



BILL NO. 53

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

**An Act to Amend Chapter 246
of the Revised Statutes, 1989,
the Labour Standards Code, Respecting
Worker Recruitment and Protection**

CHAPTER 19
ACTS OF 2011

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 19, 2011**

The Honourable Marilyn More
Minister of Labour and Advanced Education

*Halifax, Nova Scotia
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**An Act to Amend Chapter 246
of the Revised Statutes, 1989,
the Labour Standards Code, Respecting
Worker Recruitment and Protection**

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 246 of the Revised Statutes, 1989, the *Labour Standards Code*, as amended by Chapter 14 of the Acts of 1991, Chapter 7 of the Acts of 2003 (Second Session), Chapter 10 of the Acts of 2006 and Chapter 37 of the Acts of 2010, is further amended by

(a) adding “and Advanced Education” immediately after “Labour” in the second line of clause (b);

(b) adding “and includes, for the purpose of any activities prescribed by regulation in relation to licencing and registration under this Act and the regulations, any government department or agency of the Province prescribed by regulation and any person acting under the control and direction of the department or agency so prescribed” immediately after “Act” in the last line of clause (b);

(c) adding immediately after clause (f) the following clause:

(fa) “foreign worker” means an individual who is not

(i) a Canadian citizen, or

(ii) a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada),

and who is recruited to become employed in the Province, regardless of whether the individual becomes so employed;

(d) adding immediately after clause (i) the following clause:

(ia) “licensee” means a person who holds a licence under this Act;

(e) striking out “Workforce Development” in the first line of clause (l) and substituting “Advanced Education”;

(f) adding immediately after clause (o) the following clause:

(oa) “recruitment” means, for the purpose of this Act, the following activities, whether or not they are provided for a fee:

(i) finding or attempting to find an individual for employment,

(ii) finding or attempting to find employment for an individual,

(iii) assisting another person in attempting to do the things described in subclause (i) or (ii), or

(iv) referring an individual to another person to do any of the things described in subclause (i) or (ii);

and

(g) adding “, unless the context otherwise requires” immediately after “meanings” in the last line of clause (r).

2 Section 3 of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is amended by striking out “Workforce Development” in the first line and substituting “Advanced Education”.

3 Section 7 of Chapter 246, as amended by Chapter 14 of the Acts of 1991, Chapter 4 of the Acts of 2003 (Second Session), Chapters 10 and 13 of the Acts of 2006, Chapter 18 of the Acts of 2009 and Chapter 37 of the Acts of 2010, is further amended by adding immediately after clause (c) the following clauses:

(ca) prescribe the government department or agency of the Province that may act as the Director for the purpose of activities in relation to licensing and registration under this Act and prescribe the activities in relation to licensing and registration that may be performed by the prescribed government department or agency;

(cb) specify the information that must be kept and maintained in the records of an employer of a foreign worker;

(cc) exempt classes of individuals from the prohibition against charging or collecting a fee from an individual for

(i) finding or attempting to find employment in the Province for the individual, or

(ii) providing an individual with information about any employer who is seeking employees in the Province,

pursuant to subsection (1) of Section 89B;

(cd) specify the additional documents and records that must be prepared by a licensee and the period of time in relation to which such documents must be maintained by the licensee;

(ce) establish the procedure to be followed by the Director in declaring a letter of credit, cash or other security provided by a licensee under this Act, forfeited, and in applying the proceeds to reduce or satisfy the amount recoverable by order of the Director;

(cf) exempt persons or classes of persons from the requirement for licencing of persons engaged in foreign worker recruitment;

(cg) specify the fees, and the terms, conditions and amount in relation to security requirements, for a licence application and a licence renewal application;

(ch) establish requirements for a licence application and a licence renewal application and qualifications and requirements for the issuance of a licence;

(ci) specify prohibited activities for the holder of a licence to recruit foreign workers;

(cj) specify terms and conditions to which a licence may be subject;

(ck) establish the procedure to be followed in exercise of the right to be heard in relation to the issuance or renewal of a licence, the application of conditions to a licence or the proposed cancellation of a licence;

(cl) exempt persons or classes of persons from the requirement for registration in relation to employers of foreign workers;

(cm) establish requirements for a registration application and a registration renewal application;

(cn) specify the period of validity of a registration pursuant to subsection (1) of Section 89V;

(co) specify prohibited activities for an employer registered to employ foreign workers;

(cp) establish the procedure to be followed in exercise of the right to be heard in relation to a registration or renewal of a registration, or the proposed cancellation of a registration;

(cq) establish the procedure to be followed on appeal from a refusal to issue or renew a licence or registration, a cancellation of a licence or registration or the application of conditions to a licence.

4 Chapter 246 is further amended by adding immediately after Section 14 the following Section:

14A For the purpose of administering and enforcing this Act and the regulations, the Director may provide information collected or obtained under this Act and the regulations, including personal information as defined in the *Freedom of Information and Protection of Privacy Act*, to a department of the Government or a department or agency of the Government of Canada or of another province of Canada.

5 Section 15 of Chapter 246, as amended by Chapter 14 of the Acts of 1991, is further amended by

(a) adding “(1)” after the Section number;

(b) striking out “twelve months” in the second line and substituting “three years”;

(c) striking out the period at the end of clause (d) and substituting a semicolon;

(d) adding the following clause:

(e) in the case of a person who is recruiting an individual for employment with the person, or who has done so,

(i) the name and address of any person to whom the person recruiting the individual made a payment for engaging in the recruitment,

(ii) the date and amount of the payment, and

(iii) such other information as may be prescribed.

and

(e) adding the following subsection:

(2) A licensee or a person whose licence has been suspended or cancelled shall

(a) prepare complete and accurate financial records of its operations in the Province and maintain them for at least three years after the records are made; and

(b) prepare other records and documents described in the regulations and maintain them for the period specified in the regulations.

6 Section 16 of Chapter 246 is amended by

(a) adding “or recruiter” immediately after “employer” in the second line of clause (a);

(b) adding “(i)” immediately after “to” in the third line of clause (a);

(c) striking out the semicolon in the third line of clause (a) and substituting “, or”;

(d) adding immediately after subclause (a)(i) the following subclause:

(ii) the recruitment of individuals, including foreign workers;

(e) adding “or recruiter” immediately after “employer” in the first line of clause (b);

(f) adding “, or any individual was or is being recruited,” immediately after “employed” in the third line of clause (d);

(g) adding “, or individual who is or was being recruited,” immediately after “employee” in the fourth line of clause (d); and

(h) striking out “his employer” in the fifth line of clause (d) and substituting “the employer or recruiter”.

7 Subsections 17(7) to (10) of Chapter 246 are repealed.

8 (1) Subsection 21(3) of Chapter 246, as amended by Chapter 14 of the Acts of 1991, Chapter 7 of the Acts of 2003 (Second Session) and Chapter 37 of the Acts of 2010, is further amended by

(a) striking out “an employer or an employee” in the first and second lines and substituting “any person”;

(b) striking out “an employer or employee” in the fourth line and substituting “any person”;

(c) striking out “employer or employee” in the sixth and seventh lines and substituting “person, or the person responsible under this Act,”; and

(d) striking out “the employee” in the second and third lines of clause (c) and substituting “an employee who is the object of the contravention”.

(2) Section 21 of Chapter 246, as amended by Chapter 14 of the Acts of 1991, Chapter 7 of the Acts of 2003 (Second Session) and Chapter 37 of the Acts of 2010, is further amended by adding immediately after subsection (3) the following subsections:

(3A) Where the Director makes an order under subsection (3) in respect of a licensee, the Director may, in accordance with the regulations,

(a) declare a letter of credit, cash or other security provided by the licensee under this Act forfeited; and

(b) use the proceeds realized to reduce or satisfy the amount recoverable under the order.

(3B) Where the Director is unable to determine the amount recoverable because the person against whom the order is to be made has failed to

(a) keep or maintain complete and accurate records; or

(b) make the records available for inspection,

the Director may determine the amount to be recovered, in a reasonable and appropriate manner, by order in writing under this Section.

(3C) Subsection (3B) applies *mutatis mutandis* to the Board when acting pursuant to this Act.

(3) Subsection 21(3A) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991, is amended by

(a) renumbering as subsection (3D); and

(b) striking out “subsection (3)” in the second line and substituting “this Section”.

(4) Subsection 21(4) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) striking out “subsection (3)” in the second line and substituting “this Section”; and

(b) striking out “employer or employee” in the fourth line and substituting “person”.

(5) Subsection 21(5) of Chapter 246 is repealed and the following subsection substituted:

(5) Any person against whom the Director has made an order under this Section may, within ten days after the order is served on the person, file an appeal to the Board in accordance with the regulations and, where no such appeal is filed, the Director’s order is deemed to be an order of the Board for the purpose of Section 88.

(6) Subsection 21(9) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) striking out “employer or employee” in the first line and substituting “person”;

(b) striking out “subsection (3)” in the second line and substituting “this Section”; and

(c) striking out “he” in the third line and substituting “the person”.

(7) Subsection 21(10) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by striking out “the employer” in the second line and substituting “persons against whom an order of the Director has been made”.

9 Section 22 of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by adding “or Section 81A” immediately after “Section 81” in the third line.

10 (1) Subsection 23(1) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) adding “, Section 81A” immediately after “Section 78” in the fourth line; and

(b) striking out “regulations” in the last line and substituting “rules of the Board governing its practice and procedure”.

(2) Subsection 23(2) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) striking out “regulations” in the fourth line and substituting “rules of the Board”;

(b) striking out “a notice of hearing” in the fourth line of clause (b) and substituting “notice that a hearing shall be held by the Board”; and

(c) striking out “subsection (1) of” in the fourth and fifth lines of clause (b).

11 Section 24 of Chapter 246, as enacted by Chapter 37 of the Acts of 2010, is amended by

(a) adding “(1)” immediately after the Section number; and

(b) adding the following subsection:

(2) Where a person who has been duly notified of a hearing does not attend, the Board may proceed in the person’s absence.

12 Section 28 of Chapter 246, as amended by Chapter 14 of the Acts of 1991, is further amended by striking out “Tribunal” in the second, in the fourth and in the sixth lines and substituting in each case “Board”.

13 Subsection 47(3) of Chapter 246 is amended by striking out “Tribunal” in the third line and substituting “Board”.

14 Subsection 58(2) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991, is amended by striking out “Tribunal” in the fourth line and substituting “Board”.

15 Chapter 246 is amended by adding immediately after Section 81 the following Section:

81A Where, within the preceding six months, any person has acted contrary to Section 89B, 89E, 89F or 89G,

- (a) the individual referred to in Section 89B;
- (b) the employee referred to in Section 89E; or
- (c) the foreign worker referred to in Sections 89F and 89G,

may make a complaint to the Director in accordance with Section 21.

16 (1) Subsection 83(1) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by adding “or Section 81A” immediately after “Section 81” in the second line.

(2) Subsection 83(2) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

- (a) adding “or other amount owing, nor any other failure to comply with this Act or the regulations” immediately after “unpaid” in the second line; and
- (b) adding “or other individual” immediately after “employee” in the fourth line.

17 (1) Subsection 84(1) of Chapter 246, as enacted by Chapter 37 of the Acts of 2010, is amended by

- (a) adding “or a person referred to in Section 81A” immediately after “employer” in the first line; and
- (b) adding “or the person referred to in Section 81A, as the case may be,” immediately after “employer” in the second line.

(2) Subsection 84(2) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

- (a) adding “or any person referred to in Section 81A” immediately after “employer” in the first line;
- (b) adding “or other individual” immediately after “employee” in the fourth line;
- (c) adding “or any person referred to in Section 81A” immediately after “employer” in the fourth line;
- (d) adding “or other individual” immediately after “employee” in the fifth line;
- (e) striking out “unpaid pay” in the fifth line and substituting “the amount found owing by the Board”; and
- (f) striking out “payment of the unpaid pay” in the second last line and substituting “amount found owing by the Board”.

(3) Subsection 84(3) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) adding “or the amount found owing by the employer or a person referred to in Section 81A” immediately after “pay” in the third line;

(b) adding “or person referred to in Section 81A” immediately after “employer” in the fourth line; and

(c) adding “person referred to in Section 81A, or” immediately after “employer or” in the sixth line.

18 (1) Subsection 85(1) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is repealed and the following subsection substituted:

(1) Where a complaint is received by the Director under Section 81 or 81A and the Director has knowledge or has reason to believe that

(a) in the case of a complaint pursuant to Section 81, a person is or is about to become indebted to the employer for any sum of money, or that the person is about to pay to the employer a sum of money; or

(b) in the case of a complaint pursuant to Section 81A, a person is or is about to become indebted to any person referred to in Section 81A, for any sum of money, or that person is about to pay to any person referred to in Section 81A a sum of money,

the Director may, notwithstanding that the Director has not determined whether the employer is indebted to the employee for unpaid pay or that any person has acted contrary to Section 89B, 89E, 89F or 89G as alleged, by order served personally or by registered mail on that person, require that person to pay to the Board part or all of the moneys owing, likely to be owed or about to be paid by that person to the employer or to any person referred to in Section 81A, as the case may be.

(2) Subsection 85(2) of Chapter 246 is amended by adding “or any person referred to in Section 81A” immediately after “employer” each time it occurs in the third and in the last lines.

(3) Subsection 85(3A) of Chapter 246, as enacted by Chapter 14 of the Acts of 1991 and amended by Chapter 37 of the Acts of 2010, is further amended by

(a) adding “or any person referred to in Section 81A” immediately after “employer” each time it occurs in the first and second lines of clause (b); and

(b) adding “, any person referred to in Section 81A” immediately after “employer” in the fourth line of clause (d).

(4) Subsection 85(4) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by adding “or any person referred to in Section 81A” immediately after “employer” each time it occurs in the third and in the last lines.

(5) Subsection 85(5) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) adding “or any person referred to in Section 81A” immediately after “employer” each time it occurs in the third line, in the first line of clause (a), in the first line of subclause (b)(i) and in the last line;

(b) adding “or to any individual for an amount under this Act other than unpaid pay” immediately after “pay” in the second line of clause (a);

(c) adding “or shall pay over any other amount found owing,” immediately after “Section 87,” in the twelfth line; and

(d) adding “or any person referred to in Section 81A, as the case may be” immediately after “employer” in the last line.

19 (1) Subsection 87(1) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) adding “or, in relation to an amount owing to an employee or other individual under this Act other than pay,” immediately after “employee” in the second line;

(b) adding “or other individual” immediately after “employee” in each case in the first line of clause (a), in the first line of clause (b) and in the first line of clause (c); and

(c) adding “or other amount” immediately after “pay” in the first line of clause (a).

(2) Subsection 87(2) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by adding “or other individual” immediately after “employee” each time it occurs in the second and in the last lines.

20 (1) Subsection 88(1) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by adding “or any person referred to in Section 81A” immediately after “employer” each time it occurs in the fifth and in the seventh lines.

(2) Subsection 88(2) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) adding “or any person referred to in Section 81A” immediately after “employer” in the fourth line; and

(b) adding “or person referred to in Section 81A” immediately after “employer” in the last line.

21 Chapter 246 is further amended by adding immediately after Section 89A the following headings and Sections:

PROTECTION OF INDIVIDUALS
RECRUITED FOR EMPLOYMENT

89B (1) No person shall, directly or indirectly, charge or collect a fee from an individual for

(a) finding or attempting to find employment in the Province for the individual; or

(b) providing the individual with information about any employer who is seeking employees for employment in the Province.

(2) No person shall assist another person to do any of the things described in subsection (1).

(3) Where the Director is satisfied that

(a) any person, except a licensee, has contravened subsection (1) or (2), the Director may, by order in writing, recover the fee from that person or from the employer of the individual on behalf of the individual; or

(b) a licensee has contravened subsections (1) or (2), the Director may, by order in writing, recover the amount from the licensee on behalf of the individual.

(4) Notwithstanding subsection (1), the Governor in Council may by regulation prescribe a class or classes of individuals exempt from the operation of this Section.

89C No person shall engage the services of a recruiter of foreign workers unless the recruiter holds a valid and subsisting licence issued pursuant to this Act or is otherwise exempt by the provisions of this Act or the regulations from the obligation to be licenced.

89D A provision in a contract that provides for the payment of a fee contrary to Section 89B is void.

89E No employer shall, directly or indirectly, recover from an employee any cost incurred by the employer in recruiting the employee.

89F (1) No employer shall reduce the wages of a foreign worker employed by the employer, or reduce or eliminate any other benefit, term or condition of the foreign worker's employment that the employer undertook to provide as a result of participating in the recruitment of a foreign worker.

(2) Any agreement by a foreign worker to a reduction or elimination of wages contrary to subsection (1) is void.

89G (1) In this Section, "property that the foreign worker is entitled to possess" includes the foreign worker's passport and work permit.

(2) No employer or recruiter, and no person on the employer's behalf, shall take possession of, or retain, property that the foreign worker is entitled to possess.

(3) No person shall assist another person to do any of the things described in subsection (2).

(4) Where the Director is satisfied that an employer or recruiter, or any person on behalf of an employer or recruiter, has taken possession of, or retained, property that a foreign worker is entitled to possess, the Director may, in writing, order the contravening person to

- (a) do any act or thing that in the opinion of the Director constitutes full compliance with this Act; or
- (b) rectify an injury caused to the person injured or make compensation therefor.

LICENSING OF RECRUITERS AND REGISTRATION OF EMPLOYERS OF FOREIGN WORKERS

89H (1) No person shall engage in foreign worker recruitment unless the person is an individual who holds a licence under this Act that authorizes the person to do so.

(2) Notwithstanding subsection (1), the following persons are not required to hold a licence under this Act:

- (a) a person who is engaged in recruiting a foreign worker for employment with that person;
- (b) an individual who, on behalf of his or her employer, engages in foreign worker recruitment for the employer;
- (c) a person who, without receiving a fee directly or indirectly, engages in activities to find employment for a foreign worker who is his or her family member;
- (d) a department or agency of the government or a municipality; and
- (e) a person or class of persons exempt under the regulations.

89I (1) An individual may apply, in a form approved by the Director, for a licence or renewal of a licence authorizing the individual to engage in foreign worker recruitment.

(2) When applying for a licence or renewal of a licence, the applicant shall provide

- (a) the information required by the regulations and the application form; and
- (b) any additional information requested by the Director.

89J Before the Director issues or renews a licence, the applicant shall

- (a) pay any licence or renewal fee which is specified in the regulations; and
- (b) provide the Director with security on terms and conditions, and in the amount, specified in the regulations.

89K (1) The Director may make inquiries into and investigate the character, financial history and competence of

- (a) an applicant for a licence or a licence renewal; or
- (b) any person, including a corporation, partnership or other entity, associated with the business of the applicant,

as necessary, to determine whether the applicant meets the requirements of this Act and the regulations.

(2) Where a person who is the subject of an inquiry or investigation by the Director in subsection (1) is a corporation, partnership or other entity, the Director may inquire into or investigate the conduct of the officers, directors or partners of the corporation, partnership or other entity.

(3) The Director may

(a) require information or material from any person who is the subject of the inquiry or investigation; and

(b) request information or material from any person who the Director has reason to believe can provide information or material relevant to the inquiry or investigation.

(4) The Director may require that any information provided under subsection (3) be verified by statutory declaration.

89L (1) The Director may, where the Director considers it in the public interest to do so, impose terms or conditions on a licence at the time of issuing or renewing it, or at any other time by written notice to the licensee.

(2) Notwithstanding subsection (1), a licence is also subject to any terms or conditions imposed by regulation.

89M A licence is valid for three years from the day it is issued or renewed.

89N A licence is not transferable or assignable.

89O Where there is a change in the officers, directors or partners of any corporation, partnership or other entity associated with the business of the licensee, the licensee shall notify the Director, and the licensee may not continue to engage in activities under the licence unless the Director consents to the continuation in writing.

89P The Director may refuse to issue a licence or renew a licence to an applicant if

(a) the applicant provides incomplete, false, misleading or inaccurate information in support of the application;

(b) the applicant fails to meet any qualification or satisfy any requirement of this Act or the regulations;

(c) having regard to the past conduct of the applicant, or of any person associated with the business of the applicant, there are reasonable grounds to believe that the applicant will not act in accordance with law, or with integrity, honesty or in the public interest, while carrying out the activities for which the licence is required;

(d) the applicant for a licence, or any person associated with the business of the applicant, is carrying on activities that are in contravention of this Act or the regulations, or will be in contravention if the licence is granted;

(e) the applicant for a licence renewal, or any person associated with the business of the applicant, is carrying on activities that are in contravention

of this Act, the regulations or the terms of the licence, or will be in contravention if the licence is renewed.

89Q The Director may not refuse to issue or renew a licence, and may not apply conditions to a licence, without first giving the applicant an opportunity to be heard before the Director in the manner set out in the regulations.

89R (1) Subject to subsection (2), the Director may cancel or suspend the licence of a licensee

(a) for any reason for which the Director may refuse to issue or renew a licence to an applicant under Section 89P; or

(b) if the licensee fails to provide information requested by the Director or required by the regulations.

(2) Where the Director proposes to cancel a licence, the Director

(a) shall serve written notice on the licensee and shall provide the licensee an opportunity to be heard in relation to the proposal; and

(b) may, by order, suspend the licence if the Director considers it in the public interest to do so, and any such order takes effect immediately.

(3) A suspension under subsection (2) continues in effect until

(a) the licensee is provided an opportunity to be heard, in the manner set out in the regulations, and a final determination has been made in respect of the proposed cancellation and there is no further right of appeal;

(b) the Director receives new information that leads the Director to believe that the licence should not be cancelled; or

(c) the licensee does not request an opportunity to be heard within twenty-one days after notice is served on the licensee in accordance with clause (2)(a).

(4) Where a licensee does not request an opportunity to be heard within the time permitted under clause (3)(c), the Director may take the proposed action.

89S In Sections 89T through 89Z, “employer” includes a person who proposes to employ a foreign worker.

89T (1) No employer shall recruit or engage the services of another person to recruit a foreign worker for employment with the employer unless the employer is registered with the Director.

(2) Notwithstanding subsection (1), a person or class of persons exempt under the regulations is not required to register with the Director in order to recruit or engage the services of another person to recruit a foreign worker.

89U (1) An employer may apply to the Director, in a form approved by the Director, to be registered to recruit or to engage the services of another person to recruit a foreign worker for employment with the employer.

(2) When applying to be registered, the employer shall provide

- (a) the information required by the regulations and the application form; and
- (b) any additional information requested by the Director.

89V (1) Unless an application is refused under Section 89W, the Director shall

- (a) register the employer; and
 - (b) provide the employer written notice of the registration and the date on which the registration expires.
- (2) Subject to the regulations, a registration is valid for the period stated in the registration.

89W The Director may refuse to register an employer if

- (a) the employer provides incomplete, false, misleading or inaccurate information in support of the application;
- (b) the employer is carrying on activities that are in contravention of this Act or the regulations or will be in contravention if the registration is granted;
- (c) the employer has previously contravened this Act or the regulations;
- (d) the employer has been found to be in breach of the *Occupational Health and Safety Act*, by final order or decision made pursuant to that Act, or has been convicted of an offence under this Act; or
- (e) an individual who will be engaged in foreign worker recruitment on behalf of the employer does not hold a required licence under subsection 89H(1).

89X The Director shall not refuse to register an employer without first giving the employer an opportunity to be heard before the Director, in the manner set out in the regulations, or an opportunity to correct or complete the application.

89Y (1) Subject to subsection (2), the Director may cancel or suspend the registration of an employer

- (a) for any reason for which the Director may refuse to register an employer under Section 89W; or
- (b) if the employer fails to provide information requested by the Director or required by the regulations.

(2) Where the Director proposes to cancel a registration, the Director

(a) shall serve written notice on the employer and shall provide the employer an opportunity to be heard in relation to the proposal in the manner set out in the regulations; and

(b) may, by order, suspend the registration if the Director considers it in the public interest to do so, and any such order takes effect immediately.

(3) A suspension under subsection (2) continues in effect until

(a) the employer is provided an opportunity to be heard, in the manner set out in the regulations, and a final determination has been made in respect of the proposed cancellation, and there is no further right of appeal;

(b) the Director receives new information that leads the Director to believe that the registration should not be cancelled; or

(c) the employer does not request an opportunity to be heard within twenty-one days after notice is served on the employer in accordance with clause (2)(a).

(4) Where an employer does not request an opportunity to be heard within the time permitted under clause (3)(c), the Director may take the proposed action.

89Z (1) Where the Director

(a) refuses to issue or renew a licence to a recruiter or cancels a recruiter's licence; and

(b) refuses to register an employer or cancels an employer's registration,

the Director shall give a person referred to in clause (a) or (b) written reasons for the refusal or cancellation along with a notice that the refusal or cancellation may be appealed in accordance with this Section.

(2) Where the Director applies conditions to a licence, the Director shall give the recruiter notice that the application of conditions may be appealed in accordance with this Section.

(3) A person in relation to whom the Director has

(a) refused to issue or renew a licence, cancelled a licence or applied conditions to a licence; or

(b) refused or cancelled a registration,

may appeal to the Board within ten days after the notice of the decision or, in respect of a licence, the imposition of terms and conditions on the licence is served upon the person in the manner set out in the regulations.

(4) Notwithstanding subsection (3), the Board may, either before or after the ten days referred to in that subsection, extend the time for filing an appeal.

(5) In hearing and deciding an appeal under this Section, the Board shall conduct the appeal as specified in Sections 24, 25 and 27.

(6) The Board may dismiss the appeal, allow the appeal or make any decision that the Director is authorized to make under this Act.

22 (1) Subsection 90(1) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) adding "or any other amount found owing pursuant to this Act" immediately after "pay" in the third line;

(b) **striking out “or” immediately after “employee” in the last line and substituting a comma; and**

(c) **adding “or other individual” immediately after “employees” in the last line.**

(2) Subsection 90(2) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by

(a) **adding “or any person is ordered to pay an amount found owing pursuant to this Act other than unpaid pay” immediately after “pay” the second time it appears in the second line of clause (a);**

(b) **adding “or any person is ordered to pay an amount found owing pursuant to this Act other than unpaid pay” immediately after “pay” the second time it appears in the last line of clause (b).**

(3) Subsection 90(4) of Chapter 246, as amended by Chapter 37 of the Acts of 2010, is further amended by adding “or person against whom the order has been entered” immediately after “employer” in the fourth line.

(4) Subsection 90(5) of Chapter 246 is repealed and the following subsection substituted:

(5) Where, in the opinion of the Director,

(a) an employee has good cause for a complaint under Section 81; or

(b) an individual, employee or foreign worker referred to in Section 81A has good cause for a complaint under that Section,

the Director shall notify the sheriff and may apply for an attachment order against the employer or person against whom the complaint was made, as provided for in the *Civil Procedure Rules*.

23 Section 90A of Chapter 246, as enacted by Chapter 14 of the Acts of 1991 and amended by Chapter 37 of the Acts of 2010, is further amended by adding “or any person referred to in Section 81A” immediately after “employer” each time it occurs in the first, in the fifth and in the sixth lines.

24 Section 91 of Chapter 246 is amended by

(a) **adding “or any person referred to in Section 81A” immediately after “employer” in the first and second lines; and**

(b) **adding “or person referred to in Section 81A” immediately after “employer” each time it occurs in the fourth, in the fifth and in the last lines.**

25 Subsection 93(1) of Chapter 246, as enacted by Chapter 7 of the Acts of 2003 (Second Session) and amended by Chapter 37 of the Acts of 2010, is further amended by

(a) striking out “being an employer,” each time it occurs in the first line of clause (c), in the first line of clause (d), in the first line of clause (e) and in the first line of clause (f);

(b) striking out “employer” in the third line of clause (c) and substituting “person”; and

(c) striking out “when required to do so by the Board” in the second line of clause (f) and substituting “or an amount owing under clause (a) of subsection (1) of Section 84”.

26 Subsection 94(1) of Chapter 246, as enacted by Chapter 7 of the Acts of 2003 (Second Session), is amended by

(a) striking out “an employer that is” in the first line of clause (a); and

(b) striking out “an employer” in the first line of clause (b) and substituting “a person, other than an employee,”.

27 Chapter 146 of the Revised Statutes, 1989, the *Employment Agencies Act*, is repealed.

28 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
