

Reminder: NR4 Due by Mar. 31

Just a reminder... Employers who are required to file the NR4, *Statement of Amounts Paid or Credited to Non-residents of Canada*, with the Canada Revenue Agency must do so by March 31, 2022. For information on the NR4, please see 9.2.3, Reporting Income for Non-residents.

Reminder: Upcoming Statutory Holidays

Just a reminder... The following dates are statutory holidays:

- Fri., Apr. 15/22: All jurisdictions—Good Friday (In Quebec, employers may choose to observe the holiday on Good Friday or Easter Monday.)
- Mon. May 23/22: Alberta; British Columbia; Manitoba; Northwest Territories; Nunavut; Ontario; Quebec; Saskatchewan; Yukon; and under the *Canada Labour Code*—Victoria Day (National Patriots Day in Quebec) (In New Brunswick, the day is a holiday under the *Days of Rest Act*)

For information on entitlement to the holidays and how to compensate employees for them, please refer to the applicable jurisdiction in chapter 19, Statutory Holidays

Reminder: Minimum Wage Rates Rising on April 1

Just a reminder... Minimum wage rates will rise in a number of Canadian jurisdictions to the following amounts on April 1, 2022:

- New Brunswick: \$12.75/hour (currently \$11.75)*
- Newfoundland and Labrador: \$13.20/hour (currently \$12.75)
- Nova Scotia: \$13.35/hour (currently \$12.95)*
- Prince Edward Island: \$13.70/hour (currently \$13.00)
- Yukon: \$15.70/hour (currently \$15.20)

**Note: The New Brunswick rate will rise to \$13.75 an hour on October 1, 2022. The Nova Scotia rate will increase to \$13.60 on October 1, 2022.*

Reminder: Deadline Approaching for Filing Health-related Tax Returns

Just a reminder... The deadline is approaching for filing health-related tax returns in some jurisdictions:

- **British Columbia:** Employers who are required to pay the province's Employer Health Tax (EHT) must file an annual return by March 31, 2022. Employers must file it electronically through eTaxBC. In addition to the return, employers must either pay their final instalment payment (if paying the EHT quarterly) or their total annual EHT payment for the previous year (if paying the EHT annually). For more information, please see

13.2.2, Employer Health Tax. For information on eTaxBC, see <https://www2.gov.bc.ca/gov/content/taxes/etaxbc/help-guide>.

- **Manitoba:** Employers who are required to pay the Health and Post Secondary Education Tax Levy (HE Levy) must file a *Health and Education Tax Levy Annual Report* with the provincial Finance Department each year. The deadline for filing the 2021 report is March 31, 2022. For more information on the tax, please see 13.3.2, Health and Post Secondary Education Tax Levy.
- **Ontario:** Employers who are required to pay the Employer Health Tax must file their *Annual Return* no later than March 15, 2022. For more information on the EHT, please see 13.8.2, Employer Health Tax.

Alberta WCB Proposes Changes to Surplus Distribution Policy

The Alberta Workers' Compensation Board (WCB) is asking for feedback on proposed changes to its funding policy that would allow the board to distribute surplus funds to employers when the value of its accident fund exceeded 128% of its total liabilities.

The proposal would return the policy to the wording that was in place before 2019. It would also lower the threshold for the release surplus distributions from 1% of liabilities to 0.5%.

The proposed changes are open for comment until April 18, 2022.

For more information, see <https://www.wcb.ab.ca/forms/policy-feedback3.asp>.

Proposed Ontario Legislation would Give Gig Workers more Rights and Require Employers to Disclose Electronic Monitoring

In late February, the Ontario government tabled legislation that would give digital platform workers pay-related rights and protections and require some employers to disclose whether they were electronically monitoring employees.

The changes were included in Bill 88, the *Working for Workers Act, 2022*, which Minister of Labour, Training and Skills Development Monte McNaughton tabled in the provincial legislature on February 28, 2022. Among the proposals in the bill are the following measures:

- A new *Digital Platform Workers' Rights Act, 2022*, would set out the rights of workers who perform digital platform work. Digital platform work refers to work assignments such as ride share, delivery, courier work and other activities that operators offer to workers through an online service and that workers can accept or decline.
- Digital platform workers would be entitled to earn at least the current general minimum wage rate for each work assignment and have the right to keep their tips. Digital platform operators would have to establish a recurring pay period and a recurring pay day for the workers and pay all amounts owing for each pay period by the pay day for that period.
- Digital platform workers would have the right to information about how the operator calculates their pay, the factors it uses to assign work, if there is a performance rating

system and whether there are performance-based consequences. They would also be protected against reprisals and would have the right to resolve work-related disputes in Ontario.

- Operators of digital platforms would have to keep records on each worker's name and address, the date(s) they gave a worker access to their platform for performing work, the date(s) they removed or reinstated the worker's access; the date and time the worker began and ended work assignments; amounts paid to the worker, including the date and a description of the payment. The government could add more record-keeping requirements through regulations.
- Amendments to the *Employment Standards Act, 2000* would require employers with at least 25 employees to establish a written policy on electronic monitoring of employees. The policy would have to inform employees of whether the employer electronically monitors them and, if so, the reason for it. The policy would also have to include the date it was created and the date of any changes. Regulations under the Act could prescribe other information to include. Employers would have to provide the policy to employees within 30 days of being required to create it or within 30 days of a new employee beginning employment.
- Employers with at least 25 employees on January 1 of a year would have to have an electronic monitoring policy in place by March 1 of the same year. Employers would have to keep a copy of the policy for three years after it was no longer in effect. As a transitional measure, employers would have until six months after the date the bill received royal assent to establish the policy, using the January 1 that came immediately before the date of royal assent for determining whether it employed 25 or more employees.
- Amendments to the *Employment Standards Act, 2000* would expand reservist leave to include time off for taking part in Canadian Armed Forces military skills training. The amendments would also reduce the eligibility period for the leave from six consecutive months of employment with the employer to three consecutive months.
- Other amendments to the employment standards legislation would exclude business and information technology consultants from coverage if certain conditions applied. These would include situations where a business consultant provided services through a corporation for which they were a director or shareholder who was party to a unanimous shareholder agreement or they provided services as a sole proprietor under a registered business bearing their name. Other conditions would include a requirement that there be an agreement in place that set out when the consultant would be paid and the amount that they would be paid, which would have to be expressed as an hourly rate set at at least \$60 per hour (excluding bonuses, commissions, expenses and travelling allowances and benefits) and that the consultant was paid the amount stipulated in the agreement..

For more information on the bill, see https://www.ola.org/sites/default/files/node-files/bill/document/pdf/2022/2022-02/b088_e.pdf.

Ontario WSIB Issuing Rebates

The province's Workplace Safety and Insurance Board (WSIB) says it will distribute a rebate of its surplus funds to eligible employers in April.

Under legislation passed last fall, the board is required to return excess funds to employers if its surplus reaches 125% of its necessary revenue. If the excess funds reach 115%, but are less than 125%, the WSIB can choose to provide a rebate to employers.

The amount of the rebate will be approximately 30% of the premiums that an employer paid in 2019 or 2020, whichever is higher. The WSIB said its surplus allows it to provide a total of up to \$1.5 billion in rebates.

To be eligible for a rebate, employers must be Schedule 1 businesses under the *Workplace and Safety and Insurance Act, 1997* and must meet all of the following requirements:

- have an active account with the WSIB as of January 31, 2022,
- were required to pay premiums in either 2019 or 2020, and
- have not been convicted of an offence under the *Workplace Safety and Insurance Act, 1997* or the *Occupational Health and Safety Act* under Part III of the *Provincial Offences Act* in 2021 or 2022 and have not been convicted in more than one such proceeding between 2017 and 2022, up to and including the date the WSIB issues the rebates.

The board will post the rebate as a credit on an eligible employer's statement of account in April.

For more information on the rebate, see <https://www.wsib.ca/en/rebate>.

Reminder: Ontario WSIB *Reconciliation Form* Due by March 31

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, 2022. Online filing is available. For more information on online filing, see <https://www.wsib.ca/en/businesses/premiums-and-payment/completing-reconciliation-form>. For more information on the *Reconciliation Form*, please see 22.8.3, Employer's Statement.

Reminder: 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, 2022. Employers must file it online. More information on online filing is available at <https://www.cnesst.gouv.qc.ca/fr/demarches-formulaires/employeur/dossier-dassurance-employeur/declaration-salaires>.

Quebec Legislation Providing Better Protection for Trainees in the Workplace Passes

In February, Quebec's National Assembly passed legislation that gives on-the-job trainees the right to be absent from training on statutory holidays, take time off for sickness or family obligations, and work in an environment free of psychological harassment.

The measures were included in Bill 14, *An Act to ensure the protection of trainees in the workplace*, which passed third reading and received assent on February 24, 2022. The legislation

will come into force on August 24, 2022.

The legislation applies to any person, including salaried employees, who trains with an employer in order to acquire skills required to obtain a permit to practice issued by a professional order or that is part of a program of studies or a training program at a secondary school, vocational school, college, or university that leads to a diploma, certificate or attestation of studies. An employer is any person, partnership or other entity that receives a trainee for the purposes of training.

Trainees are covered under the legislation regardless of where they do their workplace training. The Act also applies to trainees who train both in Quebec and outside of the province with an employer in Quebec and to trainees who are Quebec residents who do training outside of the province with an employer who resides in or has an office in Quebec.

The Act includes the following requirements:

- Employers and the educational institution or professional order, as applicable, must take “reasonable measures” to ensure a trainee’s success is not negatively affected because the trainee exercised a right under the Act during the training.
- Employers and the educational institution or professional order, as applicable, must take reasonable measures to accommodate trainees who are absent for reasons related to the following sections of the *Act respecting labour standards* for the durations and periods set out in the sections: 79.1, 79.8 to 79.12, 79.15, 81.2, 81.4 to 81.5.2, 81.10 and 81.11. The sections cover leaves for sickness, organ/tissue donation, accidents, domestic/sexual violence, criminal offences and leaves for family or parental reasons.
- Employers, educational institutions and professional orders are required to notify every trainee of their rights under the Act.
- The statutory holidays that trainees may take off are the holidays permitted under the *Act respecting labour standards*, as well as the National Holiday (June 24). Compensatory holidays apply in situations where trainees had to take part in training on a holiday.
- Trainees may take time off of training for the following reasons:
 - 10 days a year for sickness or for fulfilling obligations related to the care, health or education of their child or the child of their spouse, or to care for a relative;
 - five days on the death or for the funeral of their spouse, child (including the child of their spouse), father, mother brother or sister;
 - five days for the birth or adoption of their child or where there is a pregnancy loss in or after the 20th week of pregnancy;
 - one day on the death or for the funeral of their son-in-law, daughter-in-law, grandparent or grandchild, or of the father, mother, brother or sister of their spouse;
 - one day for their wedding or civil union; and
 - one day on the day of the wedding or civil union of their child (including the child of their spouse), father, mother, brother or sister.
- For the 10 days off for sickness or family obligations, the trainee must notify the employer as soon as possible and take reasonable measures to limit the length of the absence. Employers may ask for proof of the need for the leave if the circumstances warranted it.
- Trainees are permitted to be absent from their training for examinations related to their

pregnancy.

- For the five days off related to birth, adoption or pregnancy loss, the trainee may divide the leave into individual days. Trainees are limited to taking the leave within 15 days after the child arrived at their residence or after the termination of the pregnancy.
- Employers and the educational institution or professional order, as applicable, must take reasonable measures to prevent psychological harassment and, where they became aware of it, protect the trainee and stop the behaviour.
- Employers must provide all of their trainees with the relevant sections of their psychological harassment prevention and complaint policy.
- Employers are prohibited from ending training or dismissing, suspending or transferring a trainee, discriminating against a trainee or taking reprisals against a trainee or imposing other sanctions because the trainee exercised their rights under the Act or provided information to the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST).
- Trainees may file complaints with the CNESST if they believe that the employer or educational institution or professional order violated a provision of the Act.
- Any person who hinders the CNESST in an investigation or who contravened any other provision in the Act is liable for a fine of \$600 to \$1,200 for a first offence and a fine ranging from \$1,200 to \$6,000 for a subsequent offence.

For more information, please see <http://www.assnat.qc.ca/en/travaux-parlementaires/projets-loi/projet-loi-14-42-2.html>.

Yukon Considering making National Day for Truth and Reconciliation a Statutory Holiday

The Yukon government is considering making the National Day for Truth and Reconciliation a statutory holiday under the territory's *Employment Standards Act*.

The federal government created a National Day for Truth and Reconciliation holiday last year, implementing one of the calls to action that the Truth and Reconciliation Commission put forward in its 2015 report on the history and legacy of residential schools in Canada on First Nations, Inuit and Métis people. The holiday is observed on September 30 every year.

Making the day a holiday under Yukon's employment standards legislation would require employers to give eligible employees in the territory the day off with pay.

Before determining whether to proceed, the government asked for public feedback, holding an online survey from March 8, 2022 to April 30, 2022. It also said it was discussing the issue with Yukon First Nations governments

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

Provincial/Territorial Budget Round-up

Alberta: No payroll-related changes proposed.

British Columbia: There were no new payroll-related tax rate changes proposed. The budget did include the following proposals that might interest payroll professionals:

- The budget would amend the *Provincial Sales Tax Act* to clarify that gift cards and gift certificates are not subject to provincial sales tax when acquired. The amendment would apply as of February 23, 2022.
- The budget would extend training tax credits for employers who employ apprentices for two years to December 31, 2024.
- The budget would amend the *Employer Health Tax Act* to standardize and clarify rules on filing appeals to the Minister of Finance. The amendments would take effect on October 1, 2022.

Northwest Territories: No payroll-related changes proposed.

P.E.I.: The budget proposes to increase the basic personal amount that employees claim on a P.E.I. *Personal Tax Credits Return* (TD1PE) from \$11,250 to \$12,000, effective January 1, 2023.

Yukon: No payroll-related changes proposed.

Payroll Q & A

Question: We are paying severance pay to a long-service employee whose position has been eliminated. We are paying it in a number of instalments over two years. Does the payment still qualify as a retiring allowance even though we are not paying it in a single payment?

Answer: Yes, severance pay can be paid in instalments and still qualify as a retiring allowance. The instalment payments are not subject to C/QPP contributions or EI premiums. They are also not subject to QPIP premiums in Quebec, with the exception of wages in lieu of notice payments. Retiring allowances are taxable with income tax deductions calculated using the lump-sum tax rates. Instalment payments are taxable in the year that the former employee receives them.

Employees with years of service before 1996 may directly transfer all or part of a retiring allowance to a registered pension fund or plan (RPP) or to a registered retirement savings plan (RRSP) in which they are the annuitant. The portion transferred is not subject to income tax deductions. When retiring allowances are paid in instalments over one or more years, employers may transfer the amounts (or a portion of them) in any particular year to the RRSP or the RPP; however, the amount transferred cannot be more than the amount eligible for transfer minus the eligible amount transferred in a previous year. For more information on how to determine the eligible amount, see 2.7.2, Transfer of Retiring Allowance.

If employees request it, employers may transfer some or all of the “non-eligible” portion of the retiring allowance to the employee’s RRSP or to a spousal or common-law partner’s RRSP. The amount transferred cannot exceed the employee’s available RRSP deduction limit for the year.

There are no income tax deductions on the amount transferred if the employer has reasonable grounds to believe that the employee can deduct the RRSP contribution on their income tax return. For more information, see 2.7.2, Transfer of Retiring Allowance.