Human Resources Legislative Update

Amendments to CIRB Regulations Now in Force

Date: January 4, 2013

On December 18, 2012, the federal government registered Regulations Amending the Canada Industrial Relations Board Regulations, 2001 ("Regulations"), which amend the Canada Industrial Relations Board Regulations, 2001 ("CIRBR") made under the Canada Labour Code ("Code"). As previously reported, the government had invited comments on the proposed Regulations in November 2012.

The Regulations came into force on December 18, 2012 and change the title of the CIRBR to the "*Canada Industrial Relations Board Regulations, 2012.*" Among other matters, the amendments made by the Regulations include:

- A requirement that a party applying for intervenor status describe its interest in a matter before the Canada Industrial Relations Board ("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.