



Submission in response to proposed changes to coverage under the *Employment Standards Act*

Introduction

The New Brunswick Women's Council commends government for advancing proposals that would extend coverage under the *Employment Standards Act* to domestic workers and other persons who work in a private home in New Brunswick. Furthermore, we applaud government for explicitly drawing attention to the gender equality implications of the *Act* as it currently exists and the proposals.

Feedback

The council:

- Supports government repealing the exemption of employers of domestic workers and other persons who work in a private home in the *Act*.
- Supports government amending the definition of "employee" in the *Act* in order to avoid domestic workers and other persons who work in a private home being misclassified as contract workers once the aforementioned exemption is repealed.
- Supports government amending the *Act* by introducing a definition of domestic worker to clarify that it applies only to those workers who perform domestic work on an occupational basis within an employment relationship and does not include a person who performs domestic work only occasionally (e.g. babysitters).
- Supports government amending the *Act* by providing a definition of "hours of work" to clarify that periods during which an employee must remain at the disposal of the employer shall be regarded as hours of work (including night-time shifts and times during which the employee may be sleeping).
- Supports government amending the *Act* by adopting minimum standards for employer-provided accommodations as outlined in the discussion paper.
- Advises that the above changes should be executed in a way that ensures that domestic workers under the Temporary Foreign Workers Program (including workers under the In-Home Caregiver program) are covered by the updated *Act*.

Rationale

Given government's strong gender-based analysis of the issue, we will not belabour the gender-equality case for amending the *Act*. We will, however, provide a rationale for enacting these changes in the near future and for why domestic workers should not continue to be deprived of the protections of the *Act* because it may place hardship on the individuals and families they work for.

- *Enacting changes in the near future:* The "gig," "on-demand," or "sharing" economy is growing and becoming increasingly normalized. While this approach to work is ideal for some, it also leads to workers who have traditionally been protected by employment standards, unions, etc. being treated as independent contractors and denied the benefits that come with having an employer-employee relationship recognized

Domestic work is already often regarded as an arrangement that does not fit within traditional employment frameworks – in other words, it is ripe for co-optation by the gig economy's narrative of flexible, non-traditional work arrangements. If government intends to extend coverage of the *Act* to domestic workers, it would be strategic to do so before this happens.

- Throughout the discussion paper, it is noted that changes to the *Act* may place additional burdens on employers, including increased costs. The council asserts that this should not prevent government from advancing the proposed changes to the *Act*. We cannot fail to address gender-based discrimination or fail to extend basic protections to vulnerable groups because it may result in higher costs for their employers. We cannot ask domestic workers to continue to effectively subsidize their own employment by accepting inadequate compensations.