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SUMMER EMPLOYMENT ARRANGEMENTS – SOME THINGS TO CONSIDER

In early January 2011, the Federal government announced that it would commit approximately \$10 million to assist with the creation of nearly 3,500 summer employment opportunities across Canada. While the summer time is often a fun and relaxing time for employees, and is considered by many to be “prime” vacation time, employers are often faced with coverage issues. As such, whether through a formal internship program, or through an informal job opportunity, employers have often turned to summer employment arrangements to fill any voids.

In addition, summer employment arrangements are mutually beneficial to both the employer and the individual. For an employer, summer employment is a cost-effective means of addressing coverage issues, while also serving as an effective recruiting tool. For the individual, a summer employment opportunity is a chance to gain valuable experience in a chosen field, and in most circumstances, an opportunity to earn income.

However, before searching to fill a summer void, an employer would be wise to consider the following:

Volunteer or Employee?

At the immediate outset, an employer should take time to consider and obtain proper advice as to an individual's status vis-à-vis employment standards legislation. For example, if the intention is to bring the individual on under a voluntary training arrangement in Ontario, the individual may be excluded from employment standards legislation where certain explicit criteria related to the nature of the training has been satisfied. Should the individual not satisfy the criteria laid out in the relevant employment standards legislation, they would be considered to be an employee, and save and except for certain statutory exemptions, the typical employment standards provisions would likely apply, most notably, minimum wage, overtime, vacation pay, and public holiday pay.

Also, although there is a certain “casualness” that is typically extended to summer employment, irrespective of status, it is important to note that these individuals are entitled to receive the appropriate level of training from an occupational health and safety standpoint.

Employment Standards

Having determined that the individual is properly categorized as an employee, an employer would be prudent to take a closer look at certain employment standards issues, namely minimum wage and age requirements.

With regard to minimum wage, many employers are surprised to learn that some jurisdictions maintain different minimum wage levels depending on such factors as age

and hours of work. For example, while Ontario presently maintains a general minimum wage rate of \$10.25 per hour, the student minimum wage rate is currently set at \$9.60, with the latter rate applying to students under the age of 18 who work 28 hours a week when either school is in session, or during a school holiday (including the summer periods).

With regard to minimum age requirements, there may be parameters around the kinds of work-related activities that an individual can be involved in, and in some circumstances, an obligation to obtain parental consent. For example, in Alberta, an individual between the ages of 15 and 17 cannot be employed in certain retail activities during certain late night hours, unless working in the presence of an adult. Further west, in British Columbia, individuals between the ages of 12 and 14 cannot be employed without the written consent of a parent or guardian.

The Bottom Line?

While summer employment arrangements are a great way to resolve staffing issues, employers should do their due diligence well in advance. This will include determining their needs and staffing requirements. However, in all circumstances, and irrespective of their employment status, employment contracts will always be a necessity so as to clearly set out terms, as well as to govern expectations.

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