

PARKER HR



Complimentary HR Session

December 15, 2022 | 11:00AM PST

Online | 1- Hour

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Top Employee Relations Matter &
Employment Standards

with Gifty Parker
Founder & CEO

PARKER HR

Content

Employer Webinar | Year End Wrap

Policies to Review Before the New Year is PARKER HR Employer's Guide to reviewing workplace employment updates and how to best update them before the New Year.

01

**A number of
new rules and
regulations in
year 2022**

A Recap of 2022 Laws into effect in Canada.

02

**A review of
amendments
from May 2021
until 2023**

Promoting Awareness of Employment Standards - Act Part 1, Section 5

03

**Labor Program
Regulatory Plan:
2022 to 2024**

Promoting employment law 2023: what are the new HR-related laws to look out for?

- **BRITISH COLUMBIA**

Paid sick leave

Beginning on Jan. 1, part-time and full-time employees in British Columbia are entitled to five days of paid sick leave.

Day care prices to drop

As part of a \$3.8 billion deal with the federal government, Alberta's day care fees will be cut in half -- on average -- beginning on Jan. 1, with the goal of reaching \$10 per day childcare by 2025.

- **ALBERTA**

2022 Recap

Here are some of the new laws coming in 2022

ONTARIO

Paid Infectious Disease Emergency Leave extended to March 31, 2023
The Employment Standards Act, 2000 (ESA) was amended on April 29, 2021 to require employers to provide eligible employees with up to three days of paid infectious disease emergency leave

The leave is retroactive to April 19, 2021. Eligible employers can apply to be reimbursed for these payments through the Workplace Safety and Insurance Board.

Non-compete agreements prohibited

Employers are prohibited (with some exceptions), from entering into a non-compete agreement with an employee. Non-compete agreement is defined in the ESA. This prohibition does not apply to non-compete agreements entered into before October 25, 2021.

Written policy on disconnecting from work

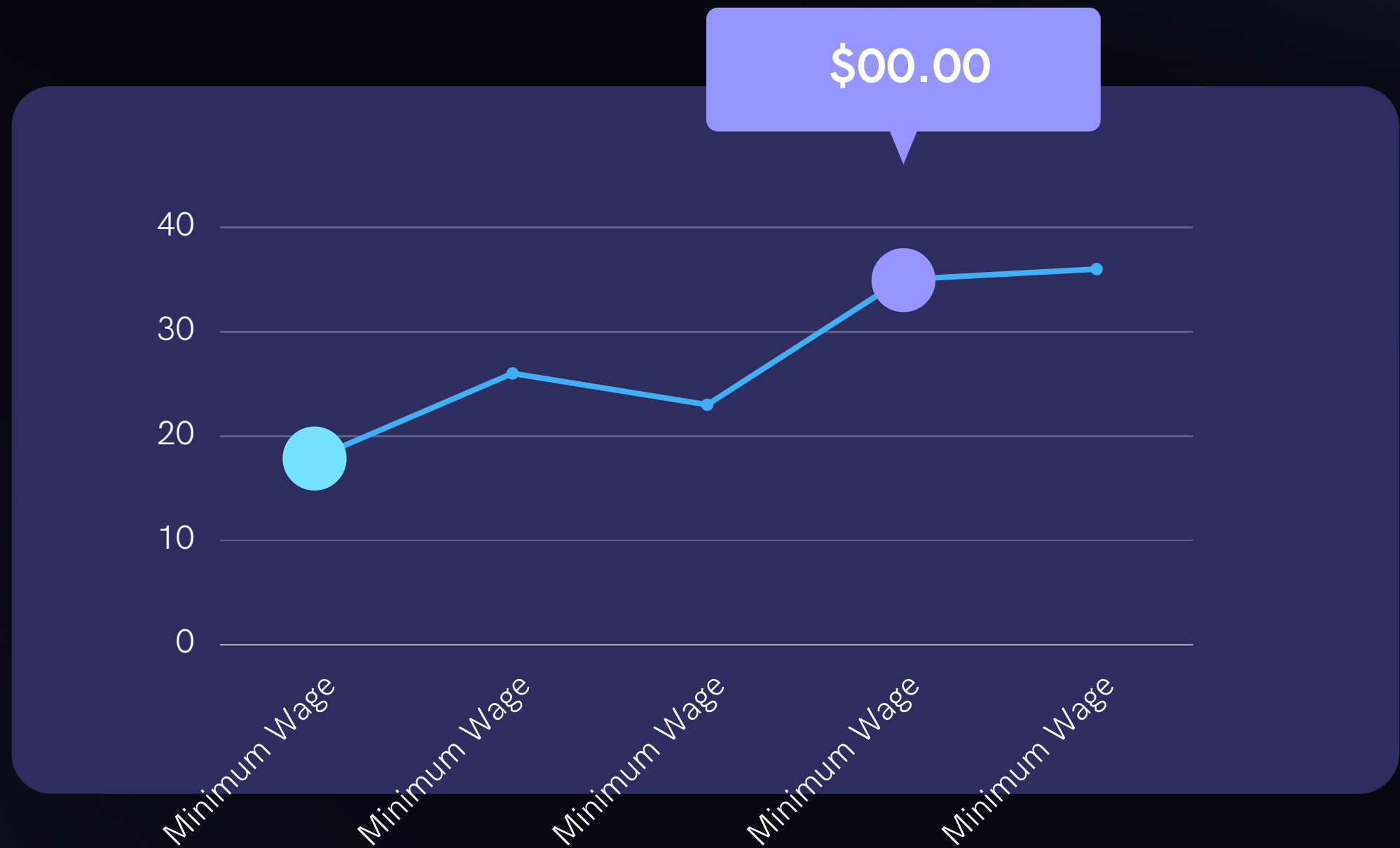
Employers that employ 25 or more employees on January 1 of any year must have a written policy on disconnecting from work in place by March 1 of that year. They must provide a copy of that policy to employees.

Reservist leave

Effective April 11, 2022, the length of time an employee must be employed before being eligible for reservist leave has been shortened, from six consecutive months to three consecutive months. Reservists are also now eligible to take reservist leave to participate in Canadian Forces military skills training.

Promoting Awareness of
Employment Standards |
British Columbia

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Updates have been made to the following pages:

- Minimum Hourly Wage - Regulation Part 4, Section 15
- Minimum Daily Wage for Live-In Home Support Worker & Live-In Camp Leader - Regulation Part 4, Section 16
- Minimum Wage for Resident Caretakers - Regulation Part 4, Section 17

OIC 0139-2022 - Commencement March 14, 2022

POLL

OIC 0139-2022 Commencement t March 14, 2022

Minimum Wage

Live-in home support workers

Live-in home support workers are paid a daily rate.

- Prior to June 1, 2022, the daily rate was \$113.50 per day or part day worked
- The current daily rate is \$116.68 per day or part day worked

Minimum Wage

Live-in camp leaders

Live-in camp leaders are paid a daily rate for each day or part day worked.

- June 1, 2018 - \$101.24
- June 1, 2019 - \$110.87
- June 1, 2020 - \$116.86
- June 1, 2021 - \$121.65
- June 1, 2022 - \$125.06

Minimum Wage

Piece Rate

A piece rate is a rate of pay based on a measurable quantity of work completed. Employees must be told what the piece rates are before they start work. They may also be paid a different set wage for specific tasks (e.g. paid an hourly rate).

Piece rate: x volume or weight picked.



Hazardous Work - Regulation Part 7.1, Division 5

This Division of Part 7.1 describes different types of hazardous work and the minimum ages to perform them.

Coming into effect on January 1, 2023.

Illness or injury leave - Regulation Part 7.02, Section 45.031

Illness or injury leave is an employee-initiated leave. This leave is a statutory entitlement, not something that may or may not be granted at the discretion of the employer.

This paid leave is sometimes referred to as 'sick leave' with 'sick pay'.



Policy Interpretation

Illness or injury leave is an employee-initiated leave. This leave is a statutory entitlement, not something that may or may not be granted at the discretion of the employer. This paid leave is sometimes referred to as 'sick leave' with 'sick pay'.

After 90 days of employment, employees can take up to **5 paid days** and **3 unpaid days** of job-protected leave per calendar year. This leave is employee-initiated and employees decide whether they are requesting paid or unpaid leave. To ensure effective communication between employees and employers, employees are encouraged to specify whether they prefer to take unpaid or paid leave. Employers are encouraged to clarify the type of leave if there is any doubt. The Act is benefits conferring legislation and requires an employer to ensure all wages are paid within 8 days of each pay period. Employers may find it advisable if unsure of their employee's decision, to record and pay the time off as paid sick leave. Employers should ensure their [payroll and employment records](#) comply with the Act. Records should include the leave taken, if the leave was paid or not and the amount of wages paid.

Calendar year

Calendar year means a period of 12 consecutive months beginning on January 1. Eligible employees who start employment part way through the calendar year are entitled to the full 5 paid days and 3 unpaid days despite not being employed for the full calendar year. Illness or injury leave cannot be prorated for employees who start after January 1.

Illness or injury leave does not carry over from year to year if it is not used.

Illness or Injury Leave on a statutory holiday

Paid sick leave and statutory holiday pay are separate entitlements. If an employee qualifies for statutory holiday pay and is scheduled to work on the statutory holiday but takes paid sick leave, they would be entitled to an average day's pay for both the statutory holiday and the paid sick leave.

Illness or Injury Leave and vacation pay

Vacation pay must be paid on an employee's total wages including the paid sick leave required by this Act. Paid sick leave is money required to be paid under this Act. (See definition of "[wages](#)" in section 1 of the Act)

Exclusions from Hours of Work & Overtime Requirements - Regulation Part 7, Section 34

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Section 3 of the Employment Standards Act establishes that the Act applies to all employees other than those excluded by regulation.

Under this Regulation, there are certain types of employees who are excluded from the Act in its entirety and in other cases, certain employees, depending on the work they are performing, are excluded from certain provisions of the Act.

Exclusions from Hours of Work & Overtime Requirements

Policy Interpretation

Section 3 of the *Employment Standards Act* establishes that the Act applies to all employees other than those excluded by regulation. Under this Regulation, there are certain types of employees who are excluded from the Act in its entirety and in other cases, certain employees, depending on the work they are performing, are excluded from certain provisions of the Act.

As long as a person is performing work as described in this section, or as governed by the Acts referred to in this section, they are not covered by the provisions of Part 4 of the Act.

The burden is on the employer to show that the employee is not entitled to the Act because of an exclusion under this Regulation.

Extra Work

Although employees under this section are excluded from the hours of work and overtime provisions of the Act under Part 4, they are entitled to be paid for all time worked, *according to their terms of employment*. Extra work means extra pay, but not at overtime rates.

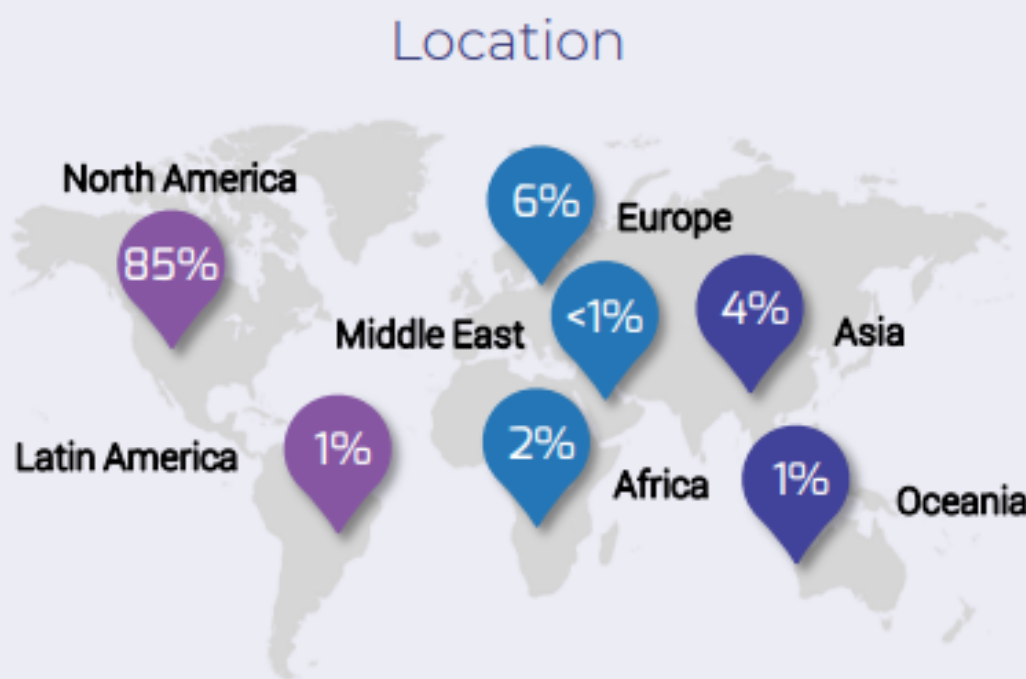
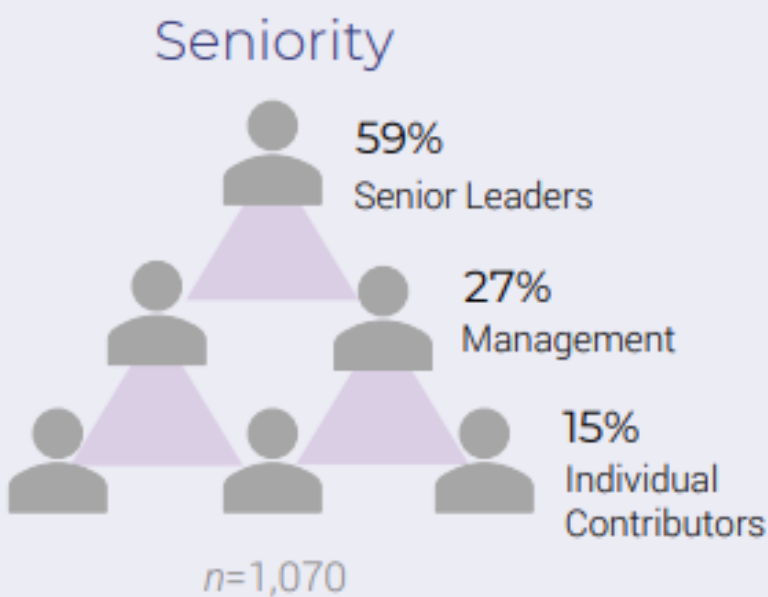
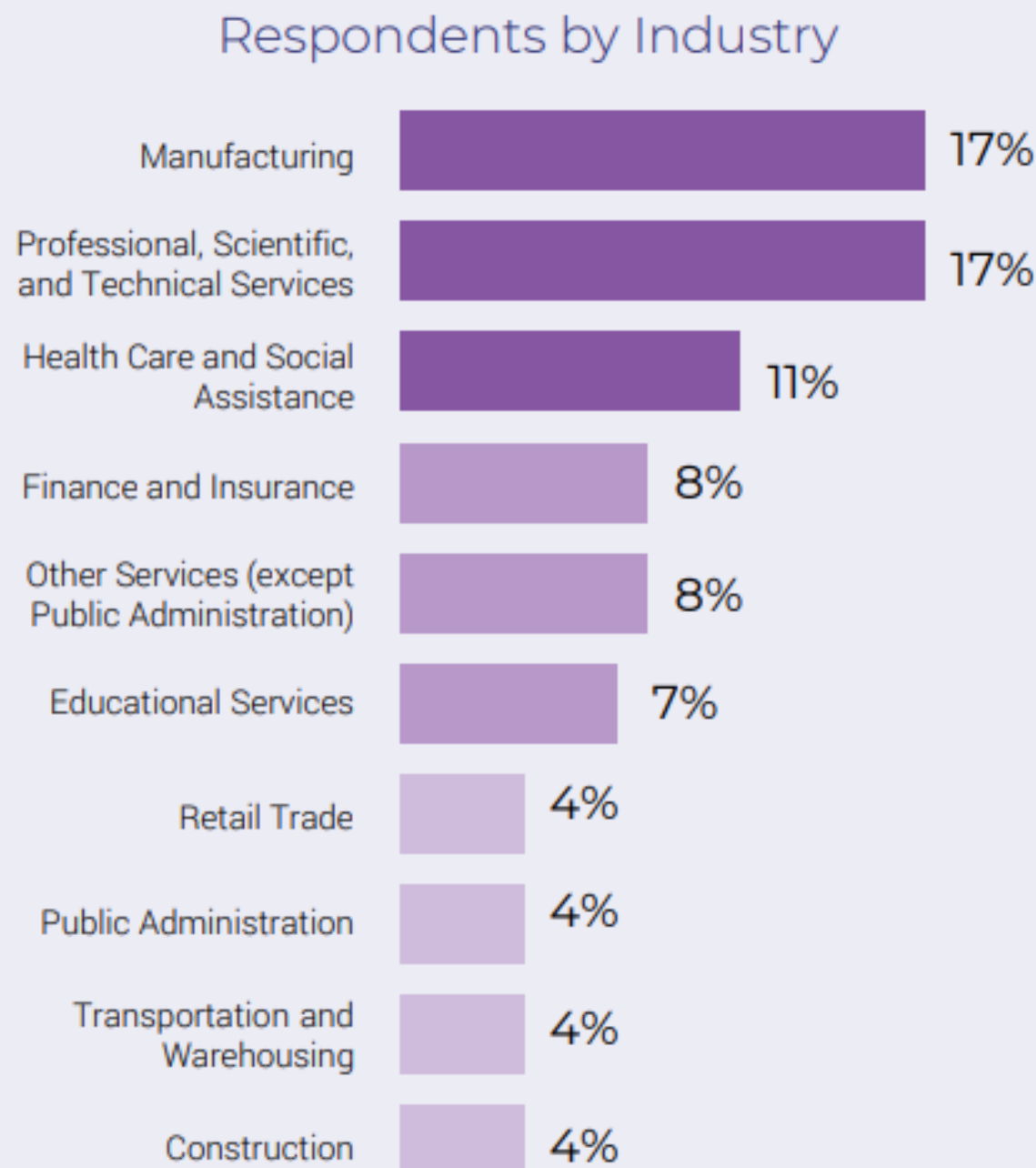
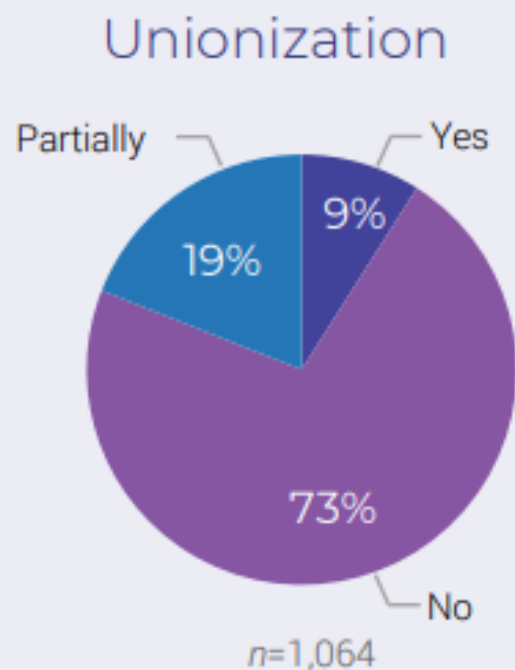
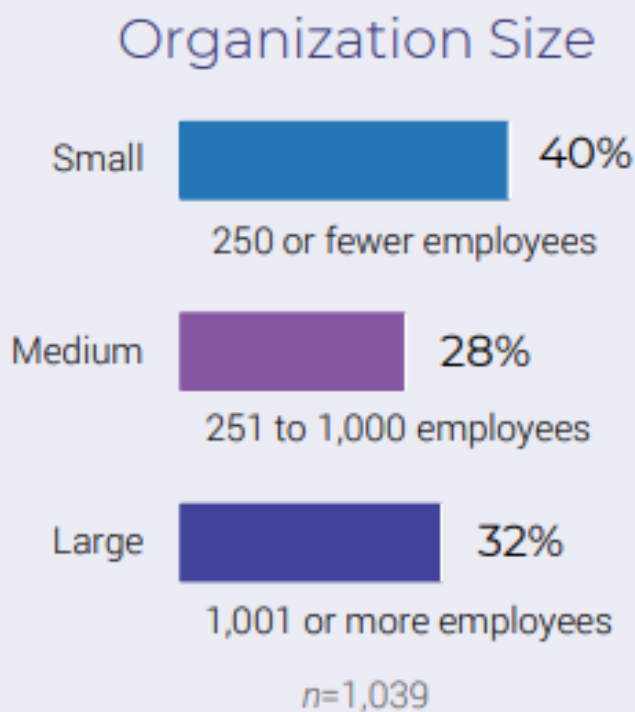
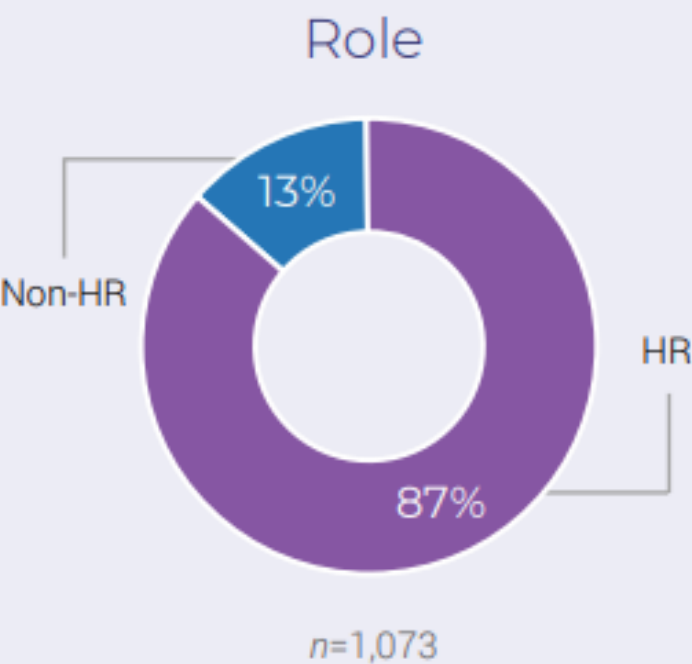
Where there is evidence to support findings that the employer and the employee agreed that a specific number of hours of work would be compensated by a specific amount of wages, the employee would be entitled to extra wages for the extra work, based on their regular rate of pay.

Example

An employee named in this section, who is excluded from the overtime provisions of the Act, accepts an offer to work 50 hours a week for \$50,000 a year. An employee works 55 hours in one week. The employee is entitled to additional compensation for 5 hours in excess of 50 hours a week, based on their regular wage. The lack of entitlement to overtime does not mean that the employer can require an employee to work extra hours without extra pay.

Labour Program Forward
Regulatory Plan: 2022 to
2024

Characteristics of 2023 survey respondents



*N=1,075 (unless otherwise noted); see [Appendix I](#) for data on turnover and remote status.

*Industries selected based on the North American Classification system. Categories falling below 4% were omitted from the visual above; reflecting 16% of the overall sample (n=167).

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Stayed tuned for
Our 2023
Webinars.

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