

Federal Post

Federal Updates: Extension for Temporary Layoffs, Workplace Harassment and Violence Regime in Force on January 1, 2021

Date: June 25, 2020

In the last week, the federal government announced two significant developments which will impact federal workplaces.

First, it has made changes to the *Canada Labour Standards Regulations* to extend the period for recalling employees placed on temporary layoff because of COVID-19.

Second, the new workplace harassment and violence provisions of the *Canada Labour Code*, enacted in 2018, will come into force on January 1, 2021. The government has published new regulations in support of this initiative.

Extension of Temporary Layoff Provisions under the *Canada Labour Code*

By: Hicks Morley

On June 23, 2020, the [government of Canada announced](#) temporary measures to extend the periods for temporary layoffs under the [Canada Labour Standards Regulations](#) (Regulations) made under the *Canada Labour Code*. The Minister of Labour states that these temporary measures are meant to help protect the jobs of federally regulated private sector employees and support employers facing economic hardship as a result of the COVID-19 pandemic.

Temporary Layoffs Prior to the Amendments

Prior to the amendments, section 30 of the Regulations provided that a temporary layoff was not deemed a termination of employment under the *Code* where:

- the term of the layoff was for *less than three months* with no recall date (ss. 30(1)(c)), and
- the term of the layoff was for *up to six months* if the employer provided a notice in writing with an expected recall date (ss. 30(1)(d)).

Accordingly, some employees who were laid off as a result of the COVID-19 pandemic could have

seen their employment deemed terminated as early as June or July 2020 if they were not recalled to work.

(Note that section 30 of the Regulations address other situations where a temporary layoff is deemed not to be a termination of employment, and those other provisions remain in effect and are not impacted by the amendments considered here.)

Temporary Amendments to the Regulations

[The amendments](#), which are in force effective June 22, 2020, temporarily extend the periods set out in section 30 of the Regulations to give employers more time to recall employees who have been laid off. The period under ss. 30(1)(c) of the Regulations is extended:

- by six months for employees laid off prior to March 31, 2020; or
- to December 30, 2020 for employees laid off between March 31, 2020 and September 30, 2020.

The fixed date or fixed period in the written notice given under ss. 30(1)(d)(i) of the Regulations is extended:

- by six months or until December 30, 2020, whichever occurs first, for employees laid off prior to March 31, 2020; or
- to December 30, 2020 for employees laid off between the period of March 31, 2020 and September 30, 2020, if the fixed date or fixed period specified in the written notice occurs before December 30, 2020. If the fixed date or fixed period specified in the written notice occurs on or after December 30, employers will have until that date to recall their employees.

Significantly, the amendments are temporary in nature and:

- have no impact on layoffs beginning after September 30, 2020
- do not impact an employee's right to termination, severance and vacation pay upon termination
- do not apply to employees whose employment had been terminated before June 22, 2020, and
- do not apply to employees under a collective agreement that contains recall rights.

The time an employee is laid off will continue to count towards their continuity of employment and must be factored into the calculations for termination and severance pay if their employment is eventually terminated.

Note that as of the time of writing, the Regulations published online have not yet been updated to

reflect these June 22 amendments. [**Editor's Note: The Regulations [were published on July 8 and are now available.](#)**]

These temporary measures will afford federally regulated private sector employers and employees more certainty as they continue to navigate through the uncharted territory brought on by the COVID-19 pandemic.

Implementation of New Federal Workplace Harassment and Violence Prevention Regime Confirmed for January 1, 2021

By: [David Foster](#)

On June 24, 2020, the federal government published new standalone [Work Place Harassment and Violence Prevention Regulations](#) (Regulations). The Regulations form part of the government's overhaul of the violence and harassment prevention routine under the *Canada Labour Code*. We [previously reported](#) on the proposed Regulations and the [related amendments to the Code](#), which are scheduled to come into force on January 1, 2021.

Under the new workplace harassment and violence prevention regime, Part II of the *Code* is broadened to include preventing harassment and violence, as well as physical and psychological injuries and illnesses. The Regulations set out new requirements for:

- the development of comprehensive workplace harassment and violence prevention policies
- joint workplace assessments that identify the risks of harassment and violence in the workplace and implement preventative measures to protect the workplace from these risks
- emergency procedures to address situations where an occurrence or threat of an occurrence of harassment and violence poses an immediate danger to the health and safety of employees
- the provision of harassment and violence prevention training to everyone in the workplace
- a resolution process that requires employers to communicate regularly with parties and that provides multiple options for seeking resolution
- the provision of information to employees respecting support services, and
- enhanced data collection and reporting.

Under the new regime, complaints of violence or harassment that are not resolved between the employee and supervisor can no longer be referred to the workplace committee, but instead must be referred directly to the Minister. The Minister would then be obligated to investigate the complaint unless the Minister is of the opinion that the complaint has been adequately dealt with

according to a procedure provided for under the *Code*, any other Act of Parliament or a collective agreement, or the matter is otherwise an abuse of process.

Over the coming months, federally regulated employers will need to review and update their internal workplace harassment and violence prevention policies to ensure compliance with the new requirements of the *Code* and the Regulations.

For assistance in complying with these new requirements, please feel free to contact [David Foster](#) or [your regular Hicks Morley lawyer](#).