

Legislative Update For Federally-Regulated Employers: Bills C-58, C-59, C-69 And COHSR Amendments



The spring federal legislative session came to a close on June 20, 2024, and on that day, the government passed three significant bills for federally-regulated employers. The following key topics of change are discussed in this update:

- Ban on replacement workers (Bill C-58)
- Maintenance of activities updates (Bill C-58)
- Right to disconnect from work policy (Bill C-69)
- Employee misclassification protections for employees (Bill C-69)
- New leave of absence for pregnancy loss (Bill C-59)
- New leave for placement of a child (Bill C-59)
- Bereavement leave updates (Bill C-59)

The federal government also announced upcoming changes to the *Canada Occupational Health and Safety Regulations* relating to sanitation requirements for the number of toilet rooms.

Bill C-58, An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012:

Changes to Part I, Industrial Relations, of the *Canada Labour Code* will take effect on June 20, 2025, which impact federally-regulated workplaces during work stoppages, and pose significant monetary penalties for employers who contravene the new laws.

Currently, there is a limited prohibition on the use of replacement workers during a strike or lockout. Bill C-58, *An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012*, which received Royal Assent on June 20, 2024, will change the current law under s. 94(2.1) of the *Canada Labour Code* by banning the use replacement workers. When the change comes into effect, an employer will not be permitted to use the services of certain categories of people to perform all or part of the duties of an employee who is in the bargaining unit on strike or locked out. Exceptions are built in to, for example, permit the use of replacement workers if there is an imminent or serious threat to life, health or safety of the person, a threat of destruction of, or serious damage to, the employer's property or premises, or a threat of serious environment damage affecting the employer's property or premises. Any employer who contravenes the provisions respecting the prohibition

relating to replacement workers may be subject to a fine not exceeding \$100,000 for each day during which the offence is committed or continued.

The Act will also amend the *Canada Labour Code* with respect to maintenance of activities during a strike or lockout. Currently, an employer or a trade union may, no later than 15 days after notice to bargain collectively has been given, give the other a maintenance of activities agreement (s. 87.4); the upcoming changes to the law will require that this maintenance of activities agreement be exchanged and filed with the Canadian Industrial Relations Board ("CIRB"). The employer and trade union also have the option to conclude that it is not necessary to continue any activities, but an agreement must be concluded to this effect. The maintenance of activities agreement must set out the supply of services, operation of facilities or production of goods that they consider necessary to continue in the event of a strike or a lockout, and the manner and extent to which the employer, the trade union and the employees in the bargaining unit must continue that supply, operation and production, including the approximate number of those employees that, in the opinion of the employer and the trade union, would be required for that purpose (s. 87.4(2)). If the employer and trade union are unable to enter into an agreement, either may apply to the CIRB, or the Minister may refer any question to the CIRB, and the CIRB must decide and make any orders within 82 days of the application or referral.

Bill C-69, Budget Implementation Act, 2024, No. 1:

Right to disconnect policy:

Changes to Part III, Standard Hours, Wages, Vacations and Holidays of the *Canada Labour Code* were part of the spring 2024 budget bill, Bill C-69, *Budget Implementation Act, 2024, No. 1*, which received Royal Assent on June 20, 2024. Significant changes introducing a right to disconnect from work in federally-regulated workplaces, will come into force on a future date to be determined by order. It is expected that these changes will come into force in 2025, as the government has announced that information, tools and resources will be made available, to ensure employers have enough time to prepare for the changes coming into force in 2025 ([ESDC Backgrounder](#)). Employers to whom the section applies will have one year to bring into effect a disconnecting from work policy, which includes the following elements (s. 177.2):

- 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;
- Any exceptions to the rule and their underlying rationale;
- The effective date of the policy; and
- Any other elements that may be prescribed by regulation.

Employers may exempt certain employees, and the new legislation may not apply to certain workers with a collective agreement that meets the policy requirements. Employers should be aware that there will be requirements to, among other things, consult employees in developing and updating its policy, have good record keeping of the consultation and policy development process, and post and provide a copy of the policy. Employers will have a duty to update the policy every three years. A section respecting prohibition on reprisals is built in to further protect workers. Regulations may be made which will provide further clarity about the form of the policy, prescribed elements to be included in the policy, and the manner in which the policy is to be posted.

Misclassification:

Also in the budget bill, are changes that took effect on Royal Assent respecting worker misclassification, aimed at the protection of gig workers. New *Canada Labour Code* s. 96.1 (under Part I, Industrial Relations), s. 125.4 (under Part II- Occupational Health and Safety) and s. 167.1 (under Part III- Standard Hours, Wages, Vacations and Holidays) are prohibitions on employers treating an employee as if they were not their employee. There is also a new presumption that a person who is paid remuneration by an employer is presumed to be their employee unless the contrary is proved by the employer (new s. 167.01). An employee can make a complaint under the *Canada Labour Code* if they believe that their employer has contravened any of the new prohibitions, and the burden of proof is on the employer to show that the person is not their employee.

[Bill C-59, Fall Economic Statement Implementation Act, 2023:](#)

The fall spending bill (Bill C-59) was introduced in November 2023 and passed on June 20, 2024. The Act introduced a new leave of absence for pregnancy loss, which will come into effect in mid-December 2025 or on an earlier day to be fixed by order. The new leave related to pregnancy loss will provide for a leave of 8 weeks for a pregnancy resulting in a stillbirth, or 3 days in any other case (such a pregnancy resulting in a miscarriage). An employee who has completed 3 consecutive months of continuous employment with the employer will be entitled to the first 3 days of leave with pay. The leave begins on the day on which the pregnancy does not result in a live birth and ends 26 weeks after that day. The leave may be taken in one or two periods of time. Eligible employees include the pregnant person, their spouse or common-law partner, or the intended legal parent of the child that would have been born.

Changes will also come into force by December 2025 relating to bereavement leave. Both the employer and the employee have additional duties with respect to this leave, including additional notification obligations by the employee, and job-related protections owed by the employer.

Bill C-59 also introduced a new unpaid leave of up to 16 weeks for the placement of a child, such as through adoption or surrogacy. This leave will come into force on a date to be fixed by order, and makes corresponding changes to the *Employment Insurance Act* in order for parents to receive the EI adoption benefit.

[Regulations Amending Certain Regulations Made Under the Canada Labour Code \(Sanitation\), SOR/2024-118:](#)

On June 19, 2024, the federal government announced changes to the Sanitation part of the *Canada Occupational Health and Safety Regulations* effective November 30, 2024, which aim to encourage employers to provide all-gender toilet rooms. In the spirit of inclusivity, the amendments also remove gendered language from the regulations.

The regulations currently stipulate the number of toilet rooms required to be provided in certain federally-regulated workplaces, but all-gender toilet rooms do not count towards the requirements. The upcoming amendments will allow all toilets (including toilets in all-gender toilet rooms) to count towards the total count of toilets required. The Labour Program will provide further information on how an employer can count toilet rooms ahead of the coming into force of the changes.

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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