

# International Labour and Employment Compliance Handbook



the global voice of  
the legal profession

Edited by Salvador del Rey and Robert J. Mignin

## Labour and Employment Compliance in Canada

Second Edition

Kevin Coon  
Adrian Ishak



Wolters Kluwer  
Law & Business

International Bar Association

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Kevin Coon  
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This publication is part of the International Labour  
and Employment Compliance Handbook,  
available on [www.kluwerlawonline.com](http://www.kluwerlawonline.com)

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**Wolters Kluwer**  
Law & Business

*Published by:*

Kluwer Law International  
PO Box 316  
2400 AH Alphen aan den Rijn  
The Netherlands  
Website: [www.wklawbusiness.com](http://www.wklawbusiness.com)

*Sold and distributed in North, Central and South America by:*

Aspen Publishers, Inc.  
7201 McKinney Circle  
Frederick, MD 21704  
United States of America  
Email: [customer.service@aspenpublishers.com](mailto:customer.service@aspenpublishers.com)

*Sold and distributed in all other countries by:*

Turpin Distribution Services Ltd.  
Stratton Business Park  
Pegasus Drive, Biggleswade  
Bedfordshire SG18 8TQ  
United Kingdom  
Email: [kluwerlaw@turpin-distribution.com](mailto:kluwerlaw@turpin-distribution.com)

*Printed on acid-free paper.*

ISBN 978-90-411-5637-2

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Email: [permissions@kluwerlaw.com](mailto:permissions@kluwerlaw.com)

Printed and Bound by CPI Group (UK) Ltd, Croydon, CR0 4YY.

All listed titles are also available on [www.wklawbusiness.com](http://www.wklawbusiness.com)

1. Argentina: Julio César Stefanoni Zani & Enrique Alfredo Betemps, *Labour and Employment Compliance in Argentina*, 3rd edition, 2015 (ISBN 978-90-411-6182-6)
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# About the International Labour and Employment Compliance Handbook

From 1976 through 1988, the International Bar Association and Kluwer Law International published the groundbreaking International Handbook on Contracts of Employment. This Handbook provided one of the first global overviews of the law of the international employment relationship.

Since publishing the first edition, globalization of business has created an increased demand for knowledge of labor and employment laws throughout the world. Therefore, along with Kluwer, we decided to publish an updated Handbook which we have titled the International Labour and Employment Compliance Handbook.

This new Handbook was intended to be a practical guide by providing a general overview of key labor and employment issues in multiple jurisdictions. Each chapter was written so that it is easy to understand by lawyers and non-lawyers alike. Each country author has also followed a standard outline to assist readers in analysing employment issues in each country.

The first edition of this new Handbook included nineteen (19) different countries.

This Handbook would not have been possible without the help and assistance of many people. Most importantly, the individual country authors are all distinguished legal practitioners who spent considerable time drafting and revising their country reports to meet difficult deadlines. We thank each of them. Our friends at Kluwer, especially Ewa Szkatula, have done a wonderful job in keeping the editors and the authors on schedule. Finally, we want to also express our gratitude to Cuatrecasas, Gonçalves Pereira, and Baker & McKenzie LLP for their valuable assistance in the coordination and organization of this project. Our warmest thanks to each of them.

ABOUT THE INTERNATIONAL LABOUR AND EMPLOYMENT COMPLIANCE HANDBOOK

Because of the success of the Handbook, Wolters Kluwer Law & Business decided to publish each country report also as a separate book to give a choice in obtaining the information. We hope this new format will be a helpful and useful resource just like the Handbook. Both formats are available in print and online.

The Editors

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# Legal Compliance in Canada

## 1. LEGAL FRAMEWORK: EMPLOYMENT LAWS

Canada's employment law framework falls under a federal system. The majority of workers, upwards of 90%, are governed by provincial employment statutes. The other 10%, in defined industries considered to be of national interest (such as telecommunications, nuclear energy, shipping, or banking) are governed by federal employment statutes.

At either level, there are three sources for employment law. The first is statutory. Each jurisdiction has its own employment standards statute, as well as trade union, occupational health and safety, privacy, pension, and human rights legislation.

The second source is the common law. The judiciary of each jurisdiction applies common law principles (except the Province of Quebec which is based on a Civil Code), which are developed over time by judges, to employment cases brought before the courts. Unionized employees do not have access to the courts in the first instance because each jurisdiction in Canada has established mechanisms in its trade union legislation to direct disputes out of the court system and into private arbitration or the applicable administrative labour tribunal. The decisions of arbitrators and the labour tribunals are subject to a limited right of judicial review.

Finally, employment contracts, written or unwritten, are the third source of employment law in Canada. Judges interpret the terms of employment contracts, and arbitrators and labour tribunals interpret collective agreements for unionized workplaces.

All jurisdictions within Canada have set up various administrative tribunals to adjudicate claims that arise under various employment statutes, such as employment standards, workers' compensation, and human rights. These boards are meant to be less time-consuming and have less onerous requirements than courts to provide more open access for individuals.