

Human Resources Legislative Update

Proposed Amendments to CIRB Regulation Published for Comment

Date: November 20, 2012

On November 17, 2012, the federal government published proposed [Regulations Amending the Canada Industrial Relations Board Regulations, 2001](#), inviting interested parties to comment on the proposed regulatory text within two weeks of the date of publication.

The proposed *Regulations* follow consultations conducted by the Canada Industrial Relations Board ("CIRB") throughout 2011 with labour and management stakeholders in the federally regulated sector, and are made under authority of the [Canada Labour Code](#) ("Code"). If registered, they will amend the [Canada Industrial Board Regulations, 2001](#). Among other matters, the amendments would include:

- A requirement that a party applying for intervenor status describe its interest in a matter before the CIRB, including an explanation of any prejudice it would suffer if the application were denied and how its interest is different from that of other parties.
- A requirement that the CIRB place a document on the public record where that document is relevant to the proceeding, except where it declares that document confidential. In declaring a document confidential, the CIRB may take into account specific direct harm to any party and whether that harm would outweigh the public interest in disclosure.
- Permitting the CIRB to make certain orders where a document is declared confidential, including an order that a portion of the document from which the confidential information has been removed be placed on the public record, that any portion of a hearing dealing with the confidential document be conducted in private, or that the document or any part of it be provided to the parties or only to their legal representatives.
- A new Part 5.1, "Maintenance of Activities." This Part pertains to essential services applications made under section [87.4 of the Code](#) by either a trade union or an employer where no agreement has been reached with respect to the ongoing maintenance of activities during a strike or lockout, required to the extent necessary to prevent an immediate and serious danger to the safety or health of the public. Part 5.1 stipulates the information to be included in these applications, such as a description of the services the applicant alleges are required and the immediate and serious risks to the public health or safety that the applicant alleges would occur if the CIRB does not allow the application.
- Numerous procedural changes to the conduct of proceedings before the CIRB, as well as a number of "housekeeping" type amendments.

Details on how to make submissions on the proposed regulatory text is found in the [Canada Gazette of November 17, 2012](#).