

LABOUR UPDATE COMC 2024

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Changes to the Canada Labour Code

- Ban on Replacement Workers
- Maintenance of Activities
- Written Employment Statement
- Enhanced Termination Notice and Statement of Benefits



Replacement Worker Ban

- The Code previously allowed replacement workers, unless it was for the “**demonstrated purpose of undermining a trade union’s representational capacity**” rather than the pursuit of legitimate bargaining objectives” 94(2.1) ULP
- The new legislation limits the use during a strike or a lockout of:
 - any employee excluded from the bargaining unit hired after the day on which notice to bargain collectively is given;
 - any contractor, other than a dependent contractor, or any employee of another employer;
 - any employee who was transferred to the workplace at which the strike or lockout is taking place after the day on which notice to bargain collectively is given;
 - any volunteer, student or member of the public

Replacement Worker Ban

- Who can still work:
 - **Managerial employees** hired *prior* to the Notice to Bargain
 - **Contractors and Agency Workers** hired *prior* to the stoppage, who perform the same manner of work to the same extent as prior to the Notice to Bargain
 - Workers **necessary to prevent imminent or serious threats** to life, health, safety, destruction of properties, or environmental damages

Maintenance of Activities

- Maintenance of activities requirements are outlined 87.4 of the CLC – to **“continue to the supply of services, operations of facilities or productions of goods to the extent necessary to prevent an immediate and serious danger to the safety or health of the public”**
- The parties can sign an agreement about the maintenance of activities or the question can be adjudicated by the CIRB
- Right to strike or lockout is suspended pending adjudication
- Criticisms of the system
 - Leave the responsibility for protecting the health and safety of the public to the employer and union
 - Important delays in getting a decision

Maintenance of Activities

- The new legislation highlights:
 - The parties must enter into an agreement with respect to the maintenance of service
 - The supply of service, operation or production
 - The manner the parties must continue to maintain the activities
 - File the agreement with the Minister of Labour and the CIRB – even if they conclude that there will be no continuation of services
 - CIRB to issue a decision no later than 82 days from the receipt of the application

Written Employment Statement

- Since October 2023, Employers are required to provide employees with a **written employment statement that outlines terms and conditions of employment including:**
 - job title and duties, location, term, training, pay information
 - mandatory deductions, process for reimbursement of expenses (and a new statement if there are changes).
- Employer must keep a copy for 36 months following the end of employment.
- Employers must provide employees with copies of their rights under the CLC within 30 days of commencing employment

Notice Related to the Canada Labour Code — Part III

Part III of the [Canada Labour Code](#) contains provisions setting out minimum labour standards for employers and employees in the federal jurisdiction.

These provisions include standards relating to the following:

Hours of work

Maximum hours of work

Weekly day of rest

Notice of work schedule

Notice of shift changes

Overtime pay or time off

Right to refuse overtime

Right to request flexible work arrangements

Minimum wages

Equal wages

Annual vacations

General holidays

Multi-employer employment

Maternity-related reassignment and leave

Maternity leave

Parental leave

Compassionate care leave

Leave related to critical illness

Leave related to death or disappearance

Personal leave

Leave for victims of family violence

Leave for traditional Aboriginal practices

Bereavement leave

Sick leave

Work-related illness and injury

Leave of absence for members of the reserve force

Group termination of employment

Individual termination of employment

Severance pay

Unjust dismissal

Long-term disability plans

Genetic testing

Garnishment of wages

Payment of wages

For more information concerning these provisions, please contact your nearest Labour Program office of the Department of Employment and Social Development or visit the following website:

<https://www.canada.ca/en/employment-social-development/programs/employment-standards/federal-standards.html>

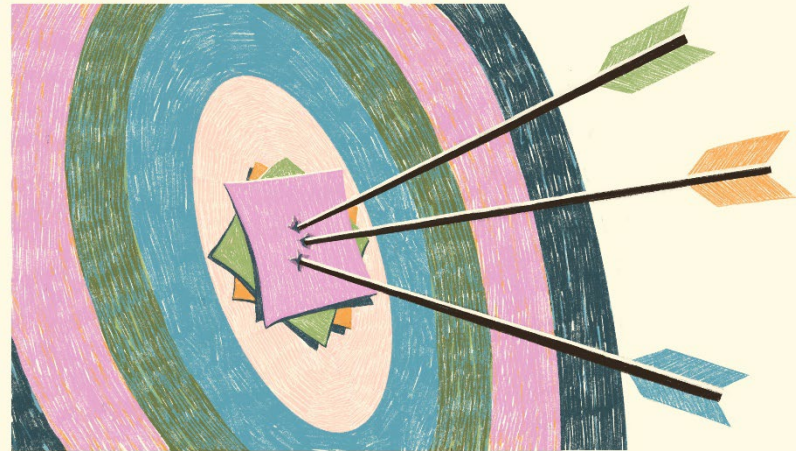
All inquiries will be treated confidentially.



Enhanced Notice of Termination

- Effective February 2024, employers are now required to provide **greater notice of termination under the Code**. (It does not impact statutory severance, or Unjust Dismissal)
- **New:**
 - 2 Weeks after 3 Months Service
 - **3 weeks** after 3 years service
 - **1 additional week per year of service** up to maximum of 8 weeks
- Employers should review current job offers/employment agreements/contracts/severance policies for compliance and updating to ensure they are enforceable

ADDITIONAL CHANGES AFFECTING FEDERAL EMPLOYERS



Menstrual Products

- As of December 2023, employers are required to provide employees, at no cost, access to menstrual products like pads and tampons in workplaces
- The products must be provided in each toilet room or where not possible, an alternative location in each workplace that is private and accessible

On the Horizon: Right to Disconnect

- In Budget 2024, the Government proposed amendments that will require all federally-regulated employers to establish a **Right to Disconnect Policy** in their workplace
- Under the Policy, employers must institute limits for contacting employees outside of scheduled work hours
- The Right to Disconnect has already been enshrined in Ontario as provincial legislation, and we project the Federal policy to be constructed similarly
- The enactment of this change is not imminent

FEDERAL *PAY EQUITY ACT* UPDATES



Pay Equity Plans and Incoming Regulations

- The **Pay Equity Act** has existed since 2018.
- In 2023, new regulations were pre-published, which come into force this year
- **The Pay Equity Act requires:**
 - Employers with 10 or more employees to proactively examine their compensation practices and ensure that workers in predominantly female job classes receive equal pay for work of equal value
 - Employers to develop and post a **pay equity plan by September 3, 2024**
 - Employers of greater than 100 employees or greater than 10 unionized employees to form a **pay equity committee**

Preparing for Pay Equity

- To develop your Pay Equity Plan by September 3, 2024 you must:
 - **Establish a Pay Equity Committee**
 - Employer bears the responsibility of establishing a committee with representatives of the Employer and Employees
 - All members have one vote, but goal is consensus
 - Minimum 3 members, at least half of which are women, and 2/3 of which are employee representatives
 - **Identify Job Classes**
 - Jobs that have similar duties, responsibilities and qualifications should be classified together

Preparing for Pay Equity

- **Determine the gender of job classes**
 - If at least 60% of the positions in a class are – or have been historically – occupied by men or women, the class is deemed to be a predominantly male or female job class
 - If not – it is neutral, and outside the pay equity analysis
- **Value the Work of Each Job Class:**
 - Assess skills, responsibilities and working conditions
 - Each “job factor” will be equated to a “points value”
- **Calculate the Total Compensation per Class**
 - Only required for gendered classes
 - Calculated in dollars per hour but based on total compensation including commissions, bonuses, incentives, benefits etc.

PROVINCIAL UPDATES



BC Pay Transparency Act

- Effective November 1, 2023, employers must include the expected salary or salary range for a job in any advertisement for a publicly advertised job opportunity
- Employers are not prevented from agreeing to pay a salary than what is publicly advertised
- Employers are now prohibited from
 - seeking pay history information about a job applicant
 - dismissing, suspending, demoting or disciplining an employee who
 - asks their employer about their pay
 - reveals their pay to another employee

BC amendment to the Labour Relations Code

- Appointed in January 2024, the Labour Relations Code Review Panel was tasked to provide recommendations to ensure BC's labour law keep up with the needs of today's workplace
- The Panel reached out to the different stakeholders, including workers, labour organizations, business/industry group, Indigenous groups, the legal profession and the public
- Panel is tasked with providing recommendations to the government by June 30, 2024

BC Definition of Strike

- On April 25, 2024, Bill 9 – *The Miscellaneous Statutes Amendment Act* – received Royal Assent.
- Amended the definition of “strike” in the B.C. *Labour Relations Code*, which will now allow provincial employees to refuse to cross a federal picket line, or that of other provincial employers.
- This new law overturns a previous Labour Relations Board’s determination.



Questions?

North America: Canada - Mexico - United States

Central & South America: Argentina - Brazil - Chile - Colombia - Panama - Peru - Venezuela

Western Europe: Austria - Belgium - Cyprus - Denmark - Finland - France - Germany - Greece - Ireland - Italy
Luxembourg - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - United Kingdom

Eastern Europe: Belarus - Czech Republic - Estonia - Hungary - Latvia - Lithuania - Poland - Romania - Russia - Slovakia - Turkey - Ukraine

Middle East & Asia Pacific: China - India - Israel - Japan - Korea, Republic of - New Zealand - Singapore - United Arab Emirates

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