

Labour & Industrial Relations

Workforce, Advanced Learning &
Population

ANNUAL REPORT 2023

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 ten permanent staff positions.

ANNUAL REPORT 2023

Key Indicators

Highlights

- Employment increased by 5.7% or 4,800 in 2023, to an all-time high of 89,000.
- PEI's unemployment rate averaged 7.3% in 2023, down .3 percentage points from 2022 and the lowest annual rate on record.
- Total labour force averaged 96,000 persons, an increase of 5.3% from 2022.
- Total unemployed persons on PEI averaged 7,000 in 2023, a 1.4% increase from 2022.
- Notable employment gains were seen in Health care and Social Assistance (17.5%), Accommodation and Food Services (18.8%), Finance, Insurance, Real Estate, Rental and Leasing (32.1%), and Agriculture (24.2%).
- Notable losses occurred in Wholesale and Retail Trade (-5.4 per cent), Business, Building and Other Support Services (-20.8 per cent), Manufacturing (-4.7 per cent), and Forestry, Fishing, Mining, Quarrying, Oil and Gas (-13.6 per cent).
- PEI's average hourly wage rate was \$27.98 in 2023. This is an increase of \$1.03 or 3.8 per cent over 2022. The rate was \$27.90 for females (+5.8%) and \$28.07 for males (+2.0%).
- The average weekly wage increased by 3.7 per cent to \$1,044.77.
- Average weekly wages have increased 38.1 per cent since 2013, the fourth fastest among provinces. The national average over this period was 35.8 per cent.
- In 2023 national employment increased by 477,900, or 2.4 per cent, over 2022.
- The national unemployment rate averaged 5.4 per cent.

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 collected every two (2) years).

Annual Labour Force Survey data released by Statistics Canada in January, 2024 showed that employment increased in all provinces in 2023. Among the provinces, Prince Edward Island had a high rate of growth, increasing by 5.7%, or 4,800 persons.

Labour Canada quotes no major collective bargaining settlements for any industry in Prince Edward Island in 2023.

ANNUAL REPORT 2023

Prince Edward Island's annual inflation rate for 2023 was 3.575% compared to a national rate of 3.9% for Canada.

Legislative Changes

In 2023, the following legislative changes received Royal Assent:

- Changes to Reservist's Leave, under the *Employment Standards Act*
- Changes to Sick Leave to include Paid Sick Leave, under the *Employment Standards Act*

Significant Events

In September, 2023, the Employment Standards Comprehensive Review Committee submitted their final report to the Minister for her consideration.

ANNUAL REPORT 2023

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.

ANNUAL REPORT 2023

Labour Conciliation Services

During the reporting period, the Minister appointed a Conciliation Officer for eleven (11) matters:

- Maritime Electric / International Brotherhood of Electrical Workers, Local 1928 (no settlement)
 - MF Schurman Ltd (Maritime Home Improvement – Kent Charlottetown) / International Union of Operating Engineers, Local 942 (withdrawn)
 - UPEI / Canadian Union of Public Employees, Local 1870 (settled)
 - Health PEI / PEI Nurses Union (settled)
 - Holland College / International Union of Operating Engineers, Local 942 (settled)
 - Atlantic Baptist Nursing Home / Canadian Union of Public Employees, Local 2523 (settled)
 - Atlantic Baptist Nursing Home / Canadian Union of Public Employees, Local 5331 (arbitration)
 - PEI Teacher’s Federation / Canadian Union of Public Employees, Local 1770-6 (settled)
 - Maritime Electric / International Brotherhood of Electrical Workers, Local 1928 (settled)
 - MF Schurman Ltd (Maritime Home Improvement – Kent Charlottetown) / International Union of Operating Engineers, Local 942 (ongoing)
 - Education Negotiating Agency /PSB/CSLF / Canadian Union of Public Employees, Local 1145, 1770 & 1775 (settled)
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ANNUAL REPORT 2023

Labour Relations Board

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

Employer Representatives

Greg Doyle
Judy Hughes
Dan Hughes
Linda Gaudet

Employee Representatives

Cathy MacKinnon
Tracy Robertson
Paula Caulier
Craig Walsh

The Chair, Vice-Chair as well as the Member positions are appointed to their roles by Executive Council. Shawn Shea, Chief Executive Officer of the Board, is a full-time staff member of the Division. Hazel Walsh-Scott is a full-time staff member of the Division who also acts as Secretary to the Board.

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 14 applications in addition to 5 which were carried over from previous years for a total of 19 applications; 14 have been granted, 1 was withdrawn and 4 are pending.

The Board held

- 1 Board hearing
 - 5 Panel only hearings
 - 1 Full Board meeting
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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, 2023, to December 31, 2023, the Division

- printed and distributed over 4500 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 225 individual employers.

Investigation

During the reporting period, the Division

- handled approximately 10000 inquiries
- conducted 94 office interviews
- investigated 165 formal complaints

Enforcement

During the reporting period, the Division

- conducted 9 proactive inspections / audits
 - issued 73 formal Orders to employers for non-payment of monies owing to former / current employees totalling \$499,844.50
 - filed 43 judgments with the Supreme Court totalling \$326,651.89
 - 83 investigations resulted in the collection of \$78,211.37 for employees
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Employment Standards Board

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

Employer Representatives

Fraser MacDougall
Gary Ramsay
Elizabeth Noonan

Employee Representatives

Dianne Arsenault
Angela MacDonald
Jane Ford

The Chair, Vice-Chair as well as the Member positions are appointed to their roles by Executive Council. Hazel Walsh-Scott is a full-time staff member of the Division who also acts as Secretary to the Board.

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 June 2023.

During the reporting period, the Board held

- Two (2) full Board meetings (yearly meeting and the minimum wage recommendation meeting)
- Two (2) consultation sessions to receive input from both employers and employees on recommendations regarding the Minimum Wage Order
- Two (2) Board hearings where employers appealed the Decision / Order of the Inspector

The Board recommended an increase of 40¢ to the minimum wage bringing it up to \$15.40 per hour effective the 1st of April, 2024, with a further increase of 60¢ effective the 1st of October, 2024, bringing the minimum wage to \$16.00 per hour. These increases will keep Prince Edward Island's minimum wage on par with or above eight (8) other Canadian jurisdictions.

Office of the Worker Advisor

Lindsay McLellan, Worker Advisor

Jana Jones, Intake Officer

About the Office of the Worker Advisor

The Office of the Worker Advisor is created and funded through the application of Section 85 of Prince Edward Island's *Workers Compensation Act* ("Act"). It provides for the service of a Worker Advisor to assist workers injured in the workplace with their workers compensation issues. Operational funding is provided by the Workers Compensation Board ("Board") by virtue of Section 85 (2) of the Act.

The Worker Advisor provides independent advice and assistance free of charge to workers and/or their dependents on workers compensation matters. This includes issues arising pursuant to the Act and its regulations and Board policies and procedures. The Worker Advisor may assist and/or represent the worker and/or their dependents before the Board at the Customer Service level and all levels of appeal, including the Internal Reconsideration level, the Workers Compensation Appeal Tribunal ("WCAT"), and the PEI Court of Appeal.

2023 Case Activity Overview

The Office of the Worker Advisor assisted numerous Island workers on various issues, including entitlement, new evidence, return-to-work and accommodation matters, re-employment, pre-existing conditions, repetitive strain injuries, etc. The Office of the Worker Advisor fielded numerous telephone and e-mail inquiries from Workers requesting the assistance of the Office. The Office of the Worker Advisor noted an increase in new files opened.

Over the course of the year, there were 69 intake inquiries and 29 files opened. There were 20 submissions at the internal reconsideration level, the first level of appeal. There were 10 notice of appeals filed at the WCAT level, the second level of appeal, and the Worker Advisor participated in 9 WCAT hearings.

The Office of the Worker Advisor continued its participation in the regular monthly Appeal Working Group (“AWG”) meetings between the Worker Advisor, the Employer Advisor, the WCAT Coordinator, and the Board (including the Senior Legal Advisor, the Internal Reconsideration Officer, and Service Quality Coordinator).

Professional Development

The Office of the Worker Advisor was an active participant in the Canadian Association of Workers Advisors and Advocates (“CAWAA”) throughout the year. The Worker Advisor attended the CAWAA conference held in Yellowknife, Northwest Territories, in August 2023. Additionally, the Worker Advisor participated in numerous teleconference calls and other professional development sessions with CAWAAs members. Involvement in CAWAA facilitates information sharing regarding legal development, trends, and best practices on workers compensation law across Canada.

The Worker Advisor further attended numerous continuing legal education and training sessions in 2023, pertaining to the areas of workers compensation, occupational health and safety, and administrative law.

Communications and Outreach

The Office of the Worker Advisor attended the PEI WCB Workplace Health & Safety Conference as an exhibitor.

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, 2023 – December 31, 2023, 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 is provided 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 numerous 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 2023 there were forty-four (44) 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 three (3) 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 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 2023. Specifically, the Employer Advisor reviewed proposed draft policies and provided feedback in regard to the following policies: POL-45; POL-120; POL-92; POL-64; POL-30; POL-60; POL-71; and a New Policy – “Personal Information & Privacy Protection”.

In 2023 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 2023 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.

In other activities to promote employer outreach, the Office of the Employer Advisor attended Tourism Industry Association (TIAPEI) job fairs, Skills PEI job fairs, and also attended the PEI WCB Workplace Health & Safety Conference as an exhibitor.

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

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'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
-

2023 Caseload Activity Overview

13 Appeals Filed:

The number of appeals filed in 2023 decreased from the previous year. Of the 13 appeals filed, 13 were new worker appeals and there were no employer appeals. Of the 13 appeals, the Office of the Worker Advisor represented 11 workers and 2 workers were either self represented or retained outside counsel.

10 Appeals Withdrawn:

During the year there were 10 files withdrawn by the appellant without hearing.

9 Hearings:

There were 9 hearings held in 2023 (compared to 12 in 2022).

10 Decisions:

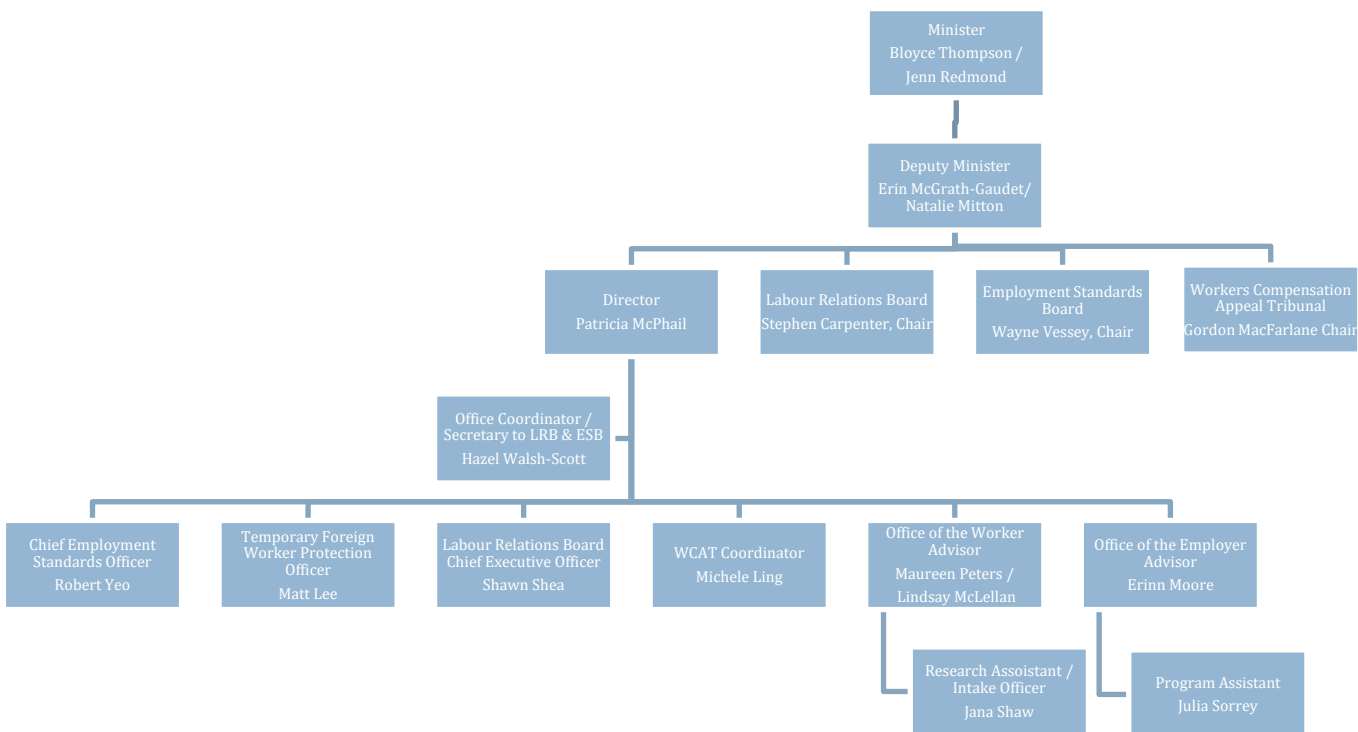
- 6 appeals were dismissed
- 4 were allowed
- 0 returned to WCB

0 Appeal to Court of Appeal:

There were no applications filed with the Court of Appeal in 2023.

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.



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