

LABOUR MANAGEMENT REVIEW COMMITTEE

November 3, 2017

Honourable Blaine Pedersen
Minister of Growth, Enterprise and Trade
Room 358 Legislative Building
Winnipeg MB R3C 0V8

Dear Minister:

As requested in your letters of August 23, 2017 and September 20, 2017, the Labour Management Review Committee (LMRC) has reviewed proposals respecting child employment permits, exclusions for Manitoba major junior hockey players, frivolous/vexatious claims, and the issue of whether a separate security guard minimum wage should be maintained or repealed.

The LMRC met on September 25 and October 11, 2017 to discuss these matters, and we are pleased to inform you that a consensus was reached on all subjects.

The committee wishes to thank you for the opportunity to provide comment and recommendations on the several proposed changes under *The Employment Standards Code* (Code), and to further provide recommendations on the special minimum wage for security guards.

We would also like to express our appreciation to the Employer and Labour Caucus members for their consideration of these issues, to the invited security guard sector stakeholder representatives for providing valuable feedback, and to the staff of the Department of Growth, Enterprise and Trade for their assistance and support.

Attached, please find the combined Report of the LMRC on the above mentioned issues. If you have any questions, or wish to discuss any aspect of the report, please do not hesitate to contact the Chairperson.

Sincerely,



Kevin Rebeck
Labour
Caucus Chair



Michael Werier
Chairperson



Peter Wightman
Management
Caucus Chair

cc: Members of the Manitoba Labour Management Review Committee

REPORT OF THE MANITOBA LABOUR MANAGEMENT REVIEW COMMITTEE

November 3, 2017

MANDATE OF THE LABOUR MANAGEMENT REVIEW COMMITTEE

In September 2017, the Labour Management Review Committee (LMRC) was tasked by the Minister of Growth, Enterprise and Trade (GET) to review and provide recommendations on several proposed changes to Manitoba's employment standards legislation.

The proposed changes included:

- Continuing to ensure the safety of young workers while reducing red tape, by modernizing requirements for child employment permits.
- Providing the Director of Employment Standards with authority to refuse claims that are frivolous or vexatious; and
- Exempting major junior hockey players from application of *The Employment Standards Code*.

The Minister further tasked the LMRC with revisiting the issue of Manitoba's security guard minimum wage and providing recommendations on whether this special minimum wage should be maintained or repealed. Regulatory amendments were passed on October 1, 2017 pausing the security guard minimum wage at \$12.50, to allow time for Government to consider the LMRC's recommendations before determining how that wage should be set going forward.

GET staff provided background material for consideration by the LMRC and were available to conduct such research as the Committee considered appropriate. Key employer and labour stakeholders from the security guard sector were also invited to present their experiences with the special minimum wage from its 2014 implementation to present.

Child Employment Permits

The LMRC reviewed and is in support of the introduction of an online Young Worker Readiness Course to replace the existing child employment permit system in Manitoba. An online course such as the one used in Saskatchewan can reasonably be introduced as a means of providing better awareness and education for children under the age of 16 entering the workforce, in comparison to the existing permit system.

The LMRC also reviewed proposed legislative restrictions and special conditions derived from the current permit system that would raise the minimum working age in Manitoba from 12 to 13, as well as provide certain hazard-based prohibitions for children ages 13 to 15.

The LMRC recommends implementation of the online course and introduction of proposed legislation, with two caveats.

Firstly, the LMRC recommends that a companion piece to the online course be required for employers that employ workers under the age of 16, to ensure they are aware of their additional responsibilities under *The Employment Standards Code*.

Secondly, the LMRC recommends that the minimum working age in Manitoba be raised to 14, rather than 13. A minimum working age of 14 is consistent with neighbouring jurisdictions, and eliminates the necessity of regulating specific hazard-based prohibitions for children aged 13.

The LMRC recognizes that each year in Manitoba approximately 220 children aged 13 are employed under child employment permits. The LMRC is of the opinion that sufficient communication and a 'grandfather' clause which allows current permit holders aged 12 and 13 to continue to work under the conditions specified by the child employment permit should serve to alleviate any concerns from those who may be affected by the change.

Frivolous and Vexatious Claims

With respect to the proposal to grant the Director of Employment Standards the ability to refuse frivolous or vexatious claims, The LMRC recommends that no legislative provisions be passed at this time.

Upon review of the use of similar provisions in other jurisdictions, the LMRC agreed that introducing the authority to reject such infrequent and complex circumstances are unnecessary, and unlikely to provide measurable benefit to the employers affected.

Major Junior Hockey Players

With respect to excluding major junior ice hockey players entirely from *The Employment Standards Code*, the LMRC recommends that Manitoba introduce regulatory provisions similar to those used in British Columbia, in line with the Department's proposal.

It is important to note that under such an exclusion, players must continue to be entitled to receive a scholarship from the team or the league in an amount equal or greater than the eligible cost of an academic year of a post-secondary educational program in Canada of the player's choice. To clarify the parameters of "eligible cost," a definition should be included which is equivalent to what exists in the British Columbia legislation.

The LMRC further recommends that provisions be clear and specific to the Western Hockey League. This will help to prevent any confusion with the Manitoba Major Junior Hockey League, a 'Junior A' league with ten teams that play in and around Winnipeg, Manitoba.

Security Guard Minimum Wage

As part of Government's review of the appropriateness of Manitoba's security guard minimum wage, the Minister requested the LMRC's recommendations on whether the wage should be maintained or repealed, and if maintained, how the wage should be set going forward. In keeping with requirements under the Employment Standards Code to consult with employer and worker representatives on changes to the minimum wage, several guests were invited to provide comment to the LMRC on their experiences to date with the security guard differential minimum wage.

Stakeholders from GardaWorld and Paladin, respectively Manitoba's largest unionized and non-unionized security guard companies, provided critical feedback to the committee on how the wage is working for employers within the sector. A union representative from UFCW was also present to provide perspective to issues facing unionized workers in the sector.

The LMRC's recommendation recognizes that thousands of Manitobans have anticipated and planned for the previously scheduled wage increase, and that the rationale and support for a special minimum wage remains largely unchanged since its 2014 introduction. Regulating a special wage for security guards set at \$2.25 above the provincial minimum wage helps to ensure appropriate compensation for legislated and other special training requirements, address unique risks to safety and health, and promote greater retention of qualified and skilled security guards.

Of note, Paladin's Director of Operations, Thor Goodmanson expressed to the LMRC that price increases resulting from the special wage have been widely accepted by clients. Through sufficient notice and education on the reasons for the special wage, Paladin's clients have understood that the additional costs incurred due to the special wage are offset by the company's ability to provide more qualified and better trained security guards.

Based on current stakeholder feedback, the LMRC recommends that the special wage for security guards be returned as soon as possible to the previously regulated rate increase set to occur on October 1, 2017, the amount equal to the provincial minimum wage plus \$2.25 per hour. Following the October 1, 2017 provincial minimum wage increase to \$11.15 per hour, the security guard minimum wage should therefore be increased to \$13.40 per hour.