

New Canadian Labour Code Changes In Effect



On April 1, 2014, Bill C-45, also known as the *Jobs and Growth Act, 2012*,¹ came into effect, amending parts of the *Canada Labour Code* (the-«Code»). For federally regulated employers, the recent amendments introduce a comprehensive statutory framework for complaints relating to unpaid wages and other alleged violations of the *Code*, as well as regulations for orders made under Part III of the *Code*. This framework also imposes new time limits for complaints, payment of vacation pay and recovery of unpaid wages. In addition, the Bill C-45 amendments modify the administrative process for challenging a payment order.

NEW COMPLAINT TIME LIMIT

Under the new amendments, complaints of unpaid wages will be limited to 6 months from the date the employer was required to pay those wages or other amounts to the employee (subject to extension in prescribed circumstances). Any other complaints must be made within 6 months from the day the subject matter of the complaint arose.

TIME LIMIT FOR PAYMENT ORDERS

Prior to Bill C-45, payment orders for unpaid wages or other amounts were not subject to a time limit. An employer could previously be ordered to pay years of unpaid wages. Now, payment orders apply to wages (or other amounts) for a period of 12 months only, starting on the day the complaint was made or 12 months before the date employment was terminated. The limitation on vacation pay is extended to 24 months from either the date of the complaint or termination, whichever is later.

A NEW ADMINISTRATIVE REVIEW PROCESS

Under the new amendments, an employee may make a complaint in writing to an Employment and Social Development Canada – Labour Program inspector where he or she believes that an employer has contravened the *Code*. Where the inspector finds that the employer has fulfilled its obligations under the *Code* (e.g. paid all outstanding wages within the timelines prescribed), the inspector must notify the employee in writing that his or her complaint is “unfounded.”

An employee who is notified that his or her complaint is unfounded, or whose complaint of unjust dismissal has been rejected, may make a written request within 15 days that the inspector’s decision be reviewed. On review, the Minister may confirm, rescind, or vary an inspector’s decision, or direct another inspector to re-examine the complaint. The review decision may only be appealed on a question of jurisdiction

or law.

TRANSITIONAL PROVISIONS

Transitional provisions provide that the *Code*, as it existed prior to April 1, 2014, will continue to apply to complaints filed before April 1, 2014, as well as to notices of unfounded complaint and payment orders issued in relation to such complaints before April 1, 2014.

WHAT THESE NEW CHANGES MEAN FOR FEDERALLY REGULATED EMPLOYERS

For federally regulated employers, the most noteworthy aspect of the new Bill C-45 amendments, is the creation of express time lines for making complaints under Part III of the Code. In addition, new times lines have also been imposed for payment orders which limit the period of exposure for employers for unpaid wages or other amounts. With these new amendments, that are intended to streamline and simplify the process, employers can look forward to increased administrative efficiencies and greater certainty, as well as reduced costs.

Footnote

1 S.C. 2012, c. 31.

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