

Federal Post

Further Amendments to the *Canada Labour Code* Now In Force

Date: July 30, 2019

On July 29, 2019, a number of amendments to the *Canada Labour Code* (Code) enacted by Bill C-44, the *Budget Implementation Act, 2017, No. 1*, came into force. The amendments relate to changes to the powers of the Canada Industrial Relations Board, complaints relating to reprisals and the elimination of the role of appeals officers.

The Canada Industrial Relations Board (CIRB) and External Adjudicators

Among other things, the CIRB now has the authority to appoint an external adjudicator to determine any matter that comes before it under Part II (Occupational Health and Safety) and Part III (Standards Hours, Wages, Vacations and Holidays). This authority will also extend to the new Part IV (Administrative Monetary Penalties), which has yet to come into force.

External adjudicators now have all the powers, duties and functions of the CIRB with respect to any matter for which they have been appointed.

Unjust Dismissal Complaints

Unjust dismissal complaints which are not settled will now be referred directly to the CIRB, not adjudicators, for determination. The CIRB will exercise all of the powers of an adjudicator in these matters.

Elimination of the Role of Appeals Officers

The Code has been amended to remove all references to appeals officers given the expanded role of the CIRB. Appeals from decisions of the Minister under Part II are no longer to be made to appeals officers; rather, they are to be made to the CIRB.

Complaints Relating to Reprisals

A new Division XIV.1 "Complaints Relating to Reprisals" allows employees to make a written complaint to the CIRB if they believe that their employers have reprisal against them for making a complaint under various provisions of Part III.

The identified reprisals include, among other things, dismissing, suspending, laying off, or demoting the employee, imposing a financial or other penalty on the employee or taking any disciplinary action against the employee because they made a complaint under Part III of the Code, or provided information or assistance to an external adjudicator or the CIRB in the exercise or performance of their duties under Part III, or had exercised or sought to exercise any right conferred on the employee by Part III.

Complaints must be made within 90 days after the day on which the employee knew, or ought to have known, of the action or circumstances giving rise to the complaint. Once a complaint has been made, the burden of proof shifts to the employer to establish that the reprisal was not taken.

The CIRB has broad powers if it finds there has been a reprisal, including the power to order reinstatement, order compensation, or any other thing that it considers equitable for the employer to do to remedy or counteract any consequences of the reprisal.

The Code also sets out a number of grounds upon which the CIRB may reject a complaint, for example where it is satisfied that the complaint is not within its jurisdiction or the complaint is frivolous, vexatious or made in bad faith, among other things.

CIRB Information Circulars

The CIRB has issued [information circulars](#) with respect to these new changes.

Conclusion

Certain key provisions of Bill C-44 are not yet in force, such as the new Part IV, Administrative Monetary Penalties, and the ability to make public the names of employers convicted of an offence under Part II, Occupational Health and Safety along with other related information.

We will continue to monitor the incoming changes to the *Canada Labour Code* and will provide updates on those changes when they come into force.