

Federal Post

Secret Ballots No More: Card Check Certification Returns to Federal Sector

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On June 19, 2017, Bill C-4, [An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, the Public Service Labour Relations Act and the Income Tax Act](#), received Royal Assent. In this *Federal Post* we discuss Bill C-4 and its significance for employers in the federal sector.

Bill C-4 fulfills an election promise of the Liberal government to reverse two earlier Private Members' Bills relating to labour relations that were passed under the previous Conservative government: Bills C-525 and C-377. Bill C-525 amended the *Canada Labour Code* to eliminate the "card check" system utilized for the certification of bargaining units in the federal jurisdiction and introduced mandatory secret ballot votes. It also reduced the threshold to trigger a decertification vote. Bill C-377 amended the *Income Tax Act* to require unions to file certain financial information with the Canada Revenue Agency within six months from the end of each fiscal period.

Bill C-4 has now amended the *Canada Labour Code* to repeal the reforms brought into force through Bill C-525 and the changes to the *Income Tax Act* brought into force through Bill C-377. The Bill proceeded through the House of Commons without amendment, but was amended prior to Senate approval to preserve the secret ballot vote provisions of Bill C-525. The House of Commons did not accept the Senate's proposed changes, and in a split vote the Senate in turn agreed to the passage of Bill C-4 as originally drafted.

The changes to the certification and decertification process came into force on June 22, 2017, and have:

- restored the previous "card check" system for union certification, and eliminated the mandatory secret ballot certification votes brought in by Bill C-525. Under the restored "card check" system, a union can become the certified bargaining agent if it provides membership evidence of more than 50% of the employees in the proposed bargaining unit. Certification votes will only be required if the union demonstrates support of 35-50% of the bargaining unit; and
- restored the previous, higher threshold required to trigger a decertification vote. Under Bill C-525, evidence that 40% of employees in the bargaining unit no longer wished to have the union represent them was required to trigger a vote; given the passage of Bill C-4, the threshold returns to 50% + 1.

The transition provisions in Bill C-4 provide that any applications for certification or decertification filed with the Canada Industrial Relations Board prior to the changes coming into force on June 22, 2017 were to be dealt with under the procedures set out in Bill C-525. All applications filed after that point will be dealt with under the reinstated "card check" system.

No impact is expected with respect to the repeal of the *Income Tax Act* provisions under Bill C-377, as the Liberal government had previously indicated it would not be enforcing those provisions. Financial information remains accessible to union members as required by federal and provincial labour laws.

If you would like more information on how these changes might impact your organization, please contact [Jodi Gallagher Healy](#) at 519.931.5605 or your [regular Hicks Morley lawyer](#).

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