Submission by Parkdale Community Legal Services and the Workers' Action Centre

Labour Program External Consultation: Strengthening the AMP system to improve compliance with the Canada Labour Code

June 1, 2026

Parkdale Community Legal Services
1229 Queen Street West, Lower Level
Toronto, ON M6K 1L2
mary.gellatly@pcls.clcj.ca

Workers' Action Centre
720 Spadina Avenue, Suite 202
Toronto, ON M5S 2T9
deena.ladd@workersactioncentre.org

These submissions are made on behalf of the Workers' Action Centre (WAC) and Parkdale Community Legal Services (PCLS). Each year, our organizations support thousands of non-unionized workers in low wage and precarious employment. Through case work, public legal education and law reform initiatives, it is our mission to support workers in their struggle for dignity and decent work.

We appreciate the opportunity to take part in this consultation. As other LSAC participants noted during the committee's May 26, 2026 meeting, employers and worker representatives largely agree that the AMP system, which was only implemented in 2021, needs to be made more effective. The Federal Government's recent changes to Administrative Monetary Penalties (AMPs) policy and procedure, including the imposition of daily penalties and expansion of public naming policy, show that the Federal Government is trying to make AMPs an effective enforcement tool. To date, however, AMPs have been significantly under utilized. Over the past five years, the Labour Program issued 41 AMPs, with the majority of those being for Part II Occupational Health and Safety violations with fines ranging up to $87,000. Only ten AMPs have been issued for Part III labour standards violation ranging in amounts of $3,500 to $7,000. Only two out of the ten fines have been paid and in none of the cases has compliance been confirmed. AMPs will never be an effective enforcement tool if they are not used or if the penalty amounts remain uncollected.

Furthermore, as we have explained at length in our submissions to the Federal Government's "Consultation for Building Canada Strong for All – Powered by Canada's Workers," for the AMP system to serve its deterrent purpose, the Labour Program should also continue to improve on other gaps in the enforcement system. The current voluntary compliance approach to labour standards enforcement is ill-suited to contemporary employment practices, particularly in industries dominated by non-standard employment models.[1] Ineffective enforcement of the Code and widespread employer violations are leaving many federally regulated employees, particularly truck drivers, without protection from deteriorating wages and working conditions.

[1] Prof. Vosko's analysis of the federal Labour Program concluded that the reliance on a compliance model of enforcement may contribute to the erosion of labour standards, particularly for those workers in industries where small firms and precarious employment dominate, and recommends a more proactive deterrence model of enforcement: Vosko, Leah; Noack, Andrea (Andie); King, Adam; Osten, Victoria; Clare, Emily (2022). A Model Regulator? Investigating Reactive and Proactive Labour Standards Enforcement in Canada's Federally Regulated Private Sector. Toronto Metropolitan University. Journal contribution.
https://doi.org/10.32920/21631922.v1

It is heartening to see the Labour Program paying close attention to the pernicious and persistent issues of wage theft and misclassification. For the AMP system to serve its deterrent purpose, the Labour Program should also continue to improve on other gaps in the the enforcement system:

- **Remove barriers to the Labour Code complaint process**
    - Increase resources in the Labour Program to reduce wait times for complainants (Currently workers are told that they will face a 15 to 16 month wait until their complaint can even be assigned to a Labour Affairs Officer for investigation)
    - Establish a two year time limit for filing complaints for reprisals, unjust dismissal and monetary and non-monetary complaints under the Labour Code so that workers who spend months trying to resolve wage issues directly with their employers are not timed out of the complaint process;
- **Increase proactive and expanded inspections and reduce delays in enforcement caused by giving employers opportunities to voluntarily comply after violations have been confirmed**
- **Significantly improve collections efforts for compensation orders and AMPs**
    - Enact provisions in Part III of the Code to facilitate the collection of money owed
    - Prosecute all employers that fail to comply with orders to pay
    - Adequately staff and resource collection activities within the Labour Program.
- **Close legislative gaps that help employers get away with wage theft**
    - Hold all liable parties jointly and severally liable for the unpaid wages;
    - Enact a definition of deemed work time where work shall be deemed to be performed by an employee for an employer, regardless of worksite(s), and compensated for all time spent at the behest of the employer;
    - Regular rate of pay should be defined in the Code to clarify that the employer shall pay the regular rate of pay agreed to by the employer and employee for hours worked;
    - Adopt the ABC test to determine employee status.

These suggestions are directly responsive to the issues raised by non-unionized workers in the FRPS. Attached for your review is a recent report which presents the

findings of a survey conducted by Justice for Truck Drivers and West Coast Trucking Association with over 400 truckers in 2025.

In the submissions below we focus on the specific questions posed in the discussion paper circulated to the Labour Standards Advisor Committee (LSAC) related to the AMP program specifically. We welcome the opportunity to discuss these matters further.

3.1 General increase in baseline penalty amounts

1. Should all base penalty amounts be raised? If so, by how much?
2. Do you have concerns about potentially introducing an indexing formula to account for future inflation?

Yes, base penalty amounts should be raised and indexed to inflation.

At their current rates, AMPs have little to no deterrent effect. The Labour Program's current policy treats AMP's as an appropriate escalation for employers who remain stubbornly non-compliant. For such employers, who are in flagrant violation of the law and may owe thousands of dollars to their workers, the persuasive effect of an additional $200-$2000 dollars in fines will be minimal.

This is all the more true when you take into account the compounding effect of other systemic enforcement issues, such as the inability of the labour program to actually recover the majority of unpaid wages it deems to be owing. As recently reported, the Federal Government has collected less than 20 percent of the $6 million in payment orders issued to trucking firms since 2022.[2] Employers are less likely to take penalties seriously if they know that CRA will not be able to collect payment for the AMPs, or the underlying compensation orders that gave rise to those penalties.

[2] Sara Mojtehedzadeh and Mahima Singh: "The Big Rig: Weak oversight and regulatory loopholes let predatory trucking firms run roughshod over vulnerable drivers" (Globe and Mail: May 29 2026): https://www.theglobeandmail.com/canada/article-trucking-industry-drivers-canada-investigation/.

For monetary violations, the Labour Program should consider calculating AMPs in relation to the amounts deemed owing by a given employer. For example, AMPs for monetary penalties could be set to at least 50 percent of the total amount of monetary violations for first time offenders, and then increase accordingly.

Several U.S. states have implemented laws which triple the damage awards for wage theft victims. Though these laws vary from state to state, they generally make it possible for workers to be awarded up to three times the amount of unpaid wages they are owed.[3] The Federal Labour Standards Act similarly allows for "liquidated damages," which tend to be double the confirmed amount of wages owed. This approach has been proven by at least one study as the most effective state policy for combatting wage violations.[4]

For non-monetary violations, AMPs should be significantly increased to ensure that the lowest baseline penalty amount (individual, violation type A) is at least $1000. This is the best way to ensure that fines are not simply a cost of doing business for employers.

3.2 Reclassification of specific violations to increase penalties

Questions:

3. Should wage payment violations carry higher penalties? If so, at which level should they be reclassified?

4. If penalties for wage violations are raised, should a particular penalty amount be reduced if the employer pays all wages owed to the employee? Conversely, should penalty reductions for early payment of an AMP be denied if wages remain unpaid?

5. Should the AMPs system impose any additional consequences for serious cases of wage Theft?

[3] States with triple damage laws include Arizona, Massachusetts, New Mexico, Ohio, Idaho, Maine, Maryland, Massachusetts, Michigan, Nebraska, North Dakota, and Vermont (National Employment Law Project (NELP) (2011). Winning Wage Justice: An Advocate's Guide to State and City Policies to Fight Wage Theft. https://www.nelp.org/wp-content/ uploads/2015/03/WinningWageJustice2011.pdf.

[4] Galvin, D. (2016). Deterring Wage Theft: Alt-Labor, State Politics, and the Policy Determinants of Minimum Wage Compliance. Perspectives on Politics vol. 14, no. 2. https://faculty.wcas.northwestern.edu/djg249/galvin-wage-theft.pdf

Yes, wage payment violations should carry a much higher penalty.

Wage theft should not be treated as a minor contravention. As the Labour Program is aware, non-payment of wages is a systemic problem, particularly in the trucking sector, but also in other (predominately non-unionized) industries.

As it stands, the cost/benefit analysis in these industries tips in favour of committing wage theft for many employers because even if they are caught, committing wage theft still saves them money and will not significantly threaten their business. Employers who do not commit wage theft are at a competitive disadvantage, since their costs are higher. This incentivizes wage theft and drives wages down across the labour market, which hurts our economy overall. For the individuals directly impacted, wage theft can have significant negative consequences for workers and their families. The assumption that workers are made whole through the labour program complaint process is false: as mentioned above, workers' likelihood of recovering wages through the complaint process is actually quite low, and most misclassified workers are unable to recover wages through WEPP.

In order to change employer's cost/benefit analysis to effectively deter wage theft, we recommend that:

- **monetary violations should be categorized as TYPE D;**
- **The penalty amount should not be reduced if the employer pays all wages owed to the employee;**

Serious cases of wage theft, which should be defined to include any case where compensation is found owing to 2 or more employees; or the amount owed to an individual employee for all monetary violations combined is greater than $6,000;[5] or where the employer has been found non-compliant for similar violations, should trigger further action by the Labour Program including but not limited to:

[5] Which is about one month of employment income calculated using March 2026 average weekly earnings as per the the Survey of Employment, Payrolls and Hours (SEPH): https://www150.statcan.gc.ca/n1/daily-quotidien/260528/dq260528b-eng.htm.

- **An AMP or prosecution should be mandatory, not at the discretion of the investigating officer;**
- **If an AMP is imposed, it should be calculated as a TYPE E violation;**
- **The employer's name and the name of all corporate directors/owners should be published for a set period of time (2 years), regardless of whether wages and/or AMP are paid;**
- **An expanded investigation of the workplace should be triggered. The employer's records should be investigated going back at least two years and any self-auditing stage of the investigation should be skipped.**

Misclassicification

6. Should misclassification of employees under Part III (Labour Standards) of the Code be a type "D" violation?

7. Should similar misclassification violations under Part II (Occupational Health and Safety) of the Code be classified at the same level?

Yes, misclassification is a particularly pernicious form of wage theft that strips workers of their rights and protections in many different ways. To increase deterrence and stop the degradation of working conditions in the federal public sector, first instance violations for misclassification under both Part II and Part III of the Act should be treated as at least type D violations.

Obstruction of inspections/investigations:

8. Should obstruction or hindrance of inspections/investigations be reclassified from type "A" to a higher type of violation?
9. Are there any other violations that are currently classified at the "A" level that should be treated as more serious than administrative or technical requirements? More generally, are there any other labour standards violations that should be reclassified, either to a higher or lower level?

Yes, obstruction or hindrance of inspections/investigations should be reclassified as at least a Type C violation and AMPs should be issued immediately without employers being given time to comply, and should be mandatory where an employer knowingly impedes or hinders an investigation.

Employers bear the onus to keep employment records and generally hold exclusive knowledge about aspects of their business arrangements. Their non-cooperation can therefore seriously undermine a Labour Program investigation and/or inspection. Strong deterrence mechanisms are needed to ensure that employers cooperate so as not to undermine the entire enforcement regime.

Similarly, officers should be empowered to investigate and issue orders against employers for any claims of reprisal alleged during the course of their investigations/inspections. That is, employees should not be required to make separate reprisal complaints to the CIRB. AMPs under TYPE C should be mandatory for any reprisals, particularly reprisal as defined in section 246.1(1)(b), which relate to the punishment of an employee who makes a complaint or cooperates with the investigation of an employer under Part III of the Act.

Serious Occupational Health and Safety violations

Questions:
10. Do you have any concerns about reclassifying any of the violations listed above?
11. Are there any other occupational health and safety violations that should be reclassified?

3.3 Additional aggravating factors increasing penalty amounts

12. Which additional aggravating factors, if any, should affect penalty calculation?
13. Should mitigating factors be considered to reduce penalty amounts (such as actions that reduce the harm of violations or remediate its effects)?
14. Should the current aggravating factor for a history of non-compliance be revised to better address severe recidivism? If so, how?

Additional aggravating factors which should triple the base penalty amount for an AMP include:

- **Reprisal against employees who try to enforce their rights under the Code;**
- **A finding of "serious wage theft" as mentioned above;**
- **Violations affecting particularly vulnerable employees, such as temporary foreign workers and other workers with precarious immigration status; and**
- **Misclassification.**

Where an investigator determines that aggravating circumstances are present, an AMP should be mandatory.

Given that AMPs are currently discretionary, mitigating factors are not necessary, as investigators can determine on a case by case basis whether issuing a notice of violation is appropriate.

The current definition of "history of noncompliance" in the regulations should include employers who are issued payment orders or notices of voluntary compliance who are then issued orders for similar or more serious violations within 5 years. AMPs are relatively new and, like prosecutions, have been under utilized in the enforcement of Part III of the Code. This means that most repeat violators do not currently meet the definition of having a history of noncompliance, and can continue to benefit from illegitimate business practices without facing appropriate financial consequences. To address recidivism, the definition needs to be expanded to capture employers who have been violating the code but have not previously been prosecuted or issued an AMP.

3.4 Additional "housekeeping" regulatory changes

15. Do you have any concerns about removing the designation of violations where provisions already specify the consequences of non-compliance?

Given that AMPs are currently discretionary, it does not seem necessary to remove the designation of violations where provisions already specify the consequences of non-compliance. Employers may still abuse their authority with regard to scheduling and the granting of leaves contrary to the Code. Officers will use their discretion not to issue AMPs where a provision has technically been violated, but both employee and employer agree with the arrangement. Providing clarification in an IPG is preferable to changing the regulations limiting investigators ability to use enforcement tools when there are some, albeit rare, occasions where it may be necessary to do so.

Technical updates proposed to improve the AMPs Regulations.

16. Are there any concerns with these potential technical changes?

No concerns.

5. Potential Changes to Policies and Procedures

The Labour Program is exploring broader communication channels (including social media, Job Bank, advertisements, and press releases) to raise awareness of published names of employers who committed violations. In addition, the Labour Program currently only publishes the names of businesses that have received AMPs even though individuals such as directors can receive an AMP.

17. Which publication methods (e.g., social media) do you support or oppose?
18. Should the Labour Program explore publishing the names of individuals who have received an AMP (e.g., executives)?

We support the Labour Program's use of broader communication channels for the publication of the names of employers who have been found in violation of the law. The Labour Program should consider regularly posting names on social media, and circulating newly published names with community partners who work with vulnerable workers, such as worker centers, legal clinics, and employment centers.

Individuals who have received AMPs should also have their names published. It is common practice for employers to abandon one corporate identity and then restart business using the same illegal practices under a different name. Employees may not even know the name of the corporation that legally employs them. Piercing the corporate veil is essential to combat wage theft, where employers are using that corporate identity to continue to violate workers' rights.

6. Additional Questions

19. How could the AMPs system be strengthened to deter non-compliance?
20. What costs, administrative burdens, or benefits might result from the proposed changes?
21. Are federally regulated employers aware that they may receive an AMP for labour standards or occupational health and safety violations? If not, how can awareness be improved?
22. How can communication products explain the AMPs system better?
23. How can current practices for the public naming of violators improve?
24. How can the administration of the AMPs system improve (for instance, timeliness of penalties, review and appeal processes)? Are there additional situations in which an AMP should be issued immediately without allowing for time to comply?
25. Are there cost-effective methods that could improve the detection of violations?

26. Is the current approach of considering the category of violator (individual, micro business, small business, large business/government) when calculating penalties fair and effective? Are the definitions for micro, small, and large businesses appropriate? Should thresholds for the number of employees or annual revenue be adjusted?

Currently, the Labour Program classifies business size for AMPs as Micro Business (5 or less employees), Small Business (less than 100 employees) and Large Business (more than 100 employees). In 2025, Statistics Canada reported that 83.4% of Truck Transport Companies were micro operators while 16.1% were small employers (5 to 99 employees).[6]

[6] Statistics Canada, Businesses - Canadian Industry Statistics. https://www.ised-isde.canada.ca/app/ixb/cis/businesses-entreprises/484

This means that the industry with the highest percentage of Labour Code violations faces the lowest penalties.

Other jurisdictions, such as Ontario, do not levy fine amounts based on business size. Penalty amounts (Contravention Notices and Part I tickets) are the same regardless of business size. We recommend that the amount of AMPs not be differentiated on the basis of size.

27. Are there other issues or perspectives you would like to raise in this review?

Ways to further strengthen the AMP system

- **Employers should not be permitted to initiate a request for review or appeal of a notice of violation unless they have paid the money deemed owing for the compensation order(s) and AMP(s) that would be the subject of the review into trust with the Labour Program. In Ontario and several other jurisdictions, employers cannot initiate a request for review of a payment order or penalty with the Ontario Labour Board unless they have paid the money in dispute in trust to the Ministry of Labour (ESA s117). This practice would ensure that employers are not simply using the review/appeal process to delay the Labour Program's enforcement efforts.**
- **AMPs should be mandatory, not discretionary. The overly complex and discretionary AMP scheme has rarely been applied over the past 5 years for wage theft. Officers have reported to us that they are not able to decide to apply an AMP during investigations or after employers fail to pay wages. Rather, there are multiple layers of decision making at the regional and national level leading to the under utilization of this penalty. AMPs should not be discretionary for most monetary and non-monetary violations. The Labour Program could gain efficiencies and save resources by requiring Labour Affairs Officers to issue AMPS for most confirmed violations.**
- **Improve collectives of unpaid compensation orders and penalty amounts. For enforcement to be effective, employers must know that the Labour Program can and will force them to pay wage violations once they are detected. This is currently not the case. Part III of the Canada Labour Code contains only two**

provisions for collections of outstanding orders to pay. The Program can issue third party orders to a party that is indebted to the employer in violation or to a bank if known. Otherwise, the Program can file the order to pay in federal court. The Program takes no further action on enforcing the order at Federal Court – that is up to the victim of wage theft. The Federal Court process for enforcing a debt is complex, costly, and time consuming, particularly if the debtor is uncooperative. It is not a process which most workers can access without hiring legal counsel. Placing the burden on employees whose labour code rights have been violated to pay thousands of dollars to a lawyer to recover unpaid wages is unfair and contravenes the remedial purposes of the Labour Code. Due to the failures of the compliance model of labour standards enforcement, many provinces and territories have enacted collection tools and established collection procedures within their labour standards claims enforcement. The Canada Labour Code must be modernized to do the same.

Cost-effective methods that could improve the detection of violations

Third Party Partnership

In the United States, some labour enforcement agencies have adopted a collaborative approach to minimum standards enforcement, partnering with worker centers and unions to improve compliance in hard-to-reach industries. Under this model, which has been executed at the federal, state and municipal level, community-based organizations received public funding to assist labour agencies by providing education, doing outreach to marginalized communities, and referring cases to enforcement agencies. Community organizations can assist in practical, tangible ways in relation to ongoing investigations, by keeping in touch with worker witnesses who move, answering worker inquiries about case status, and locating workers owed restitution. In California, for example, ongoing partnerships between the state and labour organizations allowed the labour commissioner to intensify enforcement in several low-wage industries. After the implementation of the program, the labour commissioner has been able to bring bigger citations against employers, assessing over $50 million in wages per year

between 2017 to 2020, which is 40 percent higher than the wages assessed in the five preceding years.[7]

There are several organizations across the country that represent, support, and advocate for non-unionized workers in the FRPS, including the Workers Action Centre, community legal clinics, the West Coast Trucking Association, the Immigrant Workers Centre of Montreal, Justice for Truck Drivers, Labour Community Services of Peel, the Halifax Workers Action Centre – to name only a few. We speak to thousands of workers every year and assist workers in filing hundreds of Federal Labour Standards Complaints every year. Our members and staff intimately understand the issues that precarious workers face in the FRPS and how the current laws and administrative processes affect them. We recommend that the Labour Program consider a pilot project working in collaboration with third parties with expertise in the trucking industry to assist the Labour Program in identifying the worst actors in the trucking sector for investigation, disseminating information with workers (particularly with migrant workers who predominately do not speak English/French), and in order to help the labour program hear directly from workers what support they need to be able to enforce their rights under the Code.

[7] Lazo, Alejandro, and Jeanne Kuang. 2022. “To Fight Wage Theft California Gets Strong Assist from Worker Centers.” California Divide, November 15, 2022.