

## Federal Post

# Important Updates Regarding the Federal *Pay Equity Act*, the *Canada Labour Code* and CLC Regulations

Date: July 6, 2021

In this *Federal Post*, we cover recent developments with respect to the federal *Pay Equity Act*, amendments to the *Canada Labour Code* (CLC) and highlight the proposed amendments to the CLC Regulations that are currently open for public consultation.

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## Federal *Pay Equity Act* In Force on August 31, 2021

By: [Lucy Wu](#)

The federal *Pay Equity Act* (Act), together with supporting regulations, will come into force on August 31, 2021. Once in force, all federally regulated public sector and private sector employers with 10 or more federally regulated employees will have three years to develop and implement their proactive Pay Equity Plans (Plan).

By way of background, the Act was introduced as part of Bill C-86, the *Budget Implementation Act, 2018, No. 2*. The Bill [received Royal Assent](#) in December 2018. The proposed regulations were [published for consultation](#) on November 14, 2020.

The Act addresses systemic gender discrimination in compensation practices and pay systems, as well as that portion of the wage gap attributable to the undervaluation of work done by women.

As we discussed in an [earlier post](#), the Act sets out the requirements for the process of developing a Pay Equity Plan including a committee for certain employers, the contents of the Plan and the posting obligations. Once posted, employees have 60 days to provide comments on the Plan. A final version of the Plan must be posted no later than the third anniversary of the date upon which the employer became subject to the Act. Further, the Act requires employers to review and update the Plan at least once every five years to identify any gaps that may have emerged during that period.

For those employers which will become subject to the Act as of August 31, 2021, a final version of the Plan must be posted no later than August 31, 2024.

*Editor's Note: The Pay Equity Regulations [were published](#) on July 7, 2021. Among other things, an employer subject to the Pay Equity Act that has greater than 100 employees or is unionized, is required to post a notice setting out its obligations to establish a pay equity plan and to make all reasonable efforts to establish a pay equity committee, among other things, within 60 days of August 31, 2021 (the day the Act comes into effect).*

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## Federal Government Passes Amendments to *Canada Labour Code*

By: [Alia Rashid](#)

The federal government has passed two Bills, discussed below, which amend the *Canada Labour Code* (CLC).

## ***Budget Implementation Act, 2021, No. 1***

On June 29, 2021, Bill C-30, [Budget Implementation Act, 2021, No. 1](#) (Bill), received Royal Assent. Among other things, the Bill enacts numerous changes to the CLC. These changes have various coming into force dates. Set out below is a summary of many of the changes:

### **1. Federal Minimum Wage**

The Bill amends Part III of the CLC to set a federal minimum hourly rate of \$15.00. Where a province or territory provides for a minimum wage that is greater than the federal minimum wage, the employer will be required to pay the higher wage. In addition, in certain circumstances, on April 1st of each year, the minimum hourly rate will be incrementally adjusted based on the Consumer Price Index.

This provision comes into force six months after Royal Assent.

### **2. Extension of Leave Related to the Death or Disappearance of a Child**

The Leave Related to Death or Disappearance of a Child has been amended as follows:

- leave eligibility is extended to parents of children under the age of 25 (previously it applied to children under the age of 18)
- the maximum length of leave for parents of children who have disappeared is extended to 104 weeks from 52 weeks
- the exception disallowing entitlement to this leave (where it is probable the child was party to the crime) is now amended such that it applies only if the child is 14 years old or older at the time of crime and it is probable that the child was a party to the crime (the exception that applies when the employee is charged with crime remains in effect).

This provision came into force on Royal Assent (June 29, 2021).

### **3. Extension of Leave Related to COVID-19 – Caregiving Responsibilities**

Bill C-30 amends the CLC to increase the maximum number of weeks of leave for COVID-19 related caregiving responsibilities from 36 weeks to a maximum of 42 weeks. This provision is deemed into force as of June 19, 2021.

### **4. Extension of Medical Leave of Absence**

The entitlement to a medical leave of absence from employment as a result of personal illness or injury, organ or tissue donation, or medical appointments during working hours has been increased from 17 weeks to 27 weeks. Entitlement for a medical leave of absence due to quarantine has been increased from 16 weeks to 27 weeks. This change comes into force upon proclamation.

### **5. Equal Remuneration Protection**

The Bill expands the equal remuneration protection for employees who are covered by a collective agreement by amending the definition of “previous contractor” to include employers that provide:

- services at an airport to another employer or person acting on that employer’s behalf in the aerodromes, aircraft or air transportation industry (currently, this applies only to “pre-board screening”)
- prescribed services to another employer or to a person acting on behalf of that other employer in a prescribed industry
- prescribed services at a prescribed location to another employer, or to a person acting on behalf of that other employer, in a prescribed industry.

This change came into force upon Royal Assent.

## **Bill C-220, *An Act to amend the Canada Labour Code (bereavement leave)***

[Bill C-220, \*An Act to amend the Canada Labour Code \(bereavement leave\)\*](#) also received Royal Assent on June 29, 2021.

Bill C-220 is a private member's bill that amends the CLC's bereavement leave provisions by extending entitlement to the leave by five unpaid days. It also extends eligibility to employees who, at the time a family member dies, are on compassionate care leave or leave related to critical illness in respect of the deceased person.

Currently, the existing bereavement leave is five days, with the first three days paid where the employee has three consecutive months of continuous employment with the employer. With this change, the total bereavement leave will be 10 days. The changes come into force three months following June 29, 2021.

*Editor's Note on July 7, 2021: This article has been revised from its original publication.*

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## **Consultation Period for Proposed Amendments to *Canada Labour Code Regulations***

By: [Andrew Movrin](#)

On June 26, 2021, the federal government posted proposed [Regulations Amending Certain Regulations Made under the \*Canada Labour Code\*](#) along with a 30-day period for consultation.

The proposed changes to the *Canada Labour Standards Regulations*, the *Standards for Work-Integrated Learning Activities Regulations* and the *Administrative Monetary Penalties (Canada Labour Code) Regulations* (together, the "Proposed Regulations") are to support amendments made to the *Canada Labour Code* (CLC) in September 2019. Those amendments included, among other things:

- requirements that employers provide employees with 96 hours' written notice of their work schedules
- 24 hours' written notice to employees of shift changes
- 30-minute unpaid break every five consecutive hours of work, and
- eight consecutive hour rest periods between shifts.

The stated objective of the Proposed Regulations is "to align the regulations with the new and amended CLC provisions, to support the implementation of these amended CLC provisions, and to ensure that new administrative monetary penalties regime can be used to promote compliance with these provisions."

Among other things, the Proposed Regulations would:

- create new record-keeping obligations for employers to retain records of information related to scheduling and changes to an employee's shift, break and rest periods, as well as records of health care practitioner certificates used to support an employee's (or student intern's) medical break(s)
- designate violations of the new record-keeping obligations as Type A violations under Schedule 2 of the [Administrative Monetary Penalties \(Canada Labour Code\) Regulations](#) for the purposes of calculating administrative monetary penalties
- add circumstances where the Head or a designated office may extend deadlines to file complaints
- make specific technical changes.



The Proposed Regulations were developed by the federal Labour Program in consultation with various stakeholders including employer and employee representatives, unions, industry leaders and National Indigenous Organizations.

The deadline to submit comments is July 26, 2021.

Readers should consult [the website](#) for further information or contact your Hicks Morley lawyer for assistance.

Please contact your regular [Hicks Morley lawyer](#) should you require further information about any of the issues discussed in this *Federal Post*.

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