of the case.

WCAT is funded by the Workers Compensation Board. For the *calendar* year 2021, the recorded funding disbursement by the Board for the operation of WCAT was **\$201,900**.

WCAT's operations are governed by the *Workers Compensation Act* (the "Act"). The Act sets out the structure, jurisdiction, and responsibilities for WCAT. WCAT's guiding principles include:

- an accessible appeal system for workers and employers
- easy access to appeal process information
- superior quality service for all stakeholders
- independent and impartial decision making, and
- timely and efficient appeal processing and decision making

2022 Caseload Activity Overview

20 Appeals Filed:

The number of appeals filed in 2022 decreased from the previous year. Of the 20 appeals filed, 19 were new worker appeals and 1 was an employer appeal. Of the 20 appeals, the Office of the Worker Advisor represented 15 workers and 4 workers were either self represented or retained outside counsel.

6 Appeals Withdrawn:

During the year there were 6 files withdrawn by the appellant without hearing.

12 Hearings:

There were 12 hearings held in 2022 (compared to 10 in 2021).

10 Decisions:

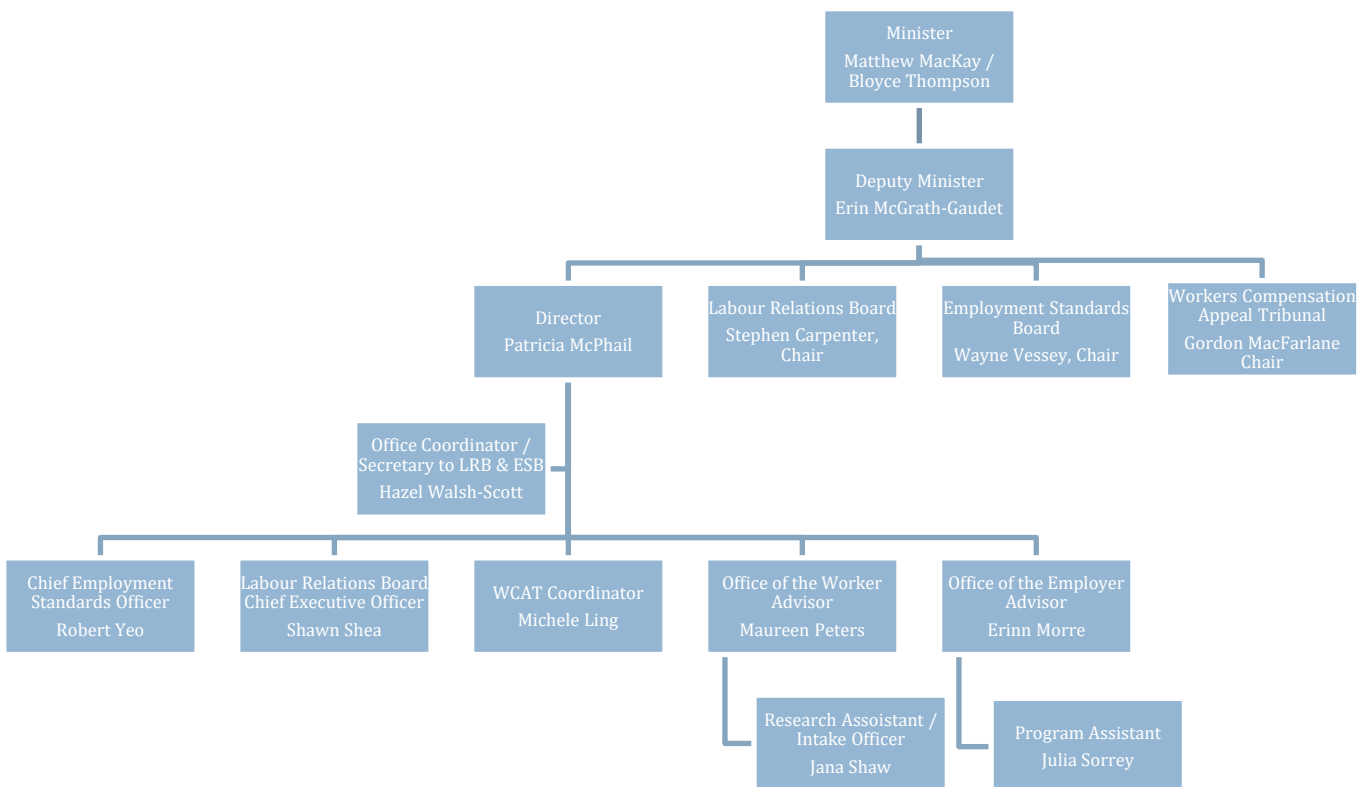
- 7 appeals were dismissed
- 3 were allowed
- 0 returned to WCB

0 Appeal to Court of Appeal:

There were no applications filed with the Court of Appeal in 2022.

Organizational Structure

The Division is a relatively flat structure with three main areas of focus: employment standards, labour relations and workers compensation appeals. The Boards and Tribunal are independent of the Director. However, the Director is responsible for the administrative infrastructure for the Boards to ensure they have access to the tools and resources needed to conduct their work.



Contact Information

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