Amendments to the Act respecting labour standards adopted: new changes with immediate effect

July 30, 2018

On June 12, 2018, Bill 176 was adopted, resulting in the immediate enactment of several amendments to the Act respecting labour standards (ALS) which seeks in particular to facilitate work-family balance.

Our article published March 21, 2018 addresses the key aspects of these changes.

However, additional amendments have been made to the LNT which certainly bear mentioning:

Domestic and sexual violence

> Employees who have been the victim of domestic or sexual violence may now benefit from a leave of up to 26 weeks within a 12 month period, just like employees who must be absent for organ or tissue donation, accidents, or who have been the victim of domestic violence or criminal offences;

Difference in treatment clauses

An employee who believes he or she has been the victim of differential treatment with respect to retirement plans or other benefits may file a complaint with the Labour standards, pay equity and occupational health and safety commission within 12 months of becoming aware of the difference;

Employers having put in place, prior to June 12, 2018, differential retirement or benefit plans based on the hiring date of its employees will not be required to change those plans.

Psychological harassment and sexual misconduct

The second paragraph of section 81.19 of the ALS requires employers to adopt a policy to prevent psychological harassment and handle complaints, but going forward this policy will now be required to include a section regarding sexual misconduct.

Employers will have until January 1, 2019 to adopt a policy regarding psychological harassment in accordance with the aforementioned amendments to section 81.19 of the ALS.

> The 90 day time limit for filing a complaint with the Labour standards, pay equity and occupational health and safety

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commission with respect to conduct constituting psychological harassment will now be extended to two (2) years starting from the last incidence of the alleged conduct. This new time limit will be deemed to be integrated into any collective bargaining agreement;

NOTE: Managers and HR advisors must be even more careful to record reported incidents (whether or not they are followed up on) as well as the corresponding decisions made and the reasons underlying such decisions. Such proactive vigilance will make it possible to resolve potential conflicts and, where necessary, have the benefit of the information that was gathered when preparing a response to a complaint submitted several months after the incident.

In contrast to the previous version of the bill which would have required the Labour standards, pay equity and occupational health and safety commission to notify the Quebec human rights and youth commission without delay of cases of complaints of sexual misconduct, going forward the Labour standards, pay equity and occupational health and safety commission must now provide the Quebec human rights and youth commission with any complaint of discriminatory conduct after having obtained the consent of the employee concerned.

Effective dates and other specifics

The majority of the amendments to the ALS came into effect on June 12th of this year. However, certain provisions will not come into effect until January 1, 2019. [1]

Vacation time

This is the case for the amendment which would entitle employees with 3 years of service (as opposed to 5 years) to an annual vacation of at least 3 continuous weeks.

Despite this amendment coming into effect on January 1, 2019, an employee must have completed the reference period during which he or she completed 3 years of service to be entitled to a 3rd week of annual leave.

Prohibition on differential treatment on the basis of employment status

The amendments to Articles 41.1 and 74.1 will also enter into force on January 1, 2019.

These amendments are intended to clarify that the rate of pay, the length of vacation or the method of calculating the related indemnity cannot be different between colleagues who perform the same tasks in the same establishment solely based on their differing employment status.

For example, a temporary employee and a regular employee performing the same tasks in the same establishment must receive wages based on the same rate of pay.

Differential treatment as it pertains to pension plans or other benefits based on an employee's date of hire will also be prohibited as of January 1, 2019. It is important to note that this amendment, unlike the wage rate and vacation leave amendments, does not prohibit differential treatment based on employment status. As a result, two employees with different statuses may still be entitled to different benefits and pension plans.

For the full version of the approved bill, click here.

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1. Amendments to sections 59.0.1 (refusal to work more than two hours beyond typical hours or without being notified five days in advance), 69 (3 weeks of vacation for employees with 3 years of service), 79.7 (compensation for 2 days of leave) and 80 (2 days of paid bereavement leave).

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