News

Bill 138 – *Registered Human Resources Professionals Act, 2010*

Date: January 5, 2011

There has been much discussion recently in the human resources world about a Private Member's Bill that was introduced in the Ontario Legislature on November 23, 2010. If passed, Bill 138, the *Registered Human Resources Professionals Act, 2010*, would create a more comprehensive legislative framework for the regulation of the human resources profession, and would provide the Human Resources Professionals' Association (the "HRPA") with broad powers of self-regulation.

Background

The HRPA is a professional association of human resources practitioners, created under the *Human Resources Professionals Association of Ontario Act, 1990* (the "*Act*"). Among other things, the *Act* provides for the creation of a Board of Directors and the establishment of by-laws, including by-laws that relate to the academic requirements and experience for registration, member conduct and standards of practice. It further provides for the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence. The *Act* creates a single designation – the Certified Human Resources Professional ("CHRP") – for members who have satisfied the criteria set out in the by-laws.

Bill 138

Bill 138 would expand and update the regulatory structure governing the HRPA. Some of the notable features of the Bill include:

- The Bill would continue to permit persons to practise in the field of human resources without being a member of the HRPA.
- The Bill would establish several professional designations signifying membership in the HRPA and member status and qualifications. Misuse of these designations would be an offence for which persons could be subject to a $25,000 fine.
- The Bill would establish a complaints, discipline and appeal process, which could include the awarding of costs against a member.
- The HRPA would be given broad powers in respect of members found to have engaged in professional misconduct.
- The Bill would provide for investigations and "practice inspections" and empower investigators and inspectors to enter business premises, question individuals (including anyone who works with the practitioner) and require the production of documents or things believed to be relevant to the investigation. The Bill would make obstruction of an investigator or inspector an offence, with liability of up to $25,000 upon conviction.
- The Bill would also give the HRPA wide powers to determine whether a member has the capacity to engage in a human resources practice.
- Moreover, the Bill would permit for custodianship of a member's practice, including certain property related to that practice, in a variety of situations, including termination of membership, death and incapacity.

The proposed legislative changes outlined in Bill 138 are significant. One matter that is not entirely clear is how the proposed new regime would apply to members of the HRPA who are employed in organizations, especially the powers relating to investigations, inspections and custodianships. It is possible that these matters could be addressed in by-laws, and the Bill would grant the HRPA significant by-law making powers.

While the provisions of Bill 138 are potentially far-reaching, it is important to recall that it is a Private Member's Bill. Historically, very few Private Member's Bills are passed by the Legislature into law. At this time, it remains to be seen to what

extent Bill 138 will proceed through the legislative process, and we will continue to monitor its status over the coming months.

If you have any questions, please contact your regular Hicks Morley lawyer.