



WORKER RIGHTS IN THE GIG ECONOMY

ENSURING EQUAL EMPLOYMENT STANDARDS PROTECTIONS FOR ALL WORKERS

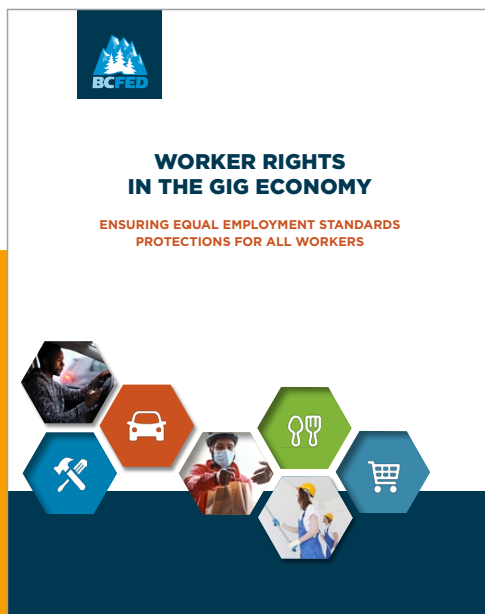
SUMMARY

MISCLASSIFICATION — when employers label their employees as “independent contractors” — is the single biggest reason precarious work is precarious. That’s been a long-standing issue, but is increasingly widespread with the rise of the so-called gig economy and the boom in app-based work.

Download the full report
at bcfed.ca/precariouswork

Misclassifying employees as contractors costs everyone:

- Workers lose important employment standards protections, like paid sick leave and minimum wage provisions.
- Employers who treat their workers fairly are put at a competitive disadvantage.
- Governments lose badly-needed revenues that fund the services and programs we all rely on.
- And the “flexibility” promised by app employers often disappears under real-world conditions. For example, pay levels are structured to compel workers to work longer, continuous shifts — and discourage them from working for competitors. They quickly discover the platform employers hold all the cards.



SOME FACTS ABOUT GIG AND PRECARIOUS WORK

- In 2016, BC had the highest proportion of gig workers in Canada: 8.7% of men and 10.7% of women.
- More than half of BC workers (53%) don't have a single stable employer that provides benefits and full-time hours.
- One report estimates that misclassification lets employers save 20% of their labour costs.
- In BC's construction industry alone, misclassification costs the government an estimated \$115.4 million to \$308 million a year.

See full paper for sources.

WHAT RIGHTS DO “INDEPENDENT CONTRACTORS” LOSE?

| Employment right in BC | Employee | Independent contractor |
|---|----------|--|
| \$15.65/hr minimum wage | Yes | No |
| Overtime pay | Yes | No |
| Employment insurance | Yes | (worker can pay in for limited coverage) |
| Workers' compensation | Yes | (worker can pay in for limited coverage) |
| Five paid sick days | Yes | No |
| Five days domestic and sexual violence leave | Yes | No |
| Statutory holiday and vacation pay | Yes | No |
| Right to refuse unsafe work | Yes | No |
| Right to a join union | Yes | No |
| Notice/compensation for length of service (severance) | Yes | No |
| Compensation for business expenses | Yes | No |
| Employer contribution to CPP | Yes | No |

HOW CAN THE BC GOVERNMENT ADDRESS MISCLASSIFICATION?

Misclassification of workers is a widespread and growing problem. It's hurting workers, business, our communities and government programs. And it cannot be effectively challenged by individual workers or small groups of workers. Fixing misclassification will take strong policy leadership from the BC government.

- **IMPLEMENT THE ABC MODEL** as the legal test for determining employee status. The ABC test establishes that all workers are employees unless they meet all three criteria set out in a simple test. It's easy to apply and reflects the modern workplace. (See the full paper for an explanation of how it works.)
- **REVERSE THE ONUS OF PROOF** so workers are considered employees unless employers prove otherwise. This is already working well in federally-regulated sectors.
- **ELIMINATE EXEMPTIONS** and carve-outs in the *Employment Standards Act*. And under no circumstances should the government give in to the platform companies' demands to create a third category of worker.
- **DEVELOP A ROBUST PLAN FOR EDUCATION AND ENFORCEMENT** — with teeth. Employees need to know their rights, and employers need to know the rules — along with strong penalties if they break them.
- **IDENTIFY SECTORS** where worker classification is abused, and legislate employment standards coverage. There are some sectors that require crystal-clear guidance to keep workers from being tied up for years fighting legal challenges.
- **TAKE CONCRETE ACTION TO END DISCRIMINATION** in workplaces and support the rights and full participation of workers who are Indigenous, Black, racialized, neuro-diverse, women, two-spirit, gender diverse, diverse in sexual orientation, or living with a disability. Members of equity groups are over-represented in low-wage and precarious work. This is crucial to meeting the BC government's commitment to a strong, sustainable economy built on the principles of lasting and meaningful reconciliation, equity, and anti-racism as members of equity groups are over-represented in low-wage and precarious work.

Fortunately, addressing misclassification doesn't have to be difficult. The provincial government needs to extend the rules that already apply to most BC workers, and ensure they apply to everyone.

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BC Federation of Labour
5118 Joyce Street
Vancouver, BC V5R 4H1
t: 604.430.1421
bcfed.ca

The BC Federation of Labour represents more than 500,000 members of affiliated unions, working in every sector of the economy and every corner of the province.

The BCFED has a long and proud history of fighting for the rights of all working people.

The goals of the BCFED are best exemplified by the slogan:
"What we desire for ourselves, we wish for all."

The BC Federation of Labour's work spans across the territories of two hundred and three First Nations that make up the area colonially known as the province of British Columbia. Our office is located on the unceded and traditional territory of the Halqeméylem speaking peoples, including x^wməθk^wəyəm, Skwxwú7mesh, sə́lilwətaʔɬ, qiqéyt, k^wik^wə́ləm, and Stz'uminus First Nations. As part of our ongoing commitment to build meaningful relationships with the original peoples of these lands, the BCFED's reconciliation plan framework can be found at bcfed.ca.