

CONTENTS

Note: This table of contents is a summary. Detailed tables of contents follow each tab divider.

Foreword	Foreword 1
About the Authors	Authors i
Table of Contents	Table of Contents i
Acronyms & Abbreviations	Acronyms i
Introduction	Introduction 1

VOLUME ONE

TAB I EMPLOYMENT LAW: THE BASICS

Tab I AUTHORS	Tab I Authors i
I-1 EMPLOYMENT LAW: THE BASICS	I – 1.A 1
A. The Arena: Jurisdiction and Sources of Law	I – 1.A 1
1. Jurisdiction.....	I – 1.A 1
<i>Summary of Jurisdiction</i>	I – 1.A 4
2. Sources of Law.....	I – 1.A 5
<i>Summary of Sources of Law</i>	I – 1.A 7
B. The Rules: Rights and Obligations of Employees and Employers	I – 1.B 1
1. The Common Law.....	I – 1.B 1
2. Statute Law.....	I – 1.B 3
C. The Players: Employee and Employer	I – 1.C 1
1. The Employment Relationship.....	I – 1.C 1
2. Contract of Services <i>versus</i> Contract for Services.....	I – 1.C 4
3. The Common Law Tests.....	I – 1.C 6
4. Statutory Definitions and Implications.....	I – 1.C 29
<i>Checklist: Employee or Independent Contractor?</i>	I – 1.C 30
5. Other Relationships Defined in Employment Law.....	I – 1.C 31
6. The Employer.....	I – 1.C 34
<i>Summary of the Employment Relationship</i>	I – 1.C 37

I-2 THE HIRING PROCESS	I – 2.A 1
Introduction	I – 2.A 1
A. The Selection Process	I – 2.A 1
1. Advertisements and Applications for Employment.....	I – 2.A 2
2. The Interview: Statutory and Common Law Considerations	I – 2.A 5
<i>Do's and Don'ts of the Interview Process</i>	<i>I – 2.A 12</i>
3. References	I – 2.A 13
4. Pre-employment Medical Information and Examinations	I – 2.A 16
B. General Contract Principles and Common Law Considerations	I – 2.B 1
1. Introduction	I – 2.B 1
2. Offer, Acceptance, and Consideration	I – 2.B 1
3. Enforceability Considerations	I – 2.B 5
<i>Checklist: General Principles and the Enforceability of Contracts</i>	<i>I – 2.B 8</i>
C. The Employment Contract	I – 2.C 1
1. Oral Contracts vs. Written Contracts	I – 2.C 1
2. Written Contracts: Some Standard Terms	I – 2.C 1
3. Restrictive Covenants: Non-Competition, Non-Solicitation, and Confidentiality Covenants or Agreements	I – 2.C 6
<i>Checklist: Drafting a Restrictive Covenant.....</i>	<i>I – 2.C 17</i>
I-3 MANAGING THE EMPLOYMENT RELATIONSHIP	I – 3.A 1
A. Probation	I – 3.A 1
1. The Basics.....	I – 3.A 1
2. Dismissal Without Cause During Probation	I – 3.A 3
3. The Standard to Justify Dismissal.....	I – 3.A 4
4. Damages for Dismissal of a Probationary Employee Without Cause	I – 3.A 8
5. Extension of Probation.....	I – 3.A 8
<i>Summary of Probation</i>	<i>I – 3.A 11</i>
B. Policy Manuals, Procedures, and Workplace Rules	I – 3.B 1
1. The Basics.....	I – 3.B 1
2. New Employees.....	I – 3.B 2
3. Current Employees	I – 3.B 3
4. Policies in Practice.....	I – 3.B 4
5. Mandatory Retirement	I – 3.B 7
<i>Checklist: Policy Manuals, Procedures, and Workplace Rules</i>	<i>I – 3.B 10</i>
C. Performance Reviews and Evaluations	I – 3.C 1
1. The Basics.....	I – 3.C 1
2. The Format for the Evaluation	I – 3.C 1
3. Considerations on Drafting a Performance Evaluation	I – 3.C 2
4. The Substantive Requirements.....	I – 3.C 3
<i>Checklist: Performance Reviews and Evaluations.....</i>	<i>I – 3.C 6</i>

D. Considerations on Discipline or Promotion of Employees	I – 3.D 1
1. The Basics	I – 3.D 1
2. The “Unpromotable” Employee	I – 3.D 1
3. Refusal or Failure to Promote an Employee	I – 3.D 2
4. Considerations at the Time of Promotion	I – 3.D 3
<i>Checklist: Considerations on Promotion</i>	I – 3.D 4
5. The Institutions of Discipline	I – 3.D 5
6. Verbal and Written Warnings	I – 3.D 6
7. Demotion as Disciplinary Measure	I – 3.D 7
8. Suspension as Disciplinary Measure	I – 3.D 11
<i>Checklist: Considerations on Employee Discipline</i>	I – 3.D 14
E. Privacy in the Workplace: Monitoring, Surveillance, and Testing	I – 3.E 1
1. The Basics	I – 3.E 2
2. Testing of Employees	I – 3.E 2
3. The Employer’s Right to Information	I – 3.E 3
4. Statutory Provisions Regarding Privacy Rights	I – 3.E 5
5. Use of Privacy Policies	I – 3.E 7
6. Employee Consent to Limitations on the Right to Privacy	I – 3.E 9
<i>Checklist: Privacy in the Workplace</i>	I – 3.E 10
F. Condonation	I – 3.F 1
1. The Basics	I – 3.F 1
2. Knowledge of Employer	I – 3.F 2
3. Reasonable Time to Act	I – 3.F 3
4. Actions Found to Constitute Condonation	I – 3.F 4
5. Impact of Continuing Poor Behaviour	I – 3.F 7
<i>Summary of Condonation</i>	I – 3.F 8
I-4 WITHDRAWAL FROM THE EMPLOYMENT RELATIONSHIP	I – 4.A 1
A. Resignation	I – 4.A 1
1. Introduction	I – 4.A 1
2. The Elements of a Valid and Enforceable Resignation	I – 4.A 2
3. The Requirement of Clear and Unambiguous Language	I – 4.A 5
4. The Employee’s Requirement to Provide Reasonable Notice	I – 4.A 8
5. Wrongful Dismissal Arising out of Valid Resignations	I – 4.A 11
<i>Summary of Employee Resignation</i>	I – 4.A 14
B. Retirement	I – 4.B 1
1. Introduction	I – 4.B 1
2. Retirement at Common Law	I – 4.B 1
3. Retirement as a Form of Constructive Dismissal?	I – 4.B 7
4. Retirement Considerations Under Human Rights and Employment Standards Legislations	I – 4.B 8
<i>Summary of Retirement</i>	I – 4.B 13

C. Sale of Employer's Business	I – 4.C 1
1. Introduction.....	I – 4.C 1
2. Traditional Common Law Rules.....	I – 4.C 2
3. Sale of Business and the Doctrine of Mitigation.....	I – 4.C 6
4. The Statutory Provisions.....	I – 4.C 6b
5. Recognition of Past Service: An Implied Term of the Employment Relationship?	I – 4.C 7
6. Avoiding Responsibility for Recognition of Past Service	I – 4.C 11
<i>Summary of Sale of Business</i>	I – 4.C 15
D. Insolvency of the Employer	I – 4.D 1
1. Bankruptcy and Receivership	I – 4.D 1
2. Restructurings.....	I – 4.D 20
<i>Summary of Bankruptcy</i>	I – 4.D 25
E. Constructive Dismissal	I – 4.E 1
1. Introduction.....	I – 4.E 1
2. Unilateral Imposition of Change.....	I – 4.E 4
3. Fundamental Changes in Terms of Employment.....	I – 4.E 8
4. Grounds of Constructive Dismissal.....	I – 4.E 8
5. The Employee's Duty to Mitigate	I – 4.E 39
<i>Summary: Constructive Dismissal</i>	I – 4.E 43
F. Just Cause	I – 4.F 1
1. Introduction.....	I – 4.F 1
2. Preliminary Considerations.....	I – 4.F 3
3. Grounds for Just Cause Dismissal.....	I – 4.F 7
4. Post-Termination Considerations.....	I – 4.F 31
<i>Summary of Just Cause</i>	I – 4.F 33
G. Frustration of Contract	I – 4.G 1
1. Introduction.....	I – 4.G 1
2. Grounds for Frustration at Common Law.....	I – 4.G 4
<i>Summary of Frustration of Contract</i>	I – 4.G 20
I-5 REMEDIES	I – 5.A 1
Introduction.....	I – 5.A 1
A. Damages for Wrongful Dismissal	I – 5.A 2
1. Reasonable Notice	I – 5.A 2
2. Damages for Bad Faith.....	I – 5.A 8
<i>Do's and Don'ts to Avoid Bad Faith When Terminating an Employee</i>	I – 5.A 10
3. Recourse for Psychological Harassment	I – 5.A 11
4. Determining Remuneration and the Calculation of Damages	I – 5.A 11
5. The Employee's Duty to Mitigate	I – 5.A 18
<i>Summary of Wrongful Dismissal Damages</i>	I – 5.A 22

B. Mental Distress and Aggravated/Punitive Damages	I – 5.B 1
1. Mental Distress	I – 5.B 1
2. Punitive Damages	I – 5.B 2
3. Aggravated Damages	I – 5.B 3
C. Remedial Considerations in Handling a Termination	I – 5.C 1
1. Structuring a Termination Package	I – 5.C 1
2. Managing the Termination Interview	I – 5.C 3
D. Tort Liability	I – 5.D 1
1. Introduction	I – 5.D 1
2. Defamation	I – 5.D 1
3. Intentional Infliction of Mental Suffering	I – 5.D 3
4. Negligent Misrepresentation	I – 5.D 5
5. Interference with Contractual Relations	I – 5.D 6
6. Conspiracy	I – 5.D 7
7. Psychological Harassment	I – 5.D 8
8. Director/Manager Personal Liability	I – 5.D 8
9. Employer Liability for the Torts of its Employees	I – 5.D 11
10. Invasion of Privacy	I – 5.D 12
<i>Summary of Tort Liability</i>	I – 5.D 13
E. Injunctive Remedies	I – 5.E 1
1. Introduction	I – 5.E 1
2. Preliminary Assessment of the Case	I – 5.E 2
3. Irreparable Harm	I – 5.E 3
4. Balance of Convenience	I – 5.E 4
5. Plaintiff Undertaking	I – 5.E 4
<i>Summary of Injunctive Remedies</i>	I – 5.E 5
I-6 DEFENDING A WRONGFUL DISMISSAL CLAIM	I – 6.A 1
A. Choosing Employment Counsel	I – 6.A 1
B. Steps in the Litigation Process	I – 6.B 1
1. Pleadings	I – 6.B 1
2. Discovery	I – 6.B 8
3. Summary Proceedings	I – 6.B 12
4. Small Claims Court	I – 6.B 13
5. Costs	I – 6.B 14
C. Alternative Dispute Resolution	I – 6.C 1
1. Mediation	I – 6.C 1
2. Arbitration	I – 6.C 3
3. Mediation-Arbitration	I – 6.C 4

D. Settlement and Release	I – 6.D 1
E. Release Clauses	I – 6.E 1

TAB II PROVINCIAL EMPLOYMENT LAW LEGISLATION ACROSS CANADA

Tab II AUTHORS	Tab II Authors i
----------------------	------------------

II-1 PROVINCIAL EMPLOYMENT LAWS	II – 1.A 1
---------------------------------------	------------

A. What You Are Obligated to Pay	II – 1.A 1
1. Introduction	II – 1.A 1
2. Minimum Wage (Chart 1).....	II – 1.A 1
3. Hours of Work and Overtime (Chart 2)	II – 1.A 3
4. Statutory Holidays (Chart 3).....	II – 1.A 8
5. Vacation (Chart 4).....	II – 1.A 9
6. Method of Payment.....	II – 1.A 10
B. When an Employee Requests a Leave of Absence	II – 1.B 1
1. Maternity Leave (Chart 6)	II – 1.B 2
<i>Frequently Asked Questions</i>	II – 1.B 8
2. Parental Leave (Chart 7)	II – 1.B 10
<i>Frequently Asked Questions</i>	II – 1.B 14
3. Adoption Leave	II – 1.B 15
4. Bereavement Leave.....	II – 1.B 17
5. Sick Leave	II – 1.B 18
6. Compassionate Care Leave	II – 1.B 20
7. Other Leaves	II – 1.B 20
C. What to Consider When Terminating Employees	II – 1.C 1
1. Termination Pay (Chart 8)	II – 1.C 1
2. Payment of Accrued Salary and Benefits (Charts 5 and 6).....	II – 1.C 4
3. Temporary Layoff (Chart 8)	II – 1.C 4
4. Individual Termination (Chart 8).....	II – 1.C 5
5. Group Termination (Chart 8).....	II – 1.C 7
6. Unjust Dismissal: Statutory Remedies	II – 1.C 8
D. Other Pitfalls	II – 1.D 1
1. Liability of Directors and Officers	II – 1.D 1
2. Sale of Business	II – 1.D 1
3. Minimum Age.....	II – 1.D 2
4. Persons with Disabilities	II – 1.D 3
5. Offences	II – 1.D 3
E. Provincial Employment Law Charts and Concordance	II – 1.E 1

TAB III QUEBEC LABOUR AND EMPLOYMENT LAW

III-1 QUEBEC LABOUR STANDARDS	III – 1.A 1
Introduction	III – 1.A 1
A. Wages and the Payment of Wages	III – 1.A 1
1. Minimum Wages	III – 1.A 1
2. Exceptions to Minimum Wages	III – 1.A 2
3. Method of Payment	III – 1.A 3
B. Duration of Work	III – 1.B 1
1. Workweek	III – 1.B 1
2. Coffee Break	III – 1.B 2
3. Meals	III – 1.B 2
4. Weekly Rest Period	III – 1.B 2
5. Overtime	III – 1.B 2
6. Minimum Call-in Pay	III – 1.B 6
<i>Summary of Wages and Workweek</i>	III – 1.B 7
C. Statutory Holidays	III – 1.C 1
1. Entitlement	III – 1.C 1
2. Requirements	III – 1.C 1
3. Designated Statutory Holidays	III – 1.C 2
4. Indemnity	III – 1.C 3
D. Annual Vacation	III – 1.D 1
1. Duration	III – 1.D 1
2. Indemnity	III – 1.D 2
3. Vacation Period	III – 1.D 3
4. Splitting Vacation Weeks	III – 1.D 4
5. Termination of Employment	III – 1.D 4
E. Special Leaves	III – 1.E 1
1. Absences Owing to Sickness or Accident	III – 1.E 1
2. Bereavement Leave	III – 1.E 2
3. Leave for Marriage or Civil Union	III – 1.E 2
4. Leave for Birth or Adoption of a Child or Termination of Pregnancy	III – 1.E 3
5. Maternity Leave	III – 1.E 4
6. Paternity Leave	III – 1.E 6
7. Parental Leave	III – 1.E 6
8. Family or Parental Leave and Absences	III – 1.E 7

F. Prior Notice of Termination of Employment	III – 1.F 1
1. Entitlement	III – 1.F 1
2. Duration of Notice	III – 1.F 2
3. Compensatory Indemnity	III – 1.F 3
4. Recall Privileges	III – 1.F 3
5. Other Restrictions	III – 1.F 4
6. Notice of Collective Dismissal	III – 1.F 5
<i>Summary of Prior Notice of Termination</i>	III – 1.F 7
<i>Frequently Asked Question</i>	III – 1.F 8
G. Application of Labour Standards	III – 1.G 1
1. Derogation from Labour Standards	III – 1.G 1
2. Sale and Transfer of the Business	III – 1.G 1
<i>Frequently Asked Question</i>	III – 1.G 2
H. Civil Recourses	III – 1.H 1
1. Role of the Labour Standards Commission	III – 1.H 1
2. Complaint	III – 1.H 1
3. Inquiry	III – 1.H 2
4. Remedy	III – 1.H 3
5. Prescription	III – 1.H 3
6. Nature of Civil Claims	III – 1.H 4
<i>Frequently Asked Questions</i>	III – 1.H 5
I. Recourse Contesting a Prohibited Practice	III – 1.I 1
1. Prohibited Grounds of Sanction	III – 1.I 1
2. Mediation	III – 1.I 7
3. Sanctions	III – 1.I 8
4. Psychological Harassment	III – 1.I 9
<i>Summary</i>	III – 1.I 12
<i>Frequently Asked Question</i>	III – 1.I 12
J. Wrongful Dismissal	III – 1.J 1
1. Right to Make a Complaint	III – 1.J 1
2. Jurisdiction of the Labour Commissioner	III – 1.J 6
3. Burden of Proof	III – 1.J 8
4. Examples of Just and Sufficient Cause	III – 1.J 9
5. Conduct not Constituting Just and Sufficient Cause	III – 1.J 10
6. Remedial Powers of the Labour Commissioner	III – 1.J 10
7. The Dismissed Employee's Obligation to Mitigate	III – 1.J 14
8. Sale of the Business	III – 1.J 14
9. Mediation	III – 1.J 14
<i>Summary</i>	III – 1.J 15
<i>Frequently Asked Questions</i>	III – 1.J 16

III-2 QUEBEC LABOUR AND EMPLOYMENT LAW

A. Other Statutory Recourses	III – 2.A 1
1. Section 32 of the <i>Act respecting industrial accidents and occupational diseases</i>	III – 2.A 1
2. Section 227 of the <i>Act respecting occupational health and safety</i>	III – 2.A 3
3. Section 45 of the <i>French Language Charter</i>	III – 2.A 4
4. <i>The Act respecting health services and social services</i>	III – 2.A 4

III-3 THE CIVIL CODE

A. The Civil Code	III – 3.A 1
1. Employment Law in Quebec: An Introduction	III – 3.A 1
2. Damages in Lieu of Notice	III – 3.A 4
3. Moral Damages	III – 3.A 6
4. Constructive Dismissal	III – 3.A 6
5. Mitigation of Damages	III – 3.A 7
6. Reinstatement	III – 3.A 7
7. Sale of a Business	III – 3.A 7
8. Settlement and Releases	III – 3.A 8
9. Non-Competition Agreements	III – 3.A 8
10. Certificate of Employment	III – 3.A 9

III-4 QUEBEC HUMAN RIGHTS

A. Prohibited Grounds of Discrimination	III – 4.A 1
1. Introduction	III – 4.A 1
2. Prohibited Grounds of Discrimination	III – 4.A 1
<i>Summary</i>	III – 4.A 8
<i>Frequently Asked Questions</i>	III – 4.A 8
B. Hiring	III – 4.B 1
1. Application Forms and the Interview Process	III – 4.B 1
<i>Summary of Hiring</i>	III – 4.B 5
<i>Frequently Asked Questions</i>	III – 4.B 5
C. The Employer's Right to Impose Job Requirements	III – 4.C 1
1. Introduction	III – 4.C 1
2. Bona fide Occupational Requirement	III – 4.C 3
3. Duty to Accommodate	III – 4.C 4
<i>Summary of Job Requirements</i>	III – 4.C 8
<i>Frequently Asked Questions</i>	III – 4.C 8

D. Recourses	III – 4.D 1
1. Introduction	III – 4.D 1
2. Compensatory Damages	III – 4.D 1
3. Exemplary Damages	III – 4.D 2
4. Injunctive Relief	III – 4.D 3
<i>Summary</i>	III – 4.D 4
<i>Frequently Asked Questions</i>	III – 4.D 5
E. The Quebec Human Rights and Youth Protection Commission	III – 4.E 1
1. Introduction	III – 4.E 1
2. Investigative Powers.....	III – 4.E 1
3. Conciliation	III – 4.E 2
4. Power to Institute Proceedings	III – 4.E 3
<i>Frequently Asked Questions</i>	III – 4.E 3
F. The Quebec Human Rights Tribunal	III – 4.F 1
1. Introduction	III – 4.F 1
2. Tribunal's Jurisdiction	III – 4.F 1
3. Tribunal's Composition	III – 4.F 1
<i>Frequently Asked Questions</i>	III – 4.F 2

VOLUME TWO

TAB IV HUMAN RIGHTS AND EMPLOYMENT LAW

Tab IV AUTHORS	Tab IV Authors i
-----------------------------	-------------------------

IV-1 HUMAN RIGHTS IN THE EMPLOYMENT CONTEXT	IV – 1.A 1
--	-------------------

A. Introduction	IV – 1.A 1
1. What is “Employment”?	IV – 1.A 2
2. An Overview of Discriminatory Grounds	IV – 1.A 2
3. Who is Responsible?	IV – 1.A 3
<i>Summary</i>	IV – 1.A 4
B. Human Rights Concerns at the Hiring Stage	IV – 1.B 1
1. Advertising and Interviewing Techniques: What is Permissible?	IV – 1.B 1
2. Guidelines for Pre-Employment Application and Interview Questioning	IV – 1.B 3
3. The “Overqualified” Applicant	IV – 1.B 7
4. Discrimination in Hiring	IV – 1.B 7
<i>Summary</i>	IV – 1.B 8

C. Human Rights Concerns During Employment	IV – 1.C 1
1. Introduction to Discrimination and Employment.....	IV – 1.C 1
2. The Duty to Accommodate	IV – 1.C 3
<i>Summary</i>	IV – 1.C 13
D. Drug and Alcohol Testing	IV – 1.D 1
1. Introduction	IV – 1.D 1
2. The American Approach	IV – 1.D 5
3. The Canadian Approach	IV – 1.D 6
4. Random Testing	IV – 1.D 8
5. Reasonable Cause Testing.....	IV – 1.D 17
6. Rehabilitation Situations	IV – 1.D 20
<i>Summary</i>	IV – 1.D 20

IV-2 PROHIBITED GROUNDS OF DISCRIMINATION

A. Introduction	IV 2.A 1
1. Human Rights in the Union Environment.....	IV 2.A 1
B. Age	IV 2.B 1
1. Introduction	IV 2.B 1
2. The Definition of Age: Significant Jurisdictional Differences	IV 2.B 1
3. Exceptions to Discrimination Based on Age	IV 2.B 2
4. Mandatory Retirement	IV 2.B 3
5. Selected Case Law Examples	IV 2.B 4
6. Age Issues in the Union Environment.....	IV 2.B 7
<i>Summary</i>	IV 2.B 8
C. Race, Colour, Ancestry, and Place of Origin	IV – 2.C 1
1. Introduction	IV – 2.C 1
2. Race Discrimination: Customer or Client Preference is no Defence	IV – 2.C 2
3. Selected Case Law Examples	IV – 2.C 3
4. Race, Colour, Ancestry, and Place of Origin Discrimination in the Union Environment.....	IV – 2.C 7
<i>Summary</i>	IV – 2.C 8
D. Criminal Conviction	IV – 2.D 1
1. Introduction	IV – 2.D 1
2. Significant Jurisdictional Differences	IV – 2.D 1
3. Selected Case Law Examples	IV – 2.D 3
4. Criminal Record Issues in the Union Environment.....	IV – 2.D 5
<i>Summary</i>	IV – 2.D 6

E. Disability	IV – 2.E 1
1. Introduction	IV – 2.E 1
2. What is a “Disability”?	IV – 2.E 2
3. Duty to Accommodate Disability	IV – 2.E 5
4. Disability Issues in the Union Environment	IV – 2.E 11
Summary	IV – 2.E 14
F. Sex	IV – 2.F 1
1. Introduction	IV – 2.F 1
2. The Definition of “Sex”	IV – 2.F 1
3. The Definition of “Gender”	IV – 2.F 2
4. Discrimination Based on Pregnancy	IV – 2.F 3
5. Wage Equity	IV – 2.F 6
6. Sex Discrimination in the Union Environment	IV – 2.F 7
Summary	IV – 2.F 9
G. Sexual Harassment	IV – 2.G 1
1. Introduction	IV – 2.G 1
2. The Definition of “Sexual Harassment”	IV – 2.G 1
3. The Definition of “Conduct of a Sexual Nature”	IV – 2.G 2
4. Unwelcome Conduct	IV – 2.G 4
5. Detrimental Effect/Adverse Consequences	IV – 2.G 6
6. The Definition of “Workplace”	IV – 2.G 7
7. Dealing with Complaints of Sexual Harassment	IV – 2.G 7
8. Sexual Harassment Claims in the Court	IV – 2.G 12
Summary	IV – 2.G 14
H. Sexual Orientation	IV – 2.H 1
1. Introduction	IV – 2.H 1
2. What Does “Sexual Orientation” Mean?	IV – 2.H 1
3. Dismissal and Disparate Treatment	IV – 2.H 2
4. Selected Case Law Example	IV – 2.H 2
5. Sexual Orientation Issues in the Union Environment	IV – 2.H 5
Summary	IV – 2.H 7
I. Marital or Family Status	IV – 2.I 1
1. Introduction	IV – 2.I 1
2. What Do “Marital Status” and “Family Status” Mean?	IV – 2.I 1
3. Establishing <i>Prima Facie</i> Family Status Discrimination	IV – 2.I 3
4. Discriminatory Conduct	IV – 2.I 4
5. Selected Case Law Example	IV – 2.I 5
6. Marital Status and Family Status Issues in the Union Environment	IV – 2.I 10
Summary	IV – 2.I 12

J. Political Belief	IV – 2.J 1
1. Introduction	IV – 2.J 1
2. Defining a “Political Belief”	IV – 2.J 1
3. Discriminatory Conduct	IV – 2.J 2
4. Selected Case Law Examples	IV – 2.J 3
5. Political Belief Issues in the Union Environment	IV – 2.J 5
<i>Summary</i>	IV – 2.J 6
K. Religion	IV – 2.K 1
1. Introduction	IV – 2.K 1
2. The Definition of “Religion”	IV – 2.K 1
3. The Test for Discrimination and Exemptions	IV – 2.K 2
4. Selected Case Law Examples	IV – 2.K 4
5. Religious Discrimination in the Union Environment	IV – 2.K 10
<i>Summary</i>	IV – 2.K 12
L. Gender Identity and Gender Expression	IV – 2.L 1
1. Introduction	IV – 2.L 1
2. What Do “Gender Identity” and “Gender Expression” Mean?	IV – 2.L 1
3. What Obligations Do Employers Have?	IV – 2.L 2
4. Selected Case Law Examples	IV – 2.L 2
<i>Summary</i>	IV – 2.L 6
Appendix IV – 2.A: Sample Employment Application	Appendix IV – 2.A 1
Appendix IV – 2.B: Prohibited Grounds of Discrimination	Appendix IV – 2.B 1
IV-3 POTENTIAL REMEDIES FOR HUMAN RIGHTS VIOLATIONS	IV – 3.A 1
A. Potential Remedies for Human Rights Violations	IV – 3.A 1
1. Preventing Future Discrimination	IV – 3.A 1
2. Compensation for the Complainant	IV – 3.A 2
3. Interim Remedies in Human Rights Proceedings	IV – 3.A 9
4. Courts Considering Human Rights Claims	IV – 3.A 12
<i>Summary</i>	IV – 3.A 13

TAB V CANADIAN LABOUR CODE

Tab V AUTHORS..... Tab V Authors i

V-1 THE CANADA LABOUR CODE

A. Overview	V – 1.A 1
1.The Legislator’s Objective: Setting Federal Labour Standards	V – 1.A 1
2. To Whom Do the Standards Apply?	V – 1.A 1
3. The Federal Labour Standards: A Minimum Threshold Only	V – 1.A 4
B. Hours of Work: Division I	V – 1.B 1
1.To Whom Do the Hours of Work and Overtime Provisions Apply?	V – 1.B 1
2. The Standard Hours of Work Under the <i>Canada Labour Code</i>	V – 1.B 2
3.The Maximum Hours of Work Under the <i>Canada Labour Code</i>	V – 1.B 4
4. Exceeding the Maximum Hours of Work.....	V – 1.B 5
5. Averaging Hours of Work.....	V – 1.B 7
6. Modifying Hours of Work	V – 1.B 8
7. Overtime	V – 1.B 11
C. Wages: Divisions II, III, XII and XVI	
1. The Minimum Wage under the <i>Canada Labour Code</i> (Division II).....	V – 1.C 1
<i>Frequently Asked Questions</i>	V – 1.C 3
2. Equal Wages Requirement (Division III)	V – 1.C 4
<i>Frequently Asked Questions</i>	V – 1.C 8
3. Payment of Wages (Division XV).....	V – 1.C 9
4. Deduction from Wages (Division XVI).....	V – 1.C 9
5. Garnishment of Wages (Division XII).....	V – 1.C 9
6. The Wage Recovery System under the <i>Canada Labour Code</i> (Division XVI)	V – 1.C 10
<i>Frequently Asked Questions</i>	V – 1.C 14
<i>Summary</i>	V – 1.C 17
D. Annual Vacations: Division IV	V – 1.D 1
1. Vacation Entitlements	V – 1.D 1
<i>Frequently Asked Questions</i>	V – 1.D 4
2. Scheduling the Annual Vacation	V – 1.D 6
<i>Frequently Asked Questions</i>	V – 1.D 7
3. When an Annual Vacation Interacts with a General Holiday	V – 1.D 8
4. Vacation and Termination of Employment	V – 1.D 8
5. Vacation and Transfer of a Work, Undertaking, or Business	V – 1.D 9
<i>Summary</i>	V – 1.D 10

E. General Holidays: Division V	V – 1.E 1
1. Federal Statute Holidays	V – 1.E 1
2. The Holiday Entitlement	V – 1.E 1
<i>Frequently Asked Questions</i>	V – 1.E 3
3. Substitution of General Holidays	V – 1.E 4
<i>Frequently Asked Questions</i>	V – 1.E 6
4. Pay for Holiday Work	V – 1.E 7
<i>Frequently Asked Questions</i>	V – 1.E 8
5. General Holiday Provisions for Managers and Professionals	V – 1.E 9
6. Exceptions Regarding Entitlement	V – 1.E 10
7. Sample Form: General Holiday Substitution	V – 1.E 12
<i>Summary</i>	V – 1.E 14
F. Parental, Compassionate Care, Critical Illness, and Death or Disappearance Leave: Division VII	V – 1.F 1
1. Maternity Leave	V – 1.F 1
2. Parental Leave	V – 1.F 1
3. Notice for Leave	V – 1.F 3
4. Pregnancy and the Inability to Perform Essential Job Functions	V – 1.F 4
5. Compassionate Care Leave	V – 1.F 6
6. Leave Related to Critical Illness	V – 1.F 6
7. Leave Related to Death or Disappearance	V – 1.F 8
8. The Employee's Rights During Leave	V – 1.F 58
9. The Employee's Rights Following Leave	V – 1.F 10
<i>Frequently Asked Questions</i>	V – 1.F 12
<i>Summary</i>	V – 1.F 13
G. Bereavement Leave: Division VIII	V – 1.G 1
1. Unpaid Leave	V – 1.G 1
2. Paid Leave	V – 1.G 1
<i>Frequently Asked Questions</i>	V – 1.G 1
H. Sick Leave and Work-related Illness and Injury Leave: Divisions XIII and XIII.1	V – 1.H 1
1. Sick Leave Entitlements	V – 1.H 1
<i>Frequently Asked Questions</i>	V – 1.H 4
2. Work-Related Illness and Injury Entitlements)	V – 1.H 6
3. Returning to Work After a Work-Related Illness or Injury	V – 1.H 9
4. Employee Benefits During an Absence Due to Illness or Injury	V – 1.H 10
5. Insurance of Long-Term Disability Plans	V – 1.H 11
<i>Frequently Asked Questions</i>	V – 1.H 12
<i>Summary</i>	V – 1.H 14
I. Sexual Harassment: Division XV.1	
1. Sexual Harassment and the <i>Canada Labour Code</i>	V – 1.I 1
2. Responsibilities for Federal Employers	V – 1.I 1
<i>Frequently Asked Questions</i>	V – 1.I 2

J. Termination of Employment: Division IX and X	
1. Individual Termination (Division X)	V – 1.J 1
2. Group Termination (Division IX).....	V – 1.J 4
K. Severance Pay: Division XI	
1. What is Severance Pay?	V – 1.K 1
2. Who Qualifies for Severance Pay?	V – 1.K 1
<i>Frequently Asked Question</i>	V – 1.K 2
<i>Summary</i>	V – 1.K 2
L. Unjust Dismissal: Division XIV	V – 1.L 1
1. Unjust Dismissal	V – 1.L 1
2. The Legislator’s Objective	V – 1.L 1
3. The Complaint Mechanism	V – 1.L 1
4. Invoking the Complaint Mechanism: The Prerequisites	V – 1.L 2
5. The Complaint Process	V – 1.L 15
6. The Adjudication Process	V – 1.L 20
7. Remedies for Unjust Dismissal	V – 1.L 32
8. Reviewing the Adjudicator’s Decision	V – 1.L 43
9. Enforcing the Adjudicator’s Order	V – 1.L 46
10. Complaint is not a Bar to Civil Remedy	V – 1.L 46
M. Enforcing the Standards: What are the Compliance Mechanisms Under the <i>Canada Labour Code</i>? Division XVI	
1. Introduction	V – 1.M 1
2. The Main Focus: Wage Recovery.....	V – 1.M 1
3. The Inquiry Process.....	V – 1.M 2
4. Inspection	V – 1.M 2
5. How Are Wages Recovered?.....	V – 1.M 4
6. Non-compliance: Implications for Employers.....	V – 1.M 7
<i>Summary</i>	V – 1.M 11

TAB VI PERSONAL INFORMATION PROTECTION LAWS

Tabl VI Authors.....	Tab VI Authors i
----------------------	------------------

VI-1 OVERVIEW

A. Introduction.....	VI – 1.A 1
B. Common Principles	VI – 1.B 1
1. What is “Personal Information”?	VI – 1.B 1
2. What Personal Information is Covered?	VI – 1.B 1
3. Whose Personal Information is it?	VI – 1.B 1
4. Who Must Comply?	VI – 1.B 2
5. What Do These Laws Require?	VI – 1.B 3

VI-2 THE FEDERAL LAW

A. Application	VI – 2.A 1
1. Organizations.....	VI – 2.A 1
2. Activities	VI – 2.A 2
B. Structure.....	VI – 2.B 1
1. Key Definitions.....	VI – 2.B 1
2. The Act and the CSA Model Code.....	VI – 2.B 6
C. Principles of Substance	VI – 2.C 1
1. Principle 2: Identifying Purposes.....	VI – 2.C 1
2. Principle 3: Consent.....	VI – 2.C 2
3. Principle 4: Limiting Collection	VI – 2.C 17
4. Principle 5: Limiting Use, Disclosure, and Retention	VI – 2.C 21
5. Principle 7: Safeguards.....	VI – 2.C 21
6. Principle 9: Individual Access	VI – 2.C 23
7. Refusal of Access.....	VI – 2.C 26
D. Principles of Process	VI – 2.D 1
1. Principle 1: Accountability.....	VI – 2.D 1
2. Principle 6: Accuracy	VI – 2.D 5
3. Principle 8: Openness.....	VI – 2.D 5
4. Principle 10: Challenging Compliance	VI – 2.D 6
E. Enforcement.....	VI – 2.E 1
1. Commissioner.....	VI – 2.E 1
2. Federal Court.....	VI – 2.E 5

VI-3 PROVINCIAL LAWS

A. The Quebec Law	VI – 3.A 1
1. Privacy Rights in the <i>Civil Code</i>	VI – 3.A 1
2. The Private Sector Act	VI – 3.A 3
B. The British Columbia Law	VI – 3.B 1
1. Scope	VI – 3.B 1
2. Structure	VI – 3.B 3
3. Definition	VI – 3.B 4
4. Requirements Surrounding Collection, Use, and Disclosure of Personal Information	VI – 3.B 6
5. Duties and Obligations in Collecting, Using, and Disclosing Personal Information	VI – 3.B 13
6. The Employment Context	VI – 3.B 19
7. Other Considerations	VI – 3.B 24
8. Enforcement	VI – 3.B 26
C. The Alberta Law	VI – 3.C 1
1. Scope	VI – 3.C 2
2. Structure	VI – 3.C 3
3. Basic Concepts	VI – 3.C 3
4. Requirements	VI – 3.C 5
5. Enforcement	VI – 3.C 16
D. Other Provinces and Territories	VI – 3.D 1
1. Manitoba	VI – 3.D 1
2. Saskatchewan	VI – 3.D 1
3. Atlantic Provinces	VI – 3.D 1
4. Ontario	VI – 3.D 2
5. Quebec	VI – 3.D 2
6. Territories	VI – 3.D 2
E. Other Legislation	VI – 3.E 1
1. Credit Reporting Laws	VI – 3.E 1
2. Social Insurance Numbers	VI – 3.E 3