

ANNUAL REPORT - 2021

Labour & Industrial Relations

Economic Growth, Tourism and Culture

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Government Entity Overview

The Labour & Industrial Relations Division is responsible for providing the policy and governmental support to several statutory entities:

- Industrial Relations Branch (Labour Conciliation Services)
- Labour Relations Board
- Employment Standards Branch
- Employment Standards Board
- Office of the Worker Advisor
- Office of the Employer Advisor
- Workers Compensation Appeal Tribunal

The Division also provides the Minister with advice on policy issues that impact the workforce more generally, including International Labour Organization conventions and protocols, as well as Federal/Provincial/Territorial and regional initiatives to improve workplace laws and regulations.

The Division has nine permanent staff positions.

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Key Indicators

Highlights

- Employment increased by 3.5 per cent or 2,700 in 2021, averaging 79,400.
- PEI's unemployment rate averaged 9.2 per cent in 2021, down 1.2 percentage points from 2020.
- The youth unemployment rate (ages 15 to 24), which was the most impacted by the COVID-19 pandemic, decreased by 2.8 percentage points to 13.6 per cent. Employment for this age group increased 8.9 per cent.
- Total labour force averaged 87,400 persons, an increase of 2.1 per cent from 2020.
- Total unemployed persons on PEI averaged 8,000 in 2021, a 10.1 per cent decrease.
- Notable employment gains were seen in Health Care and Social Assistance (6.4 per cent), Trade (5.5 per cent), Education (10.5 per cent), and Public Administration (7.4 per cent).
- Notable losses occurred in Construction (-11.9 per cent), Agriculture (-7.7 per cent), Transportation and Warehousing (-7.7 per cent), and Finance, Insurance and Real Estate (-6.9 per cent).
- PEI's average hourly wage rate was \$25.15 in 2021. This is an increase of \$1.05 or 4.4 per cent over 2020.
- The average hourly wage rate was \$25.10 for females and \$25.19 for males in 2021.
- The average weekly wage increased by 3.9 per cent to \$938.20.
- Average weekly wages have increased 33.2 per cent since 2011, the second fastest among provinces. The national average over this period was 31.4 per cent.
- In 2021 national employment increased by 866,000, or 4.8 per cent, over 2020.
- The national unemployment rate averaged 7.5 per cent.

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. This information is only collected every two (2) years).

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Labour Canada quotes major collective bargaining settlements for all industries in Prince Edward Island in 2021 provided base rate wage adjustments averaging 1.9% annually.

According to the Labour Force Survey, PEI's average hourly wage rate was \$25.15 in 2021. This is an increase of \$1.05 or 4.4 per cent over 2020. The average hourly wage rate for Canada was \$30.03 in 2021, an increase of 1.8 per cent over 2020. Since 2011, PEI's average hourly wage has increased by 32.0 per cent, while the average rate for Canada has increased by 31.3 per cent over the same period

The inflation rate from January 2021 to January 2022 was 7.1%. (PEI Department of Finance)

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Legislative Changes

In 2021, the following legislative changes received Royal Assent:

- National Day for Truth and Reconciliation (September 30th each year).
- Pay transparency
- Non-disclosure agreements
- Maternity / parental leave was updated

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Mandate

The Labour and Industrial Relations Division administers the *Employment Standards Act*, *Youth Employment Act*, and *Labour Act*. These *Acts* establish and regulate basic terms and conditions of employment and the relationship between workers and employers such as payment of wages, vacation pay, statutory holidays, notice of termination, minimum wage rates, overtime pay, maternity and parental leave protection.

The mandate of the Division is to assist in providing stable and fair workplace environments for industry and labour through policy leadership. The Division provides administrative support to the Employment Standards Board and Labour Relations Board, and Workers Compensation Appeal Tribunal.

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Labour Conciliation Services

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

- Atlantic Tourism & Hospitality Institute / Prince Edward Island Union of Public Sector Employees - settled
- City of Summerside / Canadian Union of Public Employees – settled
- Loblaws Inc cob Display Fixtures Refrigeration / United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry – pending
- PEI Seniors Homes Inc (Garden Home) / Prince Edward Island Union of Public Sector Employees – arbitration
- Kent Building Supplies / International Union of Operating Engineers – withdrawn
- Education Negotiating Agency / PEI Teachers Federation – withdrawn
- Holland College Early Learning Centre / Prince Edward Island Union of Public Sector Employees – arbitration
- City of Charlottetown / Charlottetown Firefighters Association, International Association of Firefighters, Local 5219 - arbitration

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Labour Relations Board

Stephen Carpenter, Chair
Nancy Birt, QC, Vice Chair
Shawn Shea, Chief Executive Officer
Hazel Walsh, Secretary

Employer Representatives

Fraser MacDougall
Judy Hughes
Dan Hughes
Linda Gaudet

Employee Representatives

Greg Doyle
Karen Tsistinas
Paula Caulier
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 8 applications in addition to 11 which were carried over from previous years for a total of 19 applications; 6 have been granted, 2 were denied, 5 were withdrawn, 5 are pending, 1 is stayed.

The Board held

- 9 Board hearings
- 2 Panel only hearings

Employment Standards Division

Robert Yeo is the Chief Labour 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, 2021, to December 31, 2021, the Division

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

The Chief Labour Standards Office visited approximately 250 individual employers.

Investigation

During the reporting period, the Division

- handled approximately 10000 inquiries
- conducted 55 office interviews
- investigated 145 formal complaints

Enforcement

During the reporting period, the Division

- conducted 6 proactive inspections / audits
 - issued 6 formal Orders to employers for non-payment of monies owing to former / current employees totalling \$6,390.38
 - filed judgments with the Supreme Court on behalf of 4 employees totalling \$4,558.84
 - 59 resulted in the collection of \$40,114.35 for employees
 - Under our reciprocal agreement with Saskatchewan, the Branch filed a judgment in the Supreme Court in the amount of \$12,210.69
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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 in November 2021.

During the reporting period, the Board held

- three full Board meetings (yearly meeting and the 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 \$0.70 to the minimum wage bringing it up to \$13.70 per hour effective the 1st of April, 2022. This increase has Prince Edward Island's minimum wage remaining the highest in Atlantic Canada (6th highest in the country).

Office of the Worker Advisor
Maureen Peters, Worker Advisor
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 2022, 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.

2022 Case Activity Overview

The Office of the Worker Advisor noted a slight increase in the number of Internal Reconsideration Requests and Notices of Appeal filed:

New Files Opened	38
Internal Reconsideration (1 st appeal level) submissions	35
WCAT: (2 nd appeal level) Notices of Appeal Filed	29
Hearings Attended	8

Office of the Employer Advisor
Erinn G. Moore, Employer Advisor
Shelly Blaquiere / Bonnie MacLean (Acting), Program Assistant

This Annual Report highlights the activities of the Office of the Employer Advisor for the period of January 1, 2021 – December 31, 2021, inclusive.

About the Office of the Employer Advisor

The legislative authority for the creation of 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 for the 2021 calendar year was 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.

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.

In 2021 there were thirty (30) new files opened, dealing with diverse matters such as: claim procedure and acceptance; questions regarding Worker entitlement; new evidence issues; return-to-work and accommodation; re-employment obligations; appeal procedures; cost relief for employers regarding claim costs; pre-existing conditions; assessment rate questions and experience rating inquiries. The Employer Advisor participated in three (3) WCAT appeals throughout the year as a responding party.

Also, during the 2021 calendar year the Employer Advisor filed written submissions and made appearances before the PEI Court of Appeal as a respondent in the matter of a statutory

appeal filed by a Worker from a WCAT decision. The judgment of the Court in that matter was issued in May 2021.

Additionally, numerous telephone and e-mail inquiries from individual employers and employer associations were answered, relating to various aspects of the Employer Advisor mandate, involving 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 numerous WCB Draft Policies that were open for public consultation during the calendar year 2021. Specifically, the Employer Advisor reviewed proposed draft policies and provided feedback in regard to the following policies: POL-03, POL-19, POL-22, POL-65, POL-66, POL-69, POL-82, and POL-161.

Also the Employer Advisor provided feedback on the topic of proposed changes to the Benefit Indexation provisions of the legislation (subsequently enacted). That feedback related to changes to the adjustment provisions set out at sections 48.1, 48.3, 49.1 and 50 of the *Workers Compensation Act* and section 8 of the General Regulations.

In 2021 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 held via videoconference owing to the COVID-19 pandemic restrictions.

Professional Development

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

The Employer Advisor remotely attended numerous continuing education and training sessions in 2021 via videoconference or teleconference.

- January 2021 – “Psychologically Safe Workplaces” webinar (Law Society of PEI)
 - February 2021 – COVID-19 and Mandatory Vaccination in Workplace (Stewart McKelvey Stirling Scales, Rick Dunlop presenter)
 - June 2021 – Annual General Meeting, PEI WCB
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- August 2021 – Unconscious Bias in the Workplace webinar (presented in conjunction with PEI Public Service Commission)
- September 2021 – Occupational Health & Safety: Back to Basics (Miller Thomson, Tari Hiebert, presenter)
- October 2021 – The OHS & HR Implications in a Post-COVID Canada (Fasken Law, Norm Keith, presenter)
- December 2021 – From Pain Management to Recovery (PEI WCB, Dr. Henrik Visser, presenter, with Dr. Howard Schubiner)

Communications and Client Relations

During the calendar year twelve issues of the Employer Advisor's 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 monthly e-mail distribution list presently includes over 300 hundred PEI employers, and continues to expand.

Workers Compensation Appeals Tribunal (WCAT)
Coordinator - Michele Ling
Chair - Gordon MacFarlane (App June 22, 2021)

Vice Chairs

Ron MacLeod	Susan Robinson
Robertson Burnett (App rescinded 22-06-21)	David Hooley (App rescinded 22-06-21)
Stephen MacKnight (App rescinded 22-06-21)	Jonah Clements (Resigned 30-04-21)

Employer Representatives

Marion Miller	Scott Stewart
JP Desrosiers (App 22-06-21)	Stacey Wyand (App 22-06-21)
Don Cudmore (App rescinded 22-06-21)	Robert Gallant (App rescinded 22-06-21)
Fairley Yeo (App rescinded 22-06-21)	Eugene Lavers (App rescinded 22-06-21)

Worker Representatives

Shelly Higgins	Michelle Lafford
Cynthia McCardle	Chelsea Gotell (App 22-06-21)
Leo Cheverie (App rescinded 22-06-21)	Gordon Huestis (App rescinded 22-06-21)
Marlene Hunt (App rescinded 22-06-21)	Lalana Paul (App rescinded 22-06-21)
Elizabeth Mobbs (App rescinded 22-06-21)	

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.

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
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- independent and impartial decision making, and
- timely and efficient appeal processing and decision making

2021 Caseload Activity Overview

37 Appeals Filed:

The number of appeals filed in 2021 increased from the previous year. Of the 37 appeals filed, all were new worker appeals and there were no new employer appeals. Of the 37 appeals, the Office of the Worker Advisor represented 32 workers and 5 workers were either self represented or retained outside counsel.

6 Appeals Withdrawn:

During the year there were 6 files withdrawn by the appellant without hearing.

10 Hearings:

There were 10 hearings held in 2021 (compared to 12 in 2020).

12 Decisions:

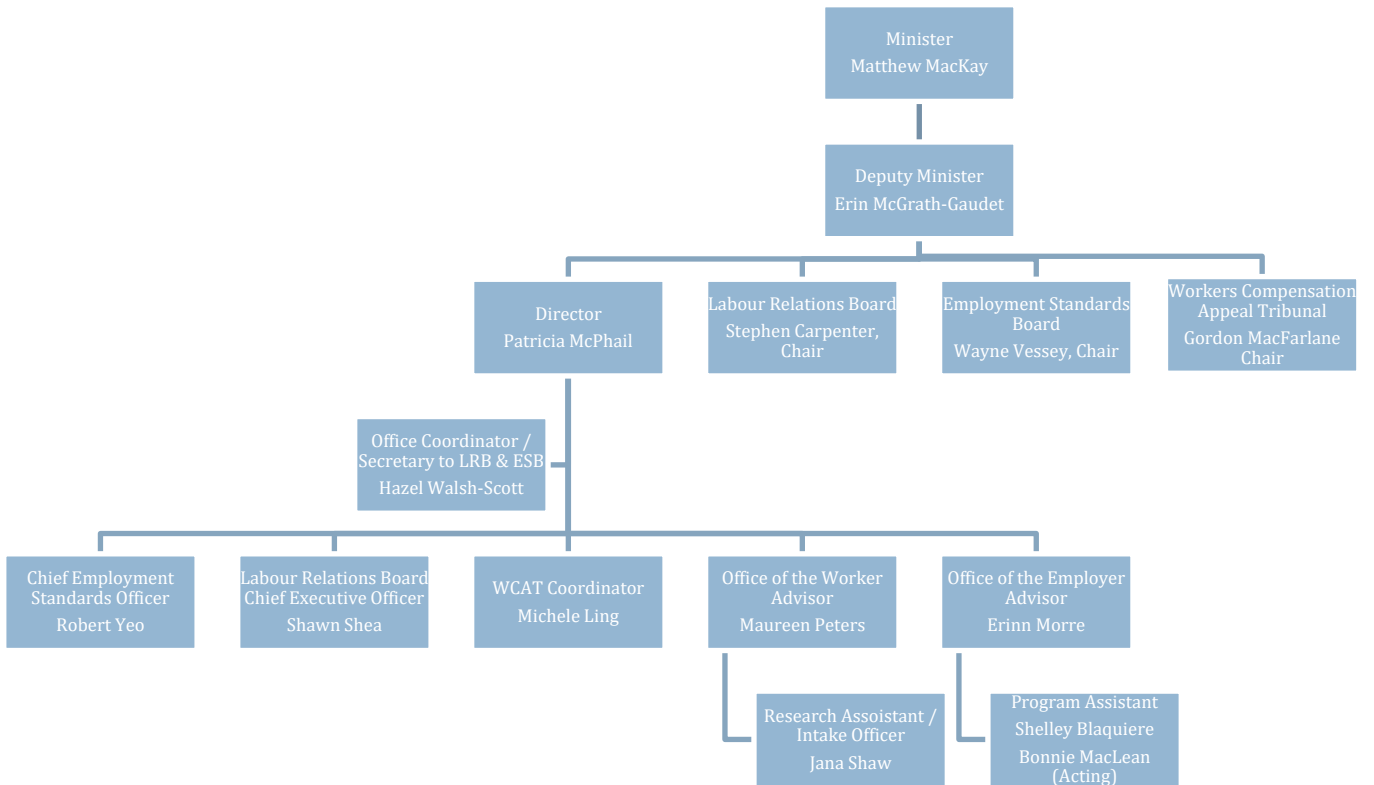
- 8 appeals were dismissed
- 4 were allowed
- 0 returned to WCB

0 Appeals to Court of Appeal:

There were no applications filed with the Court of Appeal in 2021, compared to 1 filed in 2020.

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.



Contact Information

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