

FTR Views

September Update on Changes to the *Canada Labour Code* – Part 1 [Video]

Date: October 2, 2019

Changes to the *Canada Labour Code* (Code) came into effect on September 1, 2019, in addition to those which were implemented on July 29, 2019. In this video instalment, [David Foster](#) discusses a number of these amendments and their impact on federally regulated employers.

In the [second instalment](#), [Jodi Gallagher Healy](#) explores various anticipated amendments to the Code which federally regulated employers can anticipate on the horizon.

Transcript

Hello, my name is David Foster and today I'll be walking through a number of changes that impact federally regulated employers.

With a number of changes to the *Canada Labour Code* having come into force on September 1, 2019, employers in the federal jurisdiction should take note of new and changing labour standards. These include new scheduling and break provisions, the right to flexible work arrangements, changes to holiday and vacation entitlements, a statutory right to refuse overtime, as well as new and amended leaves of absence.

There are also a number of upcoming changes that are not yet in force, that have the potential for significant impact once they do. We discuss this in another video clip.

The following requirements are now in effect, and employers should ensure they are operating in compliance.

Flexible Work Arrangements

A new Division will permit employees with at least six months of continuous service to formally request a change in working conditions, such as a change to their work schedule, work location or such other conditions as prescribed by regulation. Among other things, employers must respond in writing either granting or denying the request or setting out an alternative change. The Division specifies the permissible grounds for denying an employee's request.

Scheduling

Two new scheduling provisions have been added to the *Canada Labour Code*.

Employers must now provide written notice to employees of their work schedule at 96 hours before the start of the first work period, subject to certain exceptions. Employees have the right to refuse to work any periods or shifts that start within 96 hours of the time the schedule is provided to them, subject to exceptions.

Employers must also provide employees with at least 24 hours advance written notice of a shift change. This provision will not apply in situations that the employer could not have reasonably foreseen, for example those that present or could reasonably be expected to present an imminent or serious threat to the life, health or safety of any person, among other things.

Breaks and Rest Periods

Employees are entitled to an unpaid break of at least 30 minutes during every period of five consecutive hours of work, subject to certain exceptions.

Employees are also entitled to a rest period of at least eight consecutive hours between shifts, subject to certain exceptions.

Employees will be entitled to medically-necessary breaks, or breaks required to allow them to nurse or express breast milk. These breaks are unpaid, and in the case of medical breaks, can be subject to the provision of supporting medical documentation.

Right to Refuse Overtime

An employee may refuse to work overtime in order to carry out their family responsibilities as long as they have taken reasonable steps to carry out these obligations by other means.

This is subject to exceptions for emergency situations. For example, an employer may require an employee to work if doing so is necessary to deal with a situation that the employer could not have reasonably foreseen and that could reasonably be expected to present an imminent or serious threat to the life, health or safety of a person; the threat of property loss or damage; or threat of serious interference with business operations.

Leaves of Absence

There are also a number of new or expanded leaves that we will review.

Personal Leave

Employees are entitled to five days of personal leave, the first three days of which are paid after three months of continuous employment. The leave is for specified reasons, including treating their illness or injury, carrying out responsibilities related to the health or care of any of their family members, carrying out responsibilities related to the education of any of their family members who are under 18 years of age, addressing any urgent matter concerning themselves or their family members, attending their citizenship ceremony or any other prescribed reason.

Leave for Victims of Family Violence

Employees who are the victim of family violence, or who is the parent of a child who is the victim of family violence, are entitled to a leave of up to ten days per calendar year. The leave must be used for certain prescribed purposes. Up to five days is paid, provided the employee has completed at least three consecutive months of continuous service.

Leave for Traditional Aboriginal Practices

Aboriginal persons who have completed at least 3 consecutive months of continuous service are entitled to an unpaid leave of up to five days per calendar year. This leave is for the purpose of engaging in “traditional aboriginal practices” such as hunting, fishing, harvesting or other prescribed practices.

Extended Bereavement Leave

The bereavement leave entitlement under the code is extended to add two additional unpaid days to the existing three paid days leave. The entitlement to leave begins on the day on which the death of the immediate family member occurs, but can be taken up to six weeks after the latest of the days on which any funeral, burial or memorial service occurs.

Court or Jury Duty Leave

Employees are entitled to a leave of absence to attend court to appear as a witness, act as a juror or participate in the jury selection process. There is no limitation on the length or frequency of such leaves.

Medical Leave

Medical Leave replaces the previous “Sick Leave” under the Code. Employees remain entitled to a medical leave of absence of up to 17 weeks. This can be used for personal illness or injury, organ donation or medical appointments during working hours. Where the leave is in excess of three days, the employer may require a certificate from a health care practitioner. Among other things, anti-reprisal protections apply to prevent disciplinary actions against employees who take Medical

Leave.

Service Requirements for Leaves and Holiday Pay

Continuous service requirements for entitlement to holiday pay, maternity leave, parental leave, critical illness leave and death or disappearance leave have been removed. Service requirements for members of reserve forces is reduced to three months from six months.

Vacation Pay

Vacation entitlements under the Code have been enhanced. Employees are now entitled to:

- 2 weeks vacation (4% vacation pay) after one year employment
- 3 weeks vacation (6% vacation pay) after five years employment
- 4 weeks vacation (8% vacation pay) after ten years employment.

Conclusion

With the changing and evolving legislative framework, it will be important for federally-regulated employers to ensure they're practices remain compliant. For assistance in navigating these and other issues facing the federal jurisdiction, please feel free to reach out to your regular Hicks Morley lawyer.

Thanks for watching.