

Royal



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N.S. Reg. 200/2003 to N.S. Reg. 202/2003

Made: November 28, 2003

Filed: November 28, 2003

Regulations under the Labour Standards Code

Order in Council 2003-507 dated November 28, 2003
 Regulations made by the Governor in Council
 pursuant to subsection 4(2) and Sections 7, 50 and 52 of the *Labour Standards Code*

The Governor in Council on the report and recommendation of the Acting Minister of Environment and Labour dated November 26, 2003, and pursuant to subsection 4(2) and Sections 7, 50 and 52 Chapter 246 of the Revised Statutes of Nova Scotia, 1989, the *Labour Standards Code*, is pleased, effective on and after December 12, 2003, to

- (a) amend the regulations respecting labour standards made by the Governor in Council by Order in Council 90-1321 dated November 13, 1990, to exempt specified classes of work and members of named professions from subsection 40(4) of the *Labour Standards Code*, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation;
- (b) amend the *Minimum Wage Order (General)* made by the Governor in Council by Order in Council 1999-56 dated February 17, 1999, to further identify classes of workers to whom the order applies, in the manner set forth in Schedule "B" attached to and forming part of the report and recommendation;
- (c) repeal the *Minimum Wage Order (Road Building and Heavy Construction Industry)* made by the Governor in Council by Order in Council 1999-56 dated February 17, 1999; and
- (d) make new regulations respecting the minimum wage order for the construction and property maintenance employment, in the form set forth in Schedule "C" attached to and forming part of the report and recommendation.

N.S. Reg. 200/2003**General Labour Standards Code Regulations****Schedule "A"**

**Amendments to the Regulations Respecting Labour Standards
 made by the Governor in Council pursuant to subsection 4(2) and Section 7 of Chapter 246
 of the Revised Statutes of Nova Scotia, 1989, the *Labour Standards Code***

- 1 Clause 1(1)(c) of the regulations respecting labour standards made by the Governor in Council by Order in Council 90-1321 dated November 13, 1990, is repealed.
- 2 Subsection 2(2) of the regulations is amended by
 - (a) repealing subclauses (i), (ii) and (iii) and "of the Code"; and
 - (b) adding "subsection 40(4), Sections 61 to 67, and Section 71 of the Code" immediately after "exempted from the application of".
- 3 Section 2 of the regulations is further amended by adding the following subsection immediately after subsection (2A):

(2B) Persons holding supervisory or management positions, or who are employed in a confidential capacity are exempt from the application of subsection 40(4) and Section 61 of the Code.
- 4 Subsection 2(3) of the regulations is amended by adding "Christmas trees, Christmas wreaths," immediately after "vegetables,".

- 5 Section 2 of the regulations is further amended by adding the following subsection immediately after subsection (4):
- (4A)** Subsection 40(4) of the Code does not apply to persons who work as
- (a) employees for whom the Governor in Council has made a special order;
 - (b) apprentices under apprenticeship agreements in accordance with the *Apprenticeship and Trades Qualifications Act*;
 - (c) trainees under government-sponsored and government-approved plans;
 - (d) employees at a playground or summer camp that is operated on a non-profit basis;
 - (e) insurance agents licensed as such under the *Insurance Act*;
 - (f) employees and employers to whom the *Minimum Wage Order (Logging and Forestry Operations)* or the *Minimum Wage Order (Construction and Property Maintenance)* applies;
 - (g) watches, janitors or building superintendents in buildings that include their place of residence;
 - (h) health or personal care providers, if the client is providing a residence as part of the terms of employment;
 - (i) employees in the transport industry;
 - (j) employees who are paid on a flat rate basis and work as automobile mechanics or auto body shop technicians; and
 - (k) employees of enterprises engaged in primary processing or related activities in the agriculture, Christmas tree or fishing industry, but not meat processing.
- 6 Section 2 of the regulations is further amended by adding the following subsection immediately after subsection (8):
- (8A)** Persons engaged in work in the shipbuilding, ship repair, oil and gas industries, or related activities other than retail, are exempt from the application of subsection 40(4) of the Code.
- 7 Subsection 2(11) of regulations is amended by adding “subsection 40(4), Section 61 and” immediately before “Section 71”.

N.S. Reg. 201/2003
Minimum Wage Order (General)

Schedule “B”

Amendments to the *Minimum Wage Order (General)* made by the Governor in Council by Order in Council 1999-56 dated February 17, 1999, pursuant to Sections 50 and 52 of Chapter 246 of the Revised Statutes of Nova Scotia, 1989, the *Labour Standards Code*

- 1 (1) Section 2 of the *Minimum Wage Order (General)* made by the Governor in Council by Order in Council 1999-56 dated February 17, 1999, is amended by
- (a) renumbering subsection (1) as Section 2; and
 - (b) repealing subsection (2).
- (2) Section 2 of the regulations is further amended by

- (a) adding “Christmas trees, Christmas wreaths,” immediately after “vegetables,” in clause (b); and
 - (b) repealing clause 2(1) and substituting the following clause:
 - (1) employees and employers to whom the *Minimum Wage Order (Logging and Forest Operations)* or the *Minimum Wage Order (Construction and Property Maintenance)* applies.
- 2 Subsection 3(1) of the regulations is amended by
- (a) striking out the semi-colon at the end of clause (c) and substituting a period; and
 - (b) repealing clause (d).
- 3 (1) Subsection 10(2) of the regulations is amended by striking out “who is required to be away from home base overnight”.
- (2) Subsection 10(3) of the regulations is amended by adding “health or personal care worker,” immediately before “watch”.
- (3) Subsection 10(4) of the regulations is repealed and the following subsection is substituted:
- (4) Despite subsection (1), the employer of an employee who is
- (a) employed in work on a farm that is directly related to the primary production of eggs, milk, grain, seeds, fruit, vegetables, Christmas trees, Christmas wreaths, maple products, honey, tobacco, pigs, cattle, sheep, poultry, or animal furs; and
 - (b) required to work in excess of 48 hours in a week,
- may pay the employee at the minimum rate set out in Section 6 for hours worked in excess of 48 hours.
- 4 Subsection 11(3) of the regulations is amended by
- (a) adding “Christmas trees, Christmas wreaths,” immediately after “vegetables,”; and
 - (b) striking out “; but “farm” does not include an agricultural establishment at or in which the primary production of flowers, fruit, grain, seeds, tobacco or vegetables is carried on predominantly under cover from the elements”.

N.S. Reg. 202/2003**Minimum Wage Order (Construction and Property Maintenance)****Schedule “C”**

**Regulations Respecting the Minimum Wage for Construction and Property Maintenance Employment
made by the Governor in Council pursuant to Sections 50 and 52 of Chapter 246
of the Revised Statutes of Nova Scotia, 1989, the *Labour Standards Code***

Citation

1 These regulations may be cited as the *Minimum Wage Order (Construction and Property Maintenance)*.

Application

2 (1) Subject to subsection (2), this Order applies within the Province of Nova Scotia to all employees employed in construction, property maintenance work and related activities and their employers, and includes employees who are engaged in the following work and their employers:

- (a) construction, restoration or maintenance of
 - (i) roads, streets, sidewalks, structures or bridges,
 - (ii) paving of all sorts, or
 - (iii) water and sewer installations;
 - (b) earth and rock moving or related works;
 - (c) snow removal;
 - (d) primary production of raw construction materials, including primary production work in a saw mill;
 - (e) work in a machine shop; or
 - (f) metal fabrication.
- (2) This Order does not apply to
- (a) employees of a municipality who are engaged in street construction, restoration or maintenance;
 - (b) persons receiving training under government-sponsored and government-approved plans;
 - (c) apprentices under apprenticeship agreements in accordance with the *Apprenticeship and Trades Qualifications Act*; and
 - (d) employees of enterprises engaged in maintaining the sanitation or security of buildings; and
 - (e) employees engaged in supplying materials for shipbuilding, ship repair, oil and gas industries, or related activities other than retail.

Employer's responsibilities

- 3 No employer is permitted to employ an employee at a rate of wages less than the minimum wage fixed by this Order or otherwise violate or fail to observe any provision of this Order.

Minimum wage

- 4 The minimum wage for employees under this Order is fixed at the hourly rate set out in the following table:

Effective Date	Rate Per Hour
December 12, 2003	\$6.25
April 1, 2004	\$6.50

Method of payment

- 5 Wages must be paid promptly at regular intervals in accordance with the practice of the employment and at least semi-monthly.

Hours of work

- 6 The rates fixed by this Order are for a maximum work period of 110 hours within 2 consecutive weeks commencing on a Sunday and concluding on the 2nd following Saturday, or such 14-day period that the employer establishes as the customary pay period.

Overtime

- 7 If an employee is required to work more than the maximum work period specified in Section 6, their employer must pay for the additional hours at a rate of not less than 1.5 times the employee's regular hourly rate.