

Member's Quarterly

Summer 2023 Edition

Feature

2023: Time to Update Labour Law?

Changes and Potential Changes to the Canada Labour Code

Federally regulated employers are seeing changes to employment and labour legislation in 2023 with the possibility of more to come with additional potential amendments to the Canada Labour Code, RSC, 1985, C L-2 (the "Code").

Proposed changes to regulations could also result in a number of potential changes to federal employment standards. Some of the proposed changes include specific provisions relating to reimbursement of work-related expenses and employee information. These proposed changes would require employers to reimburse employees for reasonable, work-related expenses within thirty days of the submission of a claim for payment.

What would qualify as "work-related" would depend on whether:

- the expense is connected to the employee's performance of work;
- the expense enables an employee to perform work;
- the expense is required by the employer as a condition of employment or continued employment;
- the expense satisfies a requirement for the employee's work imposed by an occupational health and safety standard; and
- the expense was incurred for a legitimate business purpose and not personal use or enjoyment.

What would qualify as "reasonable" would depend on whether:

- the expense is connected to the employee's performance of work;
- the expense enables an employee to perform work;
- the expense was incurred at the request of the employer;
- an amount was incurred beyond the amount necessary to enable the performance of work;
- the expense is one that is normally reimbursed by employers in similar industries;
- the expense was authorized in advance;
- the expense was incurred in good faith; and
- the claim for reimbursement includes documentation, such as a receipt or invoice.

Other proposed regulatory changes would require employers to provide employees with a written statement containing information about their employment within thirty days of hiring, as well as copies of any updates. The written statement would include:

- the names of the parties to the employment relationship;
- the job title and description of duties and responsibilities;
- the place of work;
- the date of commencement of employment;
- the term of employment;
- the probationary period, if any;



Kyle MacIsaac
LL.B.
Partner
Mathews Dinsdale
Clark LLP



Caroline Spindler
J.D.
Associate,
Mathews Dinsdale
Clark LLP

Member's Quarterly

Summer 2023 Edition

Feature continued

- the specific requirements of employment e.g. driver's license, criminal record check;
- the required training;
- the employee's hours of work, how hours are calculated, and overtime rules;
- the rate of wages or salary, including overtime rates;
- the frequency of payment;
- any mandatory deductions; and
- information regarding reimbursement of work-related expenses.

Additional proposed regulatory changes could allow service of documents to be affected by courier, fax or other electronic means; provide clarity on how wages are calculated for employees paid for time spent at Canada Industrial Relations Board proceedings; and increase the minimum age of employment for hazardous occupations from 17 to 18 years.

This year could also bring major changes to labour relations for unionized, federally regulated workplaces. A private member's bill has been introduced that would ban the use of replacement workers, as well as new employees, contractors, existing non-bargaining unit employees, and employees from other locations during strikes and lockouts. The proposed bill would also give the Canada Industrial Relations Board cease and desist powers and the ability to fine employers \$10,000 per day for violations. Whether a private member's bill like this one with the potential for sweeping changes to the labour relations regime and significant impact on employers will make any headway is yet to be determined but one worth watching.

Changes and potential changes to legislation, at both the federal and provincial levels arise all the time. Some proposed changes have the traction and support needed to become law with real-life impacts on workplaces, while others die on the floors of legislatures. Regardless, employers should keep up with the latest proposed changes so that they can advocate and ensure compliance with any changes impacting their workplace.

Kyle MacIsaac is a Partner with Mathews, Dinsdale Clark LLP and can be reached via email at kmacisaac@mathewsdinsdale.com.

Caroline Spindler is an Associate with Mathews, Dinsdale Clark LLP and can be reached at cspindler@mathewsdinsdale.com.