

## APRIL 2024 MONTH IN REVIEW

# British Columbia

## LAWS & ANNOUNCEMENTS

### Minimum Wage

Mar 14: [Bill 2](#), which amends the *Employment Standards Act* to peg all future annual minimum wage increases to the previous year's inflation rate, has received Royal Assent. Automatic increases will begin on June 1, 2025. The previously announced 65-cent increase to \$17.40 per hour for 2024 will go through as scheduled on June 1 of this year.

**Action Point:** Find out about the latest round of [minimum wage increases](#) taking effect across Canada

### Immigration

Mar 19: BC is [updating](#) its Provincial Nominee Program selection criteria to ensure decisions are economically sound. The improvements, including a new 3-stream structure for graduates of bachelor's, master's and doctorate programs, increased language requirements and continued prioritization for in-demand jobs, will also prevent recruiters from misrepresenting the PNP as an "easy pathway" to permanent residency.

### Employment Benefits

Feb 29: BCFSA issued a new [Advisory](#) to notify plan administrators that it intends to request certain data about defined contribution pension plans registered in the province directly from fundholders. The requested information pertains to plan assets, including fund options, aggregate balances, fees and rates of return.

### New Laws

Mar 5: BC made some changes to its Securing Small Business Rebate Program to make it easier for small businesses to apply for government rebates offsetting the costs of vandalism, including elimination of the application deadline and the requirement that businesses submit an insurance claim. From now on applicants need only furnish the name of their insurer and policy number.

## **Mental Stress**

Mar 1: Effective today, Wildfire Service staff will have access to the BC Occupational Awareness Training online program on how to effectively manage anxiety and daily stress while maintaining psychological wellness. The program was previously available only to municipal firefighters.

**Action Point:** Find out how to implement an effective workplace [mental health policy](#) for your employees

## **Health & Safety**

Mar 14: If it passes—and that's a big “if,” newly tabled Private Member [Bill M206](#) would require employers to ban use of fire suppression foam containing PFAS, or substances containing a perfluoroalkyl compound or a polyfluoroalkyl compound by December 31, 2025. Employers would also have to provide PFAs-free personal protective equipment by January 1, 2029, while implementing protocols for the transition to PFAS equipment.

**Action Point:** Find out [how to create a vibrant safety culture](#) at your organization

## **Workplace Harassment**

Jan 29: WorkSafeBC announced plans to carry out a Psychological Health and Safety Planned Inspection Initiative to verify that employers are not only guarding workers from violence, bullying and harassment but taking measures to address broader issues impacting psychological safety and mental well-being in the workplace, including working alone, new and young worker training and first aid procedures.

**Action Point:** Use the HR Insider template to create a [Psychological Safety Policy](#) for your own workplace

## **CASES**

### **Workplace Harassment: No Workers Comp Benefits for Alleged Workplace**

## **Mental Trauma**

Upon returning from an 8-month leave of absence, an air traffic controller was asked to attend a team meeting at which a co-worker with whom she had a stormy relationship involving criss-crossing harassment accusations was in attendance. She had a panic attack and left the meeting. She then went on sick leave and was diagnosed with a mental disorder. The question: Did she have a valid claim for workers comp mental stress benefits? The BC WCB said no, ruling that any traumatic injury she suffered at work fell within the “worker’s employment” exception which excludes coverage for mental disorders caused by a decision of the worker’s employer relating to the worker’s employment. The WCAT rejected the controller’s appeal and the case landed in the Supreme Court of BC which found that the WCAT followed fair procedures and made a reasonable decision [[\*King v. British Columbia \(Workers’ Compensation Appeal Tribunal\)\*](#), 2024 BCSC 476 (CanLII), March 21, 2024].

**Action Point:** Find out about [workers comp coverage of mental stress claims](#) across Canada

## **Discrimination: Chinese Immigrant Paid Less than White Counterpart Can Sue for Discrimination**

An immigrant from China earning \$27.00 per hour as a technician discovered that a white co-worker with roughly the same qualifications and certifications was making \$30.35. So, he sued the company for nationality discrimination. The company denied the charge, claiming that the pay difference was due to the white worker’s superior craftsmanship. But the BC Human Rights Tribunal refused to dismiss the case, citing evidence that lack of English-speaking skills figured into the company’s thinking, including the following sentence from one of the immigrant’s performance reviews: “Improving your English will greatly benefit you in your position as we often receive complaints that I feel are related to misunderstandings between you and the customer.” As a result, the immigrant deserved the chance to prove his claims at a hearing [[\*Cheng v. North American Telecommunications Group\*](#), 2024 BCHRT 58 (CanLII), February 27, 2024].

## **Termination: Diminished Productivity Isn’t Just Cause to Fire Worker Returning from Injury**

After missing over a year with a work-related back injury, a warehouse worker attempted a graduated return to work. Nearly 6 months and several accommodations into the effort, the company concluded that the worker wasn’t capable of maintaining an adequate work rate and terminated his employment due

to “frustration of contract.” The union claimed the employer failed to make reasonable accommodations. The BC arbitrator sided with the union. While the injury did slow the worker’s production, the employer didn’t keep adequate records documenting the worker’s alleged failure to meet the company’s 800 to 1,000 cases per shift processed standard. Moreover, the company was inconsistent in enforcing the standard. And its concerns about the risk of reinjury weren’t medically supported. So, the arbitrator reinstated the worker to his pre-injury position [[Martin-brower of Canada Co. v Teamsters, Local Union 31](#), 2024 CanLII 15442 (BC LA), February 14, 2024].

**Action Point:** Find out how to implement a legally sound [termination notice compliance game plan](#) at your company