

New CLC Compliance and Enforcement Rules in Effect

Effective April 1, 2019, the federal government implemented new rules around compliance and enforcement of the labour standards provisions in the *Canada Labour Code*.

The new requirements were included in Bill C-44, the *Budget Implementation Act, 2017, No. 1*, which received royal assent on June 22, 2017. The Code covers employers and employees who fall under federal jurisdiction.

The following provisions, published in the February 20, 2019 *Canada Gazette Part II*, are among the new rules now in effect:

- Labour Program inspectors have the power to determine wages and other amounts owed to an employee based on available evidence if an employer does not keep payroll records.
- The labour minister has the power to order employers to carry out internal audits to determine whether they are complying with federal labour standards rules. Employers have to report their findings to the minister, including steps taken to address situations where they were not in compliance.
- The period that may be covered by a payment order for unpaid wages has increased from one year to two years before the day on which a complaint was made, an employee's employment was terminated, or an inspection was started.
- Labour inspectors have the authority to issue notices of voluntary compliance if an employer voluntarily pays amounts that an inspector has found it owes to an employee without the inspector having to issue a payment order.
- The Labour Program can charge administrative fees on payment orders issued to employers who fail to pay wages or other amounts to employees. The fees will be equal to either 15% of the amounts listed in the payment order or \$200, whichever is greater.
- Employers requesting a review or an appeal of a payment order must pay an administrative fee, along with the amount shown in the payment order. Fees will be adjusted, with overpayments reimbursed to the employers, if the review or appeal changes the payment order.
- With the agreement of the labour ministry, employers and corporate directors may provide security (e.g., bond or irrevocable letter of credit) instead of a monetary amount when asking for a review of a payment order. Previously, they had to pay the full amount of the payment order before applying for a review.
- Labour Program regional directors have the authority to issue orders to any person indebted to a director of a corporation, ordering them to pay amounts owing to an employee directly to the minister.

“Some employers will face increased financial and administrative costs and burdens as a result of the overall compliance and enforcement package (primarily due to the addition of administrative fees on payment orders),” said a government statement in the *Gazette*.

“However, these costs should not affect law-abiding employers. The latter should also benefit from measures that will help ensure that they are not undercut by competitors who fail to comply with the Code's requirements,” it said.

Government Appoints Panel to Study CLC Issues

The federal government has appointed an independent expert panel to study “complex” workplace issues affecting federally regulated employers and employees.

Minister of Employment, Workforce Development and Labour Patty Hajdu said the seven-member panel would examine and make recommendations on issues such as a federal minimum wage; labour standards protections for non-standard workers; the right to disconnect outside of work hours; collective voice for non-unionized workers; and access and portability of benefits. The panel will be headed by Sunil Johal, policy director at The Mowat Centre, a think tank in Toronto.

Hajdu said the government would announce the results of the panel’s work this summer. We will continue to monitor this story and will report on further developments in upcoming releases.

Reminder: NR4 Due Date Approaching

Just a reminder... Employers are required to file the NR4, *Statement of Amounts Paid or Credited to Non-residents of Canada*, with the Canada Revenue Agency by March 31 each year. Since March 31 falls on a Sunday this year, the filing deadline is Monday, April 1, 2019; however, as a best practice, employers should try to submit the slips by March 29, 2019.

For information on the NR4, please see 9.2.3, Reporting Income for Non-residents.

BC Government Looking to Make ESA Changes

The British Columbia government says it is planning to make changes to its *Employment Standards Act* as early as this spring.

In late February, the government released a consultation paper on areas where it is considering making amendments and asked for public feedback by the end of March. The areas include hours and work overtime; unpaid leaves of absence; minimum age for employment; termination rules; wage recovery for employees; and Employment Standards Branch policies around compliance and enforcement.

The government says the consultations will build on a recent review of the Act by the BC Law Institute and on recommendations for change that the Ministry of Labour has received from employers, workers, and groups such as the BC Employment Standards Coalition and the BC Federation of Labour.

We will continue to monitor this story and will report on further developments in upcoming releases.

Manitoba Retail Sales Tax Rate Going Down

Manitoba Finance Minister Scott Fielding released the province's 2019 budget on March 7, 2019.

The budget proposes to lower the rate for the province's retail sales tax from 8% to 7%, effective July 1, 2019.

Reminder: Minimum Wage Rates Rising on April 1st

Just a reminder... Minimum wage rates will be rising in a number of Canadian jurisdictions to the following amounts on April 1, 2019:

New Brunswick:	\$11.50/hour (currently \$11.25)
Newfoundland and Labrador:	\$11.40/hour (currently \$11.15)
Nova Scotia—experienced workers:	\$11.55/hour (currently \$11.00)
—inexperienced workers:	\$11.05/hour (currently \$10.50)
Prince Edward Island:	\$12.25/hour (currently \$11.55)
Yukon:	\$12.71/hour (currently \$11.51)

Reminder: Good Friday Statutory Holiday Occurs in April

Just a reminder... Friday, April 19, 2019, Good Friday, is a statutory holiday under employment/labour standards law in all Canadian jurisdictions. In Quebec, employers may designate either Good Friday or Easter Monday (April 22, 2019) as the statutory holiday.

For information on statutory holidays, please refer to the applicable jurisdiction in chapter 19, Statutory Holidays.

Reminder: Deadline Approaching for Filing Health-related Tax Returns

Just a reminder... Employers who are required to pay the Manitoba Health and Post Secondary Education Tax Levy must file a *Health and Education Tax Levy Annual Report* with the provincial Finance Department by April 1, 2019. The report is normally due by March 31, but since that date falls on a Sunday this year, the return is due on the next business day.

Employers who are required to pay the Ontario Employer Health Tax must file an *Annual Return* with the Finance Ministry no later than March 15, 2019.

Reminder: Ontario WSIB Reconciliation Form Due by March 31st

Just a reminder... Employers who pay their Workplace Safety and Insurance Board (WSIB) premiums monthly must file a *Reconciliation Form* with the WSIB no later than March 31, 2019. Online filing is available. For more information on online services, refer to the eWSIB section on the board's website at www.wsib.on.ca/. For more information on the Reconciliation Form, please see 22.8.3, Employer's Statement.

Reminder: Quebec CNESST Statement of Wages Due this Month

Just a reminder... The Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) requires employers to submit a *Déclaration des salaires* form before March 15, 2019. Employers must file it online. More information on online filing is available at www.csst.qc.ca/employeurs/assurance/declaration-salaires/production-transmission/Pages/production-transmission.aspx.

Payroll Q & A

Question: We recently received a ruling from the Canada Revenue Agency (CRA) on some workers that began doing work for us last year. The ruling states that these workers are employees, not independent contractors, as we had been treating them. As a result, the CRA requires us to remit CPP contributions and EI premiums—both the employer's and the employees' portions—going back to the date they were hired. Are we allowed to recover any portion of the outstanding CPP and EI from payments we make to the workers?

Answer: Yes, employers may recover the employees' portion from them, provided that the outstanding CPP contribution or EI premium does not go back more than 12 months. The amount deducted for the outstanding contributions/premiums cannot exceed the amount the employer should have deducted from each payment. The employer is responsible for paying its share of the outstanding CPP contribution and EI premium. Similar rules apply for QPP contributions and QPIP premiums for employers who must remit outstanding amounts to Revenu Québec.

In cases where employers should have made a deduction in a previous year and they recover it through a deduction in the current year, they should not report the recovered amount on the current year's T4 (and RL-1 for Quebec employers). Instead, amend the previous year's T4 (and RL-1, if applicable). The recovered amount will not affect the current year-to-date C/QPP contributions or EI premiums.