

Labour & Industrial Relations

Economic Growth, Tourism and Culture

ANNUAL REPORT - 2020

Key Indicators

According to the the Labour Market Bulletin - Prince Edward Island, December, 2020, labour market conditions in P.E.I. during the fourth quarter (Q4) of 2020 improved, building on its recovery in Q3 from the devastating impact of COVID-19 felt earlier in the year. Both the Island's labour force and employment levels are higher than they were the most recent quarter, relative to Q3, however they remain lower compared with Q4 2019. On a monthly basis, the province's labour force slipped in December, as did its employment base, and both remain 3% and 5% lower than their February, pre-COVID levels, respectively. The unemployment rate in Q4 was 10.1%, which is over 2 percentage points higher compared to the same quarter a year ago, while the province's participation rate was down by 1.8 percentage points.

In terms of employment growth, men accounted for the vast majority in Q4 2020; with the majority of this attributed to the core-aged cohort and to a lesser extent, youths. All of the Island's employment gains were full-time in nature, attributed almost entirely to the core-aged group - with women comprising the majority of these gains. By contrast, the number of persons working part-time declined, with losses attributed largely to women of the core-aged and youth cohorts. There were more men working part-time in Q4 2020 relative to the Q3, the majority being youths.

Despite these quarterly improvements, the impact of COVID-19 on the Island's labour market continues to linger, with employment 3.3% lower compared to Q4 2019 and unemployment levels higher (+23%). This historic disruption resulted in a record number of persons displaced from the labour force in Q2 2020, and though there were more people engaged in the labour force in the second half of 2020, the number of those that did not participate in the labour force is still considerably higher compared with the same quarter in 2019.

A total of 19,980 persons were unionized as of December, 2019. This includes only employees who fall under Provincial labour codes. (Information provided by Unions to Labour and Industrial Relations Division, December, 2019).

Labour Canada quotes major collective bargaining settlements for all industries in Prince Edward Island in 2019 provided base rate wage adjustments averaging 2.0% annually for the public sector. No private-sector agreements settled in Prince Edward Island during the year. (Latest statistics available from Labour Canada).

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Statistics Canada reports that the average hourly wage for non-unionized workers in Prince Edward Island in 2020 was \$20.90 per hour, the average hourly wage for unionized workers in Prince Edward Island in 2020 was \$30.17 per hour. In comparison, the average hourly wage for non-unionized workers in Canada in 2020 was \$28.08 per hour, the average hourly wage for unionized workers in Canada in 2020 was \$32.66 per hour

The inflation rate from December 2019 to December 2020 was -.1 %. (Statistics Canada)

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Labour Conciliation Services

During the reporting period, the Minister appointed a Conciliation Officer for four matters:

- Canadian Corps of Commissionaires / Public Service Alliance of Canada – settled
- Atlantic Beef Products / United Food and Commercial Workers – settled
- Holland College (Adult and Community Education) / International Union of Operating Engineers – settled
- City of Summerside / International Brotherhood of Electrical Workers - pending

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Labour Relations Board

Nancy Birt, QC, Chair
John O’Keefe, QC, Vice Chair
Shawn Shea, Chief Executive Officer
Hazel Walsh, Secretary

Employer Representatives

Fraser MacDougall
Judy Hughes
Dan Hughes
Linda Gaudet

Employee Representatives

Michael Lund
Karen Tsistinas
Blair James
Craig Walsh

Shawn Shea is the Chief Executive Officer of the Board and a full time staff member of the Division.

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 3 which were carried over from previous years for a total of 17 applications; 12 have been granted, 4 are pending, 1 is stayed.

The Board held

- 1 certification vote
- Due to COVID, all in person hearings / meetings were postponed.

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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, 2020, to December 31, 2020, the Division

- printed and distributed over 4000 pieces of information and legislation to Regional Services Centres, all Access PEI centres, on the website peiemploymentstandards.ca and at our office in the Sherwood Business Centre, 161 St Peters Road

Due to COVID restrictions the Division was not able to conduct their usual information sessions, attend job fairs or set up information booths. However, the Chief Labour Standards Office did visit approximately 100 individual employers.

Investigation

During the reporting period, the Division

- handled approximately 9000 inquiries
- conducted 40 office interviews
- investigated 101 formal complaints
 - 35 resulted in the collection of \$46,466.83 for employees

Enforcement

During the reporting period, the Division

- conducted 2 proactive inspections / audits
 - resulting in the collection of \$1,220.76 on behalf of 15 employees
- issued 2 formal Orders to employers for non-payment of monies owing to former / current employees totalling \$3,648.83
- filed a judgment with the Supreme Court in the amount of \$1,044.68 on behalf of 1 employee

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Employment Standards Board

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

Employer Representatives

Jordan Fraser
Michael Podger
Elizabeth Noonan

Employee Representatives

Dianne Arsenault
Angela MacDonald
Teresa Hennebery

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 on November 10, 2020.

During the reporting period, the Board held

- three full Board meetings (yearly meeting, orientation/refresher session and minimum wage recommendation meeting)
- two consultation sessions to receive input from both employers and employees on recommendations regarding the Minimum Wage Order

The Board recommended an increase of \$0.15 to the minimum wage bringing it up to \$13.00 per hour effective the 1st of April, 2021. This increase brings Prince Edward Island's minimum wage to the highest in Atlantic Canada (6th highest in the country).

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Office of the Worker Advisor

Maureen Peters, Worker Advisor (on leave May, 2020)

Sean P. Curley, Acting Worker Advisor

Sue Hancock, Intake Officer (Retired April, 2020)

Jana Shaw, Intake Officer

Located in the Sherwood Business Centre, 161 St Peters Road, the Office of the Worker Advisor provides independent information, advice and assistance (free of charge) to workers, and/or their dependants, on matters involving Workers Compensation. This includes issues arising pursuant to the *Workers Compensation Act* and Regulations, the *Occupational Health & Safety Act*, and Board policies and procedures.

This position is created and funded through the application of Section 85 of the *Workers Compensation Act* for Prince Edward Island. It provides for the service of a Worker Advisor to assist injured workers in respect of claims for compensation. Furthermore, Section 85(2) of the *Act*, the Workers Compensation Board (the Board) shall make annual grants in such amounts appropriate to cover the costs of providing services under this section of the *Act*. For the *calendar* year 2020, the recorded funding disbursement by the Board for the operation of the Office of the Worker Advisor was \$183,500.00.

The Worker Advisor may assist and/or represent the worker and/or their dependants before the Board at the Customer Service level and the Internal Reconsideration level, as well as before the Workers Compensation Appeal Tribunal (WCAT) and the PEI Court of Appeal.

2020 Case Activity Overview

The Office of the Worker Advisor noted an increase in the number of Notices of Appeal filed:

New Files Opened **45**

Internal Reconsideration

(1st appeal level) submissions **33**

WCAT:

(2nd appeal level) Notices of Appeal Filed **25**

Hearings Attended

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Office of the Employer Advisor

Erinn G. Moore, Employer Advisor
Shelley Blaquiere, Program Assistant
Bonnie MacLean, A/Program Assistant

This Annual Report highlights the activities of the Office of the Employer Advisor for the period of January 1, 2020 – December 31, 2020, inclusive.

About the Office of the Employer Advisor

The legislative authority for the 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 to the Department of Economic Growth, Tourism & Culture 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. For the *calendar* year 2020, the recorded funding disbursement by the Board for the operation of the Office of the Employer Advisor was \$175,500.00.

WCB Related Activity

The Office of the Employer Advisor represented a number of 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.

During the year 2020 eighteen (18) new files were opened, dealing with diverse matters such as: claim procedure and acceptance, claim costs, new evidence issues, return-to-work and accommodation, re-employment obligations, appeal procedures, cost relief, pre-existing conditions, rate questions and experience rating. Five (5) of these matters were subsequently heard at the Workers Compensation Appeal Tribunal (WCAT).

Also during the 2020 calendar year the Office prepared written submissions on a file which was heard as a statutory appeal in early 2021, and which is presently awaiting judgment before the PEI Court of Appeal.

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Additionally, numerous telephone and e-mail inquiries from individual employers and employer associations were answered, relating to various aspects of both the *Workers Compensation Act* and the *Occupational Health and Safety Act*, and the attendant *OHS Regulations*, as well as various queries regarding Board policies, procedures and practices.

The Employer Advisor also submitted feedback on WCB Draft Policies that were open for public consultation during the calendar year 2020, including feedback for proposed legislative changes to the new Occupational Health and Safety law governing workplace bullying, introduced on July 1st, 2020.

The Office also participated in feedback for proposed amendments to Section 39 of the *OHS Act* regarding confidentiality and limited disclosure of information and to the *OHS Act General Regulations* and *OHS Act Fall Protection Regulations*. The purpose of those amendments is to harmonize regulatory requirements across jurisdictions, update references to standards, and provide consistent terminology.

In 2020 the Employer Advisor continued its participation in the regular monthly Appeal Working Group (AWG) meetings with the Workers Compensation Board (Service Quality Coordinator and Internal Reconsideration Officer), along with the Worker Advisor and the WCAT Coordinator. These meetings were halted in March 2020 owing to the Covid 19 pandemic, however they are expected to resume shortly.

Professional Development

The Office of the Employer Advisor participated in teleconference calls with the five other members of the Canadian Association of Employer Advisors/Advocates throughout the year. These teleconferences are usually held on a quarterly basis, and provide an excellent opportunity for information sharing for Employer Advisors/Advocates regarding their programs, and developments in workers' compensation in their respective jurisdictions.

The Employer Advisor remotely attended numerous continuing education and training sessions in 2020 via videoconference or teleconference, including the following events:

- Justice Adapting: The Atlantic Canada Courts - Law Society of PEI (01 May 2020)
- Top 10 COVID-19 Return to Work Issues – Stewart McKelvey (29 May 2020)
- Understanding New Workplace Regulations – Charlottetow Chamber of Commerce (15 June 2020)
- WCB – Annual General Meeting 2020 – Workers Compensation Board of PEI (29 July 2020)
- Workplace Investigations: Focusing on Fundamentals – Filion Wakely Thorup Angeletti Law Firm (09 September 2020)
- Cannabis in the Workplace: 2 Years Later - Filion Wakely Thorup Angeletti Law Firm (21 October 2020)

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- Harassment in the Workplace: Identification, Resolution and Prevention – Cox and Palmer (10 November 2020)
- Overlapping Jurisdictions of LIR/HRC - Human Rights Commission (23 November 2020)
- Insights Workshop – Public Service Commission (September – December 2020)

Communications and Client Relations

During the fiscal year twelve issues of *The Employer Advisor* 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 Office continues to offer copies of our newsletter on its section of the website. The Office sent out email invitations to numerous employers promoting our monthly newsletter. There were over 40 new subscribers over the last six months of the 2020 reporting period.

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Workers Compensation Appeals Tribunal (WCAT)

Chair

P. Alanna Taylor * Resigned September 3, 2020

Vice Chairs

Robertson Burnett

Jonah Clements

Maureen Gregory * Resigned July 2, 2020

David Hooley

Susan Robinson

Emily MacDonald* Resigned September 4, 2020

Gordon MacFarlane

Ron MacLeod

Stephen MacKnight

Employer Representatives

Don Cudmore

Robert Gallant

Fairley Yeo

Eugene (Stu) Lavers

Marion Miller

Robert (Bob) Smith * Resigned March 9, 2020

Scott Stewart

Worker Representatives

Leo Cheverie

Shelly Higgins

Gordon Huestis

Marlene Hunt

Michelle Lafford

Cynthia McCardle

Elizabeth (Libba) Mobbs

Lalana Paul

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 is funded by the Workers Compensation Board. For the *calendar* year 2020, the recorded funding disbursement by the Board for the operation of WCAT was \$201,900.00.

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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

2020 Caseload Activity Overview

32 Appeals Filed:

The number of appeals filed in 2020 increased from the previous year. Of the 32 appeals filed, 29 were new worker appeals and 3 were new employer appeals.

8 Appeals Withdrawn:

During the year there were 8 files withdrawn by the appellant without hearing.

12 Hearings:

There were 12 hearings held in 2020 (compared to 19 in 2019).

13 Decisions:

- 11 appeals were dismissed
- 2 were allowed
- 0 returned to WCB

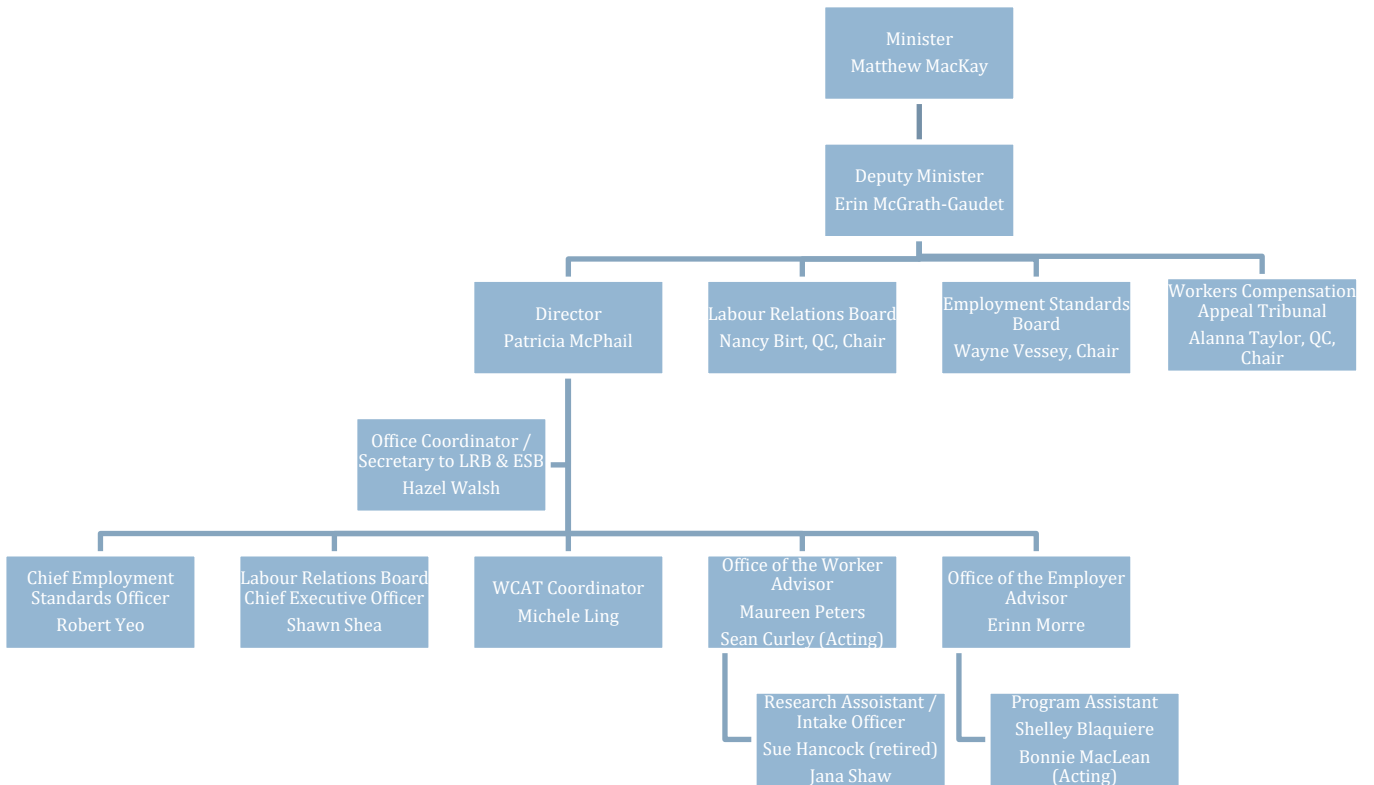
1 Appeal to Court of Appeal:

There was 1 leave application filed with the Court of Appeal in 2020, compared to 0 filed in 2019.

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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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Contact Information

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