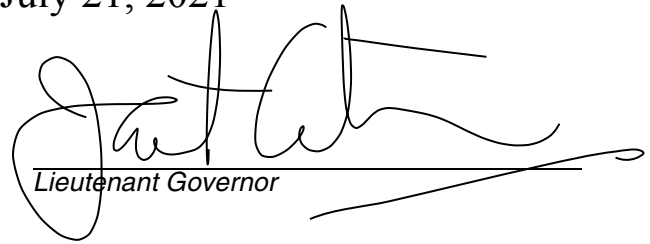


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 489

, Approved and Ordered July 21, 2021



Lieutenant Governor


**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that,

- (a) effective August 15, 2021, sections 1 (a), 22 to 28, 33, 35 (e) and (f) and 42 of the *Employment Standards Amendment Act, 2019*, S.B.C. 2019, c. 27, are brought into force,
- (b) effective October 15, 2021, sections 1 (b), 6, 10, 34 (a) and (b), 35 (d) and 38 of the *Employment Standards Amendment Act, 2019*, S.B.C. 2019, c. 27, are brought into force, and
- (c) effective October 15, 2021, the Employment Standards Regulation, B.C. Reg. 396/95, is amended as set out in the attached Schedule.



Minister of Labour



Presiding Member of the Executive Council

*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Employment Standards Amendment Act, 2019*, S.B.C. 2019, c. 27, s. 44  
*Employment Standards Act*, R.S.B.C. 1996, c. 113, ss. 9 (1) and 127

Other: O.C. 1155/95

R10465055

## SCHEDULE

**1** *The Employment Standards Regulation, B.C. Reg. 396/95, is amended in section 1 (1) in the definition of “residential care worker” and in sections 4 (d), 13 (1) (c) and 14 by striking out “domestic” wherever it appears and substituting “domestic worker”.*

**2** *Section 1 (1) is amended by repealing the definition of “sitter” and substituting the following:*

**“home care worker”** means a person who is employed in a private residence solely to provide care for an adult, but does not include any of the following:

- (a) a nurse;
- (b) a therapist;
- (c) a live-in home support worker;
- (d) an employee of a business that provides home care services;

**“sitter”** means a domestic worker, or other person, who is employed in a private residence solely to provide child care, but does not include any of the following:

- (a) a nurse;
- (b) a therapist;
- (c) a live-in home support worker;
- (d) an employee of a day care facility or other business engaged in providing child care;
- (e) a person who resides at the employer’s private residence;

**3** *Section 13 is amended*

**(a)** *in subsection (1) by striking out “of a domestic” and substituting “of a domestic worker who resides at the employer’s private residence”, and*

**(b)** *by repealing subsections (2) and (3) and substituting the following:*

- (2) The employer must provide the information required under subsection (1) in writing to the director within 30 days after the date the employee was hired.
- (3) An employer must provide the director with written notice of a change to the information provided under subsection (1) within 6 months of becoming aware of the change.

**4** *Section 32 (1) is amended*

**(a)** *by repealing paragraph (c) and substituting the following:*

- (c) a sitter who works for an employer for an average of 15 hours or less per week in any 4-week period; , and

**(b)** *by adding the following paragraph:*

- (c.1) a home care worker who works for an employer for an average of 15 hours or less per week in any 4-week period;

**5** *The following sections are added:*

**Exclusion from hiring children requirements**

**37.17** Section 9 [*hiring children – under 16 years of age*] of the Act does not apply in respect of a sitter.

**Exclusion from written contract requirements for domestic workers**

**37.18** Section 14 [*written employment contract required for domestic workers*] of the Act does not apply to a domestic worker who does not reside at the employer’s private residence.

**6** *The following Division is added to Part 7.1:*

**Division 0.1 – Children (Less Than 15 Years Old)**

**Parent or guardian consent required**

**45.04** A person must not employ a child who is under 15 years of age unless the person has obtained the written consent of the child’s parent or guardian.

**7** *The heading to Division 1 of Part 7.1 is repealed and the following substituted:*

**Division 1 – Children (12 to 14 Years Old) .**

**8** *Section 45.4 is amended by*

*(a) renumbering the section as section 45.4 (1), and*

*(b) adding the following subsection:*

(2) Subsection (1) does not apply in respect of a child employed as a sitter or as a home care worker.

**9** *The following Division is added to Part 7.1:*

**Division 4 – Light Work**

**Exclusion**

**45.21** Section 9 (2) (a) and (b) (ii) [*hiring children – under 16 years of age*] of the Act does not apply in respect of a child 12 to less than 16 years of age if

(a) the employer does not require or allow the child to perform work listed in section 45.24 [*work and occupations that are not “light work”*] of this regulation, and

(b) any of the following circumstances apply:

(i) a member of the child’s immediate family is a controlling shareholder, sole proprietor or partner of the business or farm that employs the child;

(ii) the child is employed, in relation to a sports or recreational activity for children less than 16 years of age, as a camp assistant, assistant coach, referee or umpire.

## Prescribed work

**45.22** Subject to section 45.24 [*work and occupations that are not “light work”*], for the purposes of the definition of “light work” in section 9 (1) of the Act, the following work is prescribed:

- (a) administrative and secretarial work;
- (b) the following work at premises selling, or providing, goods or services to customers:
  - (i) assembling, sorting and packaging orders;
  - (ii) bagging and carrying customers’ orders;
  - (iii) laying out displays;
  - (iv) price marking, labelling and tagging goods;
  - (v) stocking shelves;
  - (vi) unpacking, counting, recording, packing and weighing goods;
- (c) the following work at premises preparing, selling or serving food or beverages:
  - (i) preparing food;
  - (ii) bussing tables;
  - (iii) dishwashing;
  - (iv) hosting duties;
  - (v) setting up and taking down tables, chairs, trays, dishes, beverage dispensers and other dining room or buffet equipment, furniture and supplies;
- (d) setting up, taking down, retrieving and storing sports and recreation equipment;
- (e) child care;
- (f) cleaning and tidying;
- (g) laundry and ironing;
- (h) the following yard and maintenance work:
  - (i) clearing leaves;
  - (ii) clearing snow;
  - (iii) cutting grass;
- (i) painting, other than spray painting;
- (j) repairing items;
- (k) gardening;
- (l) gathering and hand harvesting;
- (m) work related to the care of domesticated animals;
- (n) packing, moving and unpacking household goods;
- (o) delivering goods;
- (p) troubleshooting user issues with technology.

### **Prescribed occupations**

**45.23** Subject to section 45.24, for the purposes of the definition of “light work” in section 9 (1) of the Act, the following occupations are prescribed:

- (a) cashier;
- (b) computer programmer;
- (c) golf caddy;
- (d) lifeguard or assistant lifeguard;
- (e) messenger or courier;
- (f) peer counsellor;
- (g) performing artist;
- (h) recreation or community program attendant;
- (i) referee or umpire;
- (j) salesperson, other than a door-to-door salesperson;
- (k) server of food or drink or both;
- (l) sports or recreational coach or assistant coach;
- (m) sports or recreational instructor;
- (n) summer or day camp leader, counsellor, assistant or attendant;
- (o) tutor or instructor;
- (p) visual artist or graphic designer;
- (q) writer, editor or similar occupation in communication.

### **Work and occupations that are not “light work”**

**45.24** Work or an occupation that involves the following is not light work:

- (a) repairing, maintaining or operating machinery, tools or other equipment that could harm the health or development of a child who is 14 or 15 years of age;
- (b) entering or working at a place in which a minor is not legally permitted to enter or work;
- (c) entering or working at a site of construction, heavy manufacturing, heavy industrial work or other work that could harm the health or development of a child who is 14 or 15 years of age;
- (d) entering or working in a unit or space designed to retain an oxygen-deficient or toxic atmosphere;
- (e) entering a walk-in freezer or cooler other than to place or retrieve an item;
- (f) handling, preparing, selling, serving or otherwise being in contact with, or being exposed to, a good or service that a minor cannot legally distribute, purchase, use or consume;
- (g) lifting, carrying or moving an item or animal, if doing so puts the child at risk of a musculoskeletal injury;
- (h) using, handling, applying or being exposed to a hazardous substance, as defined in section 13 of the *Workers Compensation Act*.

**10** *The following section is added:*

**Transition – employment of children**

**52** Section 9 [*hiring children – under 16 years of age*] of the Act does not apply in respect of a child if all of the following circumstances apply:

- (a) the child was hired before October 15, 2021;
- (b) the child’s position and duties have not changed since October 15, 2021;
- (c) on January 15, 2022, the child will be
  - (i) 16 years of age, or
  - (ii) 14 years of age, and the child’s position and duties involve only the performance of light work.