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## Division of Legislative Powers

Both the Parliament of Canada and the provincial legislatures have the power to enact labour laws. The jurisdiction of the provincial and federal governments arises from the Constitution Act, 1867, Sections 91 and 92. Judicial interpretation of these sections gives provincial legislatures major jurisdiction, with federal authority limited to a narrow field.

Provincial authority is derived from the "property and civil rights" subsection of the Constitution Act, 1867. The right to enter into contracts is a civil right, and since labour laws impose certain restrictions on contracts between employers and employees, they fall within provincial authority as property and civil rights legislation. Provinces also have the right to legislate on "local works and undertakings."

Federal jurisdiction arises from the right to regulate certain subjects expressly assigned to Parliament by Section 91 of the Constitution Act, 1867, or expressly excepted from provincial jurisdiction by Section 92. These subjects are of a national, international or interprovincial nature. In addition, Parliament has jurisdiction to regulate works wholly within a province which have been declared by Parliament to be works "for the general advantage of Canada or for the advantage of two or more of the provinces", such as grain elevators, feed mills and uranium mines. By virtue of its exclusive power to regulate certain works and undertakings, Parliament has the incidental power to enact labour laws relating to those works and undertakings.

The Canada Labour Code applies to:

- 1) Works or undertakings connecting a province with another province or country, such as railways, bus operations, trucking, pipelines, ferries, tunnels, bridges, canals, telephone and cable systems;
- 2) All extra-provincial shipping and services connected with such shipping, such as longshoring;
- 3) Air transport, aircraft and airports;
- 4) Radio and television broadcasting;
- 5) Banks;
- 6) Defined operations of specific works that have been declared by Parliament to be for the general advantage of Canada or of two or more provinces, such as flour, feed and seed cleaning mills, feed warehouses, grain elevators and uranium mining and processing; and
- 7) Federal Crown corporations where they are engaged in works or undertakings that fall within section 91 of the Constitution Act, 1867, or where they are an agency of the Crown, for example the Canadian Broadcasting Corporation and the St. Lawrence Seaway Authority.

The jurisdiction of Parliament is generally limited to the above industries, with possible additions arising from subsequent judicial decisions.

In addition, Parliament has exclusive jurisdiction to pass laws dealing with the Yukon, Northwest Territories and Nunavut. However, Parliament has enacted legislation to grant to territorial governments the power to legislate on property and civil rights and matters of a local and private

nature. As a result, the territorial governments have virtually the same legislative powers with regard to labour laws as have the provinces.

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