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Key aspects of the changes made to the Act respecting labour standards

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Author

Zeïneb Mellouli

Partner, Lawyer

On March 20, 2018, Minister Dominique Vien introduced the much-awaited bill no. 176 to the National Assembly of Quebec, entitled the *Loi modifiant la Loi sur les normes du travail et d'autres dispositions législatives afin principalement de faciliter la conciliation « famille-travail »* [An Act to amend the Act respecting labour standards and other legislative provisions mainly to facilitate family-work balance], an important and relevant subject for a number of employers in Quebec.

A number of employer groups, unions, and community groups were consulted regarding the improvements to be made to the *Loi sur les normes du travail* [Act respecting labour standards] (the "**LNT**"). However, this bill will potentially be the subject of revision and amendment before its adoption, if it is indeed adopted.

Here are some of the key points from the major legislative amendments proposed by this bill:

Liability of the director or officer of a corporation:

In the context of a legal proceeding for violation of the **LNT** by a corporation or its representatives, the director or the officer of the corporation will be presumed to have personally committed the offence, unless proof of due diligence is established. This will furthermore be consistent with the legislative amendments regarding directors' liability for health and safety at work.

New developments regarding psychological harassment:

Requirement to adopt a policy for preventing psychological harassment ("**PH**") and handling complaints;
With the goal of increased prevention, the **LNT** will explicitly state that words, actions or gestures of a sexual nature constitute psychological harassment, in accordance with the current interpretation of the courts;
In cases of complaints of sexual misconduct, the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* ("**CNESST**") [Labour standards, pay equity and occupational health and safety commission] will be required to notify the *Commission des droits de la personne et des droits de la jeunesse* ("**CDPDJ**") [Quebec human rights and youth commission] without delay.

Intergenerational equity:

Improvements to existing protections against disparity in working conditions based on the hiring date of employees

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who carry out the same duties at the same institution: in addition to equity in salaries and distribution of annual leave, retirement plans and other social benefits are added to the list of working conditions that may not be the subject of disparity;

- Note: employers having already instituted different social benefit and retirement plans according to the hiring date of employees (for example, defined benefit plans for older employees, and defined contribution plans for newer employees) will not be required to change those plans;

Certain enhanced leave provisions, including:

3 weeks of annual vacation for employees with 3 years of continuous service instead of the 5 years currently provided for in the **LNT**;
26 weeks of absence in a twelve-month period protected by the **LNT** for employees who are victims of domestic violence;
Compensation for the first two days of the absence of an employee with three months of continuous service due to organ or tissue donation, accident or being the victim of domestic violence or criminal offences: Possibly inspired by the Ontario law, all employees will be allowed ten days of absence per year to fulfill family obligations. The first two annual leave days that are taken will be paid;
The 12-week period of absence already allowed will be expanded to 16 weeks over a period of 12 months, during which an employee's absence is necessary to attend to a relative with health issues. This leave is increased to 36 weeks when the relative is an underage child;
The bill proposes that an employee be allowed two paid days' absence for a death or funeral (instead of one day), but provides that employees will only be entitled to three additional unpaid days (instead of four).
We emphasize that the bill reformulates certain leave entitlements to ensure that an employee acting on behalf of a parent or as a "family caregiver" will be able to benefit from such entitlements and to be provided with employment protection for a longer period, in the event of an absence.

Provisions regarding working hours:

Employees will be allowed to refuse to work more than two hours beyond their typical daily work hours (instead of four hours);
An employee will have the right to refuse to work if not informed five days in advance of the requirement to work, except when the nature of the employee's duties requires him or her to remain available;
Section 53 of the **LNT** will be amended so as to allow employers and employees to agree to staggered work hours for the purpose of calculating overtime without CNESST authorization being necessary;

For placement agencies, specifically:

Increased protection for workers hired through personnel placement agencies and foreign temporary workers. From now on, such agencies must hold a license in order to conduct their business activities;
In addition, a personnel placement agency may not offer an employee a salary less than that accorded to employees of the client company who carry out the same duties solely because of that person's employment status;
The placement agency and client company will be jointly and severally liable for monetary obligations arising from the **LNT**.

We will closely follow further developments of this bill and measures taken to adopt it, which, we reiterate, could be the subject of a several amendments. We anticipate that the provisions regarding intergenerational equity, as well as those regarding placement agencies will be the subject of lively parliamentary debate, given the major social issues which they are attempting to define.

For the full version of the bill, click here.

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