Budget 2024: Work-Life Balance, Gig Workers, Employment Equity, Forced Labour And Replacement Workers



The 2024 Federal Budget ("Budget 2024") proposes several changes to federal employment laws. Although the proposed changes are only summarized in Budget 2024, following are the key changes federally regulated employers may see soon.

Establishment of a right to disconnect

In Budget 2024, the federal government announced its intention to amend the *Canada Labour Code* to establish a right to disconnect for federally regulated employers. Although most employers in Canada fall under the scope of provincial labour and employment laws, the government signaled that employers in federally regulated sectors including banking, telecommunications, and transportation, for example, would be subject to limitations in respect of after-hours work. However, unlike the Budget 2024 summary, the proposed *Canada Labour Code* amendments subsequently released by the Department of Finance do not mandate a strict "right to disconnect". Instead, if passed in their current form, the amendments would introduce a requirement that employers merely implement a policy on disconnecting from work.

Specifically, employers would be required to bring into effect a policy that includes the following elements: (a) a general rule respecting work-related communication outside of scheduled hours of work, including the employer's expectations and any opportunity for employees to disconnect from means of communication; (b) any exceptions to the rule and their underlying rationale; and (c) the effective date of the policy. Under the new amendments, employers would have a duty to update their policy every three years; consult employees when developing and updating the policy; post the policy in a readily accessible place for employees; and provide a copy of the policy to every employee to whom the policy applies.

Accordingly, while employers will face new obligations if the legislation is passed, it does not appear that the federal government intends to implement a strict right to disconnect at this time.

Misclassification: Inspections, enforcement, and gig workers

Federally regulated employers who utilize contractors and gig workers may soon see increased inspections and enforcement efforts around the classification of those

workers. In addition to "strengthening prohibitions against employee misclassification," Employment and Social Development Canada and the Canada Revenue Agency will enter into "necessary data-sharing agreements to facilitate inspections and enforcement".

Additionally, under proposed *Canada Labour Code* amendments a person who is paid remuneration by an employer is presumed to be an employee and must be treated as an employee, unless the employer can demonstrate that the individual is actually an independent contractor. This reverse onus increases misclassification risks significantly for federally regulated employers who will be well-advised to review their use of independent contractors and consultants if the draft legislation is passed in its current form.

Proposed changes to the *Employment Equity Act*

Amendments are expected to be made to the *Employment Equity Act* which would expand the number of designated equity groups to include Black workers and 2SLGBTQI+ workers, among others, as distinct groups.

Proposed introduction of new legislation against forced labour in supply chains

Legislation will likely be introduced in 2024 that is intended "to eradicate forced labour from Canadian supply chains and to strengthen the import ban on goods produced with forced labour". While similar legislation was passed in 2023, the Budget signals the introduction of further legislation and/or amendments to achieve the Federal Government's stated goals. However, no such legislation has been introduced at this time.

Prohibition on use of replacement workers

The Budget reaffirms the current Federal Government's commitment to ban the use of replacement workers during a strike or lockout in federally regulated workplaces. As such, we expect the current Federal Government to continue its efforts to pass legislation that would amend the *Canada Labour Code* to achieve this objective.

Federally regulated employers, stay tuned!

Future developments

Federally regulated employers are encouraged to proactively monitor the evolution of the Budget's employment-related initiatives. For further information, please contact us or any other member of the Canadian Employment and Labour Law Service Group to ensure you are acting upon the most up-to-date information.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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