

Legal update

Bill C-44 – What federally regulated employers must know

June 2017

Employment and labour

Bill C-44 received royal assent on June 22, 2017. Some of the legislative amendments, which will come into force on a day to be fixed by order of the Governor in Council, will have a definite impact on labour relations and it is important that federally regulated employers be aware of such amendments.

Noteworthy changes

The following are the main highlights of this very large bill that employers concerned should know:

- The *Employment Insurance Act* (EIA) will be amended to, among other things:
 - allow for the payment of parental benefits over a longer period at a lower benefit rate;
 - allow maternity benefits to be paid as early as the 12th week before the expected week of birth;
 - create a benefit for family members to care for a critically ill adult;
 - allow for benefits to care for a critically ill child to be payable to family members.

In addition, the EIA will be amended to broaden the definition of “insured participant” as understood in Part II of the Act (Employment Benefits and National Employment Service). The support measures that may be established by the Canada Employment Insurance Commission will also be amended.

- Concurrently, the *Canada Labour Code* (CLC) will be amended to, among other things:
 - increase the maximum length of parental leave from 37 weeks to 63 weeks;
 - extend the period prior to the estimated date of birth when the maternity leave may begin to 13 weeks;
 - create a leave for a family member to care for a critically ill adult for a period of 17 weeks;
 - allow for the leave related to the critical illness of a child to be taken by a family member.

Other amendments to the CLC are expected to, among other things:

- transfer to the Canada Industrial Relations Board (CIRB) the powers, duties and functions of appeals officers under Part II of the CLC (Occupational Health and Safety) and of referees and adjudicators under Part III of the CLC (Standard Hours, Wages, Vacations and Holidays);
- provide a complaint mechanism before the CIRB under Part III of the CLC for employer reprisals;

- permit the Minister of Labour to order an employer to determine, following an internal audit, whether it is in compliance with a provision of Part III of the CLC and to provide the minister with a corresponding report;
 - permit inspectors to order an employer to cease the contravention of a provision of Part III of CLC;
 - extend, from 12 months to 24 months, the period with respect to which a payment order to recover unpaid wages or other amounts may be issued;
 - impose administrative fees on employers to whom payment orders are issued;
 - establish an administrative monetary penalty scheme to supplement existing enforcement measures under Parts II and III of the CLC.
- Finally, the *Wage Earner Protection Program Act* will be amended to transfer to the CIRB the powers, duties and functions of adjudicators under the Act.

Key things to remember

These amendments, in addition to repatriating many powers into the hands of the CIRB, amending the terms of maternity leaves and substantially increasing the length of parental leaves, must be read and understood in a broader context. Other bills, some of which will come into force shortly, will have a significant impact on labour relations for federally regulated employers.

For example another important piece of legislation, Bill C-4, seeks to amend the CLC to restore the procedures for the certification and the revocation of certification of bargaining agents that existed before June 16, 2015. It received royal assent on June 19, 2017, and came into force three days later. As a result, the amendments voted by the previous government that provided that certification or the revocation of certification of a trade union under the CLC must be conditional on obtaining a majority vote by secret ballot will now be void.

In addition to the federal government's clear intention to introduce new pay equity obligations for employers and the impending legalization of cannabis for recreational use that could have an impact on the workplace, it is reasonable to expect that federally regulated employers will be facing new labour relations challenges in the near future.

We will keep you informed of future developments on these issues.

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