

Replacement Workers No More! Bill C-58 Receives Royal Assent



On June 20, 2024, Bill C-58, *An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012* (Bill C-58), received royal assent. Coming into force on June 20, 2025, Bill C-58 amends the *Canada Labour Code* (the Code) to prohibit the use of replacement workers by federally regulated employers during a strike or lockout (subject to certain exceptions) and to make an agreement regarding the maintenance of essential services mandatory.

Ban on Replacement Workers

Bill C-58 will amend the scope of the Code's prohibition on the use of replacement workers during a strike or lockout, including:

1. Employers will be prohibited from using employees hired after notice to bargain has been given to perform bargaining unit work. Managers and other excluded employees will be permitted to perform bargaining unit work during a strike or lockout provided they were hired before the notice to bargain was given.
2. Independent contractors will be prohibited from performing bargaining unit work during a strike or lockout unless the contractor was providing services before notice to bargain was given and provided the contractor continues to perform the same services they performed before notice to bargain was given.
3. In addition, an employer will be allowed to use replacement workers to prevent the:
 - a. threat to the life, health, or safety of any person;
 - b. threat of destruction of, or serious damage to, the employer's property or premises; or
 - c. threat of serious environmental damage affecting the employer's property or premises.

The Canada Industrial Relations Board (CIRB) will have jurisdiction to investigate complaints relating to the use of prohibited replacement workers. A violation can expose an employer to a fine of up to \$100,000 per day.

Maintenance of Activities Process

Bill C-58 also amends the process applicable to the maintenance of essential services once notice to bargain is given.

Currently, the Code provides that an employer and union “may” enter into an agreement regarding the maintenance of essential services during a strike or lockout. Bill C-58 will now make this agreement mandatory and will require it to be in place before a notice to strike or lockout can be given.

Once in effect, an employer and union will be required, within 15 days of the date on which a notice to bargain is given, to enter into an agreement identifying the supply of services, operation of facilities or production of goods which must continue to prevent an immediate and serious danger to the safety or health of the public. This agreement is required even if the employer and union agree that essential service operations are not required. If the parties do not come to an agreement within 15 days after the notice to bargain is given, then the employer and union will be required to apply to the CIRB to determine which activities need to be maintained, if any.

Takeaway

Federally regulated employers should take note of these incoming prohibitions and requirements to ensure they remain in compliance with the Code, should a strike or lockout occur.

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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