

# 3 things employers need to know about the modernization of the *Canada Labour Code*

June 20, 2019

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**Following in the footsteps of Ontario, Québec and other provinces which have seen**

significant changes to their labour and employment legislation in recent years, federally regulated employers will now be adjusting to new amendments to the *Canada Labour Code* (“C.L.C”).<sup>1</sup>.

In 2017 and 2018, the Canadian legislator passed several laws<sup>2</sup> aimed at modernizing the *Canada Labour Code*, ushering in new rules and regulations governing federally regulated workplaces. Some of the principal changes, which are slated to come into effect on September 1, 2019<sup>3</sup>, are summarized in this article.

## 1. Longer leaves of absence

### Personal Leave – 5 days. Effective September 1, 2019

Every employee will be entitled to a leave of absence of up to 5 days every year for:

- a. “Treating their illness or injury
- b. Carrying out responsibilities related to the health or care of any of their family members
- c. Carrying out responsibilities related to the education of any of their family members who are under 18 years of age
- d. Addressing any urgent matter concerning themselves or their family members
- e. Attending their citizenship ceremony under the *citizenship act*
- f. Any other reason prescribed by regulation”.

After 3 consecutive months of employment, employees will be entitled to take the first 3 days of absence with pay.

### Victims of Family Violence – 10 days. Effective September 1, 2019

Every employee who is a victim of family violence or who is the parent of a child who is a victim of family violence will be entitled to take a leave of absence of up to 10 days every year for various reasons specifically mentioned in the *Canada Labour Code*, namely to seek medical attention, obtain psychological or other professional counselling, relocate temporarily or permanently, etc.

After three consecutive months of employment, employees will be entitled to the first 5 days of absence with pay.

### Court or Jury Duty Leave. Effective September 1, 2019

Every employee will be entitled to take a leave of absence to attend court to act as a witness or a juror in a proceeding or to participate in the jury selection process.

### Leave for Traditional Aboriginal Practices – 5 days. Effective September 1, 2019

Aboriginal employees who have completed 3 consecutive months of continuous employment will be entitled to take a leave of absence of up to 5 days every year in order to engage in traditional Aboriginal practices, such as hunting, fishing, harvesting and any practice prescribed by regulation.

### Bereavement Leave – 5 days. Effective September 1, 2019

In the event of the death of a member of his immediate family, every employee will be entitled to 5 days of bereavement leave, which is 2 more than the current entitlement. However, only the first 3 days of this leave will be paid at the employee's regular wage rate.

## Holiday Pay. Effective September 1, 2019

Employees will no longer have to work a minimum of 30 days to be entitled to receive holiday pay for a general holiday.

### 2. Increase in vacation entitlements. Effective September 1, 2019

Employees will be entitled to more generous vacation time and pay:

Years of employment	Vacation time	Vacation pay
After 1 year of employment	2 weeks	4% of their wages during the year of employment
After 5 years of employment	3 weeks	6% of their wages during the year of employment
After 10 years of employment	4 weeks	8% of their wages during the year of employment

The rules regarding when to take the vacation will not be changed. As a result, the employer must provide the employee with the vacation to which he or she is entitled, which is to begin no later than 10 months immediately following the completion of the year of employment during which the employee became entitled to the vacation. Also, the employer shall provide employees with vacation pay within 14 days of the beginning of the vacation or on the regular pay day during or immediately following the vacation.

However, another new development is that the employee will be able to split his annual leave into several periods, with the written approval of the employer.

### 3. Work schedule, Rest period and Breaks

## 30-minute Breaks. Effective September 1, 2019

Every employee will be entitled to take an unpaid break of at least 30 minutes during every period of 5 consecutive hours of work.

Employers will however be allowed to postpone or cancel the break to deal with a situation that could not have been reasonably foreseen and which presents an imminent or serious "threat to the life, health or safety of any person, threat of damage to or loss of property or threat of serious interference with the ordinary working of the employer's industrial establishment".

## Breaks for Medical Reasons or for Nursing. Effective September 1, 2019

Subject to the regulations, every employee will be entitled to unpaid breaks where necessary for medical reasons or for the purpose of nursing or to expressing breast milk.

## 8-hour Rest Periods. Effective September 1, 2019

Every employee will be entitled to a rest period of at least 8 consecutive hours between shifts. Employers may however shorten the rest period for the same reasons as were discussed regarding the postponing or the cancellation of the 30-minute break periods.

## Shift Changes – 24 hours written notice. Effective September 1, 2019

In the event that the employer either wants to change a period or shift during which an employee is scheduled to work or wants to add another work period or shift to the employee's schedule, the employer will have to give the employee written notice of the change or addition at least 24 hours in advance. However, the C.L.C. does carve out some exceptions where this notice won't be required. Most of these exceptions are the same as those which apply to the postponing or the cancellation of a 30 minute break period.

## Overtime – Choice between overtime pay or time off. Effective September 1, 2019

Subject to certain conditions, an employee who has worked overtime can now elect to receive either an hour and a half of time off with pay for each hour of overtime worked or overtime pay at a rate of wages no less than one and one-half times the regular rate.

In addition, subject to certain conditions, the employee will have the right to refuse to work overtime in order to carry out responsibilities related to the health or care of any of their family members or the education of any of their family members who are under 18 years of age.

### Conclusion

These were only some of the amendments contained in the most recent bills aimed at modernizing the *Canada Labour Code*. Other changes are also expected to come into effect, such as provisions regarding :

- Flexible Work Arrangements<sup>4</sup>
- Maternity-related Reassignment and Leave<sup>4</sup>
- Individual or Group Termination of Employment<sup>5</sup>
- Unjust Dismissal Complaints<sup>5</sup>
- Harassment and Violence
- Equal Treatment<sup>5</sup> et
- Temporary Help Agencies<sup>5</sup>.

Furthermore, the government adopted the *Regulations Amending the Canada Labour Standards Regulations*<sup>6</sup>, which will also come into effect on September 1, 2019.

Finally, we have not yet seen the latest amendments to the *Canada Labour Code*, as an independent Expert Panel on Modern Federal Labour Standards has been asked to report back to the Minister of Employment, Workforce Development and Labour with advice and recommendations by June 30, 2019 regarding five distinct issues :

1. Federal minimum wage
2. Labour standards protections for non-standard workers
3. Disconnecting from work-related e-communications outside of work hours (sometimes known as the "right to disconnect")
4. Access and portability of benefits

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5. Collective voice for non-unionized workers. et

Our [Labour and Employment team](#) will keep you informed of these changes and we will be pleased to advise you regarding occupational health and safety or employment standards issues.

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1. LRC 1985, c L-2.
2. Budget Implementation Act, 2017, No. 1, S.C. 2017, c. 20; A second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures, S.C. 2017, c. 33; An Act to amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1, S.C. 2018, c. 22; A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures, S.C. 2018, c. 27.
3. Order Fixing September 1, 2019 as the Day on which Certain Provisions of that Act Come into Force, SI/2019-31, Canada Gazette, Part II, Volume 153, Number 12, published on June 12, 2019.
4. Effective September 1, 2019.
5. Effective date to be determined.
6. SOR/2019-168, Canada Gazette, Part II, Volume 153, Number 12.
7. GOVERNMENT OF CANADA, [Expert Panel on Modern Federal Labour Standards](#), online (consulted on April 2, 2019 – last modification 2019-02-28).