

Replacement Worker Ban, Right To Disconnect And Other Changes Upcoming For Federal Workplaces



On June 20, 2024, Bills C-58, C-59 and C-69 all received Royal Assent. These bills make significant changes to Federal workplace legislation, including the *Canada Labour Code*, *Employment Equity Act* and *Employment Insurance Act*.

We previously wrote about the changes proposed in both Bill C-58 and C-69 when they were introduced but the legislation underwent some notable changes from first introduction. We've summarized these changes below, as well as the amendments imposed by Bill C-59.

Bill C-58

On November 9, 2023, the Federal government introduced Bill C-58, *An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012*. We wrote about this legislation and summarized its proposed changes when it was first introduced in the bulletin, [New Ban on Replacement Workers is Introduced for the Federal Sector](#).

Bill C-58, among other things, bans the use of replacement workers and prohibits bargaining unit employees from crossing picket lines during strikes or lockouts in federal workplaces (save for limited circumstances). The legislation also made significant changes to the *Canada Labour Code*'s maintenance of activities process and introduced fines of up to \$100,000 per day for employers who violate the new prohibition.

The final legislation underwent some significant changes from the version which was introduced at first reading and which are unfavourable to employers. The changes to the original legislation include:

1. Expanding the categories of workers who would not be permitted to work during a strike or lockout to include the following categories:
 1. employees whose normal workplace is a workplace other than that at which the strike or lockout is taking place;
 2. employees transferred to the workplace at which the strike or lockout is taking place after the day on which notice to bargain is given; and,

3. any volunteer, student, or member of the public.
2. Introducing a requirement that the employer reinstate bargaining unit members who were on strike or locked out in preference to any other person.
3. Adding a requirement that employers give employees, on strike or locked out, the opportunity to perform necessary work, prior to using replacement workers, to deal with an imminent or serious threat.
4. Reducing the timeline for the Canada Industrial Relations Board to issue a decision in a maintenance of activities application from the original 90 days to 82 days.

Finally, Bill C-58 will come into force on June 20, 2025 (one year after Royal Assent, rather than the original 18-months after Royal Assent that was proposed).

Bill C-69

On May 2, 2024, the Federal Government introduced Bill C-69, entitled *An Act to implement certain provisions of the budget tabled in Parliament on April 16, 2024 (Budget Implementation Act, 2024, No. 1)* (the “*Budget Implementation Act*”). We wrote about this legislation and summarized its proposed changes when it was first introduced in the bulletin, [Changes to Federal Workplace Legislation Proposed in 2024 Budget](#).

The *Budget Implementation Act* makes several amendments to the *Canada Labour Code* that were proposed in the 2024 Budget, including the introduction of a requirement to have a disconnecting from work policy and other associated obligations.

Employers’ disconnecting from work policies must include the employer’s expectations around communicating outside scheduled hours of work and any opportunity to disconnect from means of communication. Employers will have one year to develop a policy and will have a duty to consult employees in its development, with a mandatory 90-day period for comments.

After the *Budget Implementation Act* was introduced, the Federal Standing Committee on Finance amended the legislation and introduced a new provision which prohibits reprisals or threats against employees who:

1. ask an employer to comply with their disconnecting from work policy;
2. ask about their rights under the policy;
3. file a complaint under the policy; or
4. exercise or attempt to exercise a right under the policy.

All changes associated with disconnecting from work and their coming into force will be announced by proclamation.

Bill C-59

On November 30, 2024, the Federal government introduced [Bill C-59, Fall Economic Statement Implementation Act, 2023](#). This legislation introduces less substantial changes than Bills C-59 and C-69.

Leave Related to Pregnancy Loss: Bill C-59 introduces a new, partially paid, protected leave under the *Canada Labour Code* for situations where an employee’s pregnancy, or the pregnancy of their spouse or common-law partner, does not result in a live birth. The leave of absence may be up to 8-weeks if the pregnancy results in a stillbirth, or three days in any other case.

Employees with three consecutive months of continuous employment are eligible to have

the first three days of the leave paid.

Bereavement Leave: Bill C-59 also made maintenance changes to the bereavement leave provisions under the *Canada Labour Code* to more closely align them with other leaves. The changes include:

- Requiring employees to inform their employer in writing of the reasons for the leave and the length of leave they intend to take;
- Requiring employers to reinstate employees to a comparable position upon returning from a leave;
- Requiring employers to continue pension, health and disability benefits for employees on leave as long as, where required, employees continue to pay their contributions;
- Prohibiting employers from reprising against an employee for taking a leave.

The above changes will come into force on December 12, 2025, or an earlier date if proclaimed.

Bill C-59 also introduces a new 15-week benefit under the *Employment Insurance Act* for adopting parents as well as a corresponding 16-week protected leave under the *Canada Labour Code*. These changes will come into force by proclamation.

What's Next?

Affected employers should be aware of these changes and take note of when the various requirements come into force. We at Fasken will be keeping an eye on any amendments which will be proclaimed into force at a later date.

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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