

## FTR Views

### September Update on Changes to the *Canada Labour Code* – Part 2 [Video]

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A number of amendments to the *Canada Labour Code* (Code) came into effect on September 1, 2019 and July 29, 2019 and additional amendments are expected. In this video instalment, [Jodi Gallagher Healy](#) discusses a summary of various changes which have not yet been proclaimed into force, that federally regulated employers can anticipate on the horizon.

## Transcript

Hi I'm Jodi Gallagher Healy, I'm a lawyer from our firm's London office and a member of the Federal practice group.

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 request flexible work arrangements, changes to holiday and vacation entitlements, a statutory right to refuse overtime in certain circumstances, as well as new and amended leaves of absence.

A number of updates are already in place, and we discuss these in another video clip.

## Upcoming Changes

Upcoming changes that are not yet in force include requirements for equal pay for part-time casual, temporary and seasonal employees, new graduated notice entitlements for individual termination of employment, new group termination of employment obligations, and obligations with respect to temporary help agencies.

The changes on the horizon also include proposed violence and harassment provisions and an administrative monetary penalties scheme, that we'll address in more detail.

## Violence and Harassment

In terms of the amendments relating to violence and harassment in the workplace, amendments have been passed that will broaden the purpose of Part II of the Code to include preventing harassment and violence, as well as physical and psychological injuries and illnesses. These amendments, which are anticipated to come into force as early as 2020, will require employers to:

- prevent and protect against harassment and violence in the workplace
- provide training to supervisors and managers
- respond to occurrences of harassment and violence in the workplace, including investigating and offering support to affected employees.

## Work Place Harassment and Violence Prevention Regulations

In order to support these legislative changes, the federal government has proposed Work Place Harassment and Violence Prevention Regulations, new stand-alone regulations that would require:

- a jointly developed workplace harassment and violence prevention policy,
- a jointly conducted workplace assessment to identify risks of violence and harassment in the workplace, as well as a requirement to implement preventive measures to protect against those risks
- jointly developed “emergency procedures” to address situations where an occurrence of violence or harassment in the workplace poses an immediate danger to the health and safety of an employee, or when there is a threat of such an occurrence happening in the workplace
- jointly developed training, which must be delivered to all employees, employers and designated recipients and which will have to be performed at least every three years
- making information regarding support services available to employees who may be in need.

## Investigation and Reporting

Additionally, the proposed regulations set out comprehensive requirements for an occurrence resolution process.

Employers must identify a designated recipient for occurrence reports and ensure that a response is provided to the reporting party within five (5) days, setting out the next steps for the resolution process. The resolution process must include a mechanism for early resolution, conciliation and investigation. Investigators must demonstrate that they meet qualification requirements and the parties must be advised as to how the investigator will be appointed.

A final report will be required for all occurrences that proceed to an investigation and must be provided to the parties to the occurrence.

Furthermore, a summary report, will have to be provided to the appropriate workplace committee.

Additional record-keeping and reporting requirements are proposed, including:

- fatality reports where there is an occurrence of a death in the workplace, which must be filed within 24 hours of the employer being notified of the occurrence
- semi-annual reports to the workplace committee regarding the number, type and location of occurrences as well as the type of relationships between the parties and the length of time required for the resolution of the violence or harassment occurrence
- annual reports to the Minister, including similar information as well as the number of occurrences that resulted in the death of an employee, the number of occurrences that fell under each prohibited ground of discrimination under the Canadian Human Rights Act, and the manners in which occurrences were resolved under the resolution process

## Administrative Monetary Penalties

Among the changes to the Code that are not yet in force are amendments to Part IV of the Code that will implement administrative monetary penalties, or AMPs, to enforce compliance with Parts II and III of the Code and provide an alternative to the enforcement measures that currently exist.

## Other Legislation on the Horizon

There’s additional legislation on the horizon, in addition to changes to the Canada Labour Code, federally-regulated employers should also be aware of two pieces of legislation that have been passed but are not yet in force. The Pay Equity Act, and the Accessible Canada Act.

## Pay Equity Act

The Pay Equity Act, which is expected to come into force in 2020, will apply to federally regulated employers with more than

10 employees, including the federal private and public sectors, the federal public service, Parliamentary workplaces and Ministers' offices.

Employers will be required to establish a pay equity plans within three years of the Act coming into force. Generally, for unionized employers and employers with 100 employees or more, a joint pay equity committee must be established. Note that these obligations may differ depending on the number of employees in the workplace and whether the workplace is unionized or non-unionized.

The employer, or the committee where one must be established, will need to:

- identify job classes occupied by those to whom the Plan relates by generally examining whether the employee positions have similar duties and responsibilities, require similar qualifications and are part of the same compensation plan within the same range of salary rates
- determine whether the job classes are predominantly male or predominantly female
- determine the value of the work performed in the predominantly male or predominantly female job class
- calculate the compensation associated with each job class (which would exclude certain prescribed differences, such as those based on seniority or geographic area)
- conduct a comparison of the compensation, using prescribed comparison methods.

A plan will then have to be prepared. The Act sets out the requirements for the contents of the plan and the posting obligations.

Where the plan discloses differences in compensation between predominantly male or predominantly female job classes, there is an obligation to increase compensation accordingly. Depending on the amounts involved, the Act provides for a phase-in period for any increases.

## **Accessible Canada Act**

The Accessible Canada Act will require certain organizations to identify, remove and prevent barriers in the following areas: employment, the built environment, information and communication technologies, the procurement of goods and services, the delivery of programs and services, transportation and other areas designated under regulation.

Regulations made under the Bill will establish accessibility standards setting out how organizations will identify, remove and prevent barriers.

Among other things, the Act will:

- impose duties on certain federally regulated employers that include preparing accessibility plans and progress reports in consultation with persons with disabilities, publishing those plans and reports and establishing a feedback process, a description of which must be published
- provide for a complaints process and award compensation to individuals who have suffered physical or psychological harm, property damage or economic loss, or who have otherwise been adversely affected as a result of a contravention of the legislation
- impose fines of up to \$250,000 for a contravention of the legislation.

## **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 issues and issues on the horizon in the federal sector, please feel free to reach out to your regular Hicks Morley lawyer.