

## **New CLC Regulations will allow for Hours of Work Exemptions for certain Job Classes**

Beginning February 1, 2022, new federal regulations will exempt some employee job classes from certain hours of work requirements under the *Canada Labour Code*.

The Code applies to employers and employees in federally regulated private-sector industries and in federal Crown corporations.

The new Exemptions from and Modifications to Hours of Work Provisions Regulations list exemptions and modifications relating to standards requiring employers to provide at least 96 hours' notice of work schedules, 24 hours' notice of shift changes, an unpaid 30-minute break during every period of at least five consecutive hours of work and an eight-hour rest period between shifts or work periods. The exemptions and modifications apply to specific job classes in the road transportation and postal and courier sectors, marine sector, and grain sector.

Employment and Social Development Canada (ESDC) said it created the regulations to “balance the operational realities of certain industries with the legislative goal of providing employees with work-life balance and more predictability in relation to their hours of work.” It noted that employers with continuous 24/7 operations are having trouble complying with the above-mentioned hours of work standards, which came into effect on September 1, 2019. In addition, ESDC said some federally regulated industries have to comply with safety requirements and restrictions on hours of service that may conflict with the new hours of work provisions in the Code.

ESDC said it is working on additional exemption and modification regulations for other federally regulated industries, including aviation, telecommunications, broadcasting, and rail transportation. Until regulations are created, ESDC said employers and employees in those industries should continue to follow policy guidance provided by its Labour Program in IPG-101, *Scope of Application*, available at <https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/interpretations-policies/scope-application.html>.

For more information on the new regulations, including specific employee classes affected, see SOR/2021-200, Exemptions from and Modifications to Hours of Work Provisions Regulations in the September 1, 2021 *Canada Gazette Part II*, at <https://canadagazette.gc.ca/rp-pr/p2/2021/2021-09-01/pdf/g2-15518.pdf>.

We will update 14.2.8, Exclusions, to incorporate the changes in an upcoming release.

## **Fourth Quarter Prescribed Interest Rates Set**

The prescribed rate for taxable benefits to employees and shareholders from interest-free and low-interest loans is 1% from October 1, 2021 to December 31, 2021. The rate is unchanged from the previous quarter.

The interest rate for unpaid source deductions, overdue taxes and insufficient instalments is 5% for the fourth quarter.

### **Reminder: Upcoming Statutory Holidays**

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

- Mon. Oct. 11: All jurisdictions except New Brunswick, Newfoundland and Labrador, Nova Scotia and, Prince Edward Island—Thanksgiving
- Thurs. Nov. 11: All jurisdictions except Manitoba, Nova Scotia, Ontario, and Quebec—Remembrance Day. In Manitoba and Nova Scotia, the day is a holiday under each jurisdiction's *Remembrance Day Act*. As a result, the holiday is treated in a different way than holidays under employment/labour standards laws.
- Sat. Dec. 25: All jurisdictions—Christmas
- Sun. Dec. 26: Canada Labour Code and Ontario—Boxing Day
- Sat. Jan. 1/22: All jurisdictions—New Year's Day
- Mon. Jan. 3/22: Quebec—bank holiday (January 2, 2022, is a bank holiday in Quebec. Since Jan. 2 falls on a Sunday in 2022, the holiday will be observed on Mon. Jan. 3.)

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.

### **2022 Maximum Assessable/Insurable Earnings**

The following workers' compensation bodies have announced their maximum assessable/insurable earnings for 2022:

British Columbia: \$108,400 (2021: \$100,000)

Manitoba: \$150,000 (2021: \$127,000)

Quebec: \$88,500\* (2021: \$83,500)

\*Proposed

### **Reminder: Minimum Wage Rates Change Oct. 1<sup>st</sup>**

Just a reminder... Effective October 1, 2021, minimum wage rates increased in Manitoba, Newfoundland and Labrador, Ontario, and Saskatchewan.

The general minimum wage rate in those jurisdictions is now as follows:

- Manitoba: \$11.95/hour (previously \$11.90 )
- Newfoundland and Labrador: \$12.75/hour (previously \$12.50)

- Ontario: \$14.35/hour (previously \$14.25)
- Saskatchewan: \$11.81/hour (previously \$11.45)

In Ontario, the following minimum wage rates also went up on October 1, 2021:

- Homeworkers: \$15.80/hour (previously \$15.70)
- Students under 18 working fewer than 28 hours per week (or more than 28 hours during school vacation): \$13.50/hour (previously \$13.40)
- Tip-based employees who serve liquor on licensed premises: \$12.55 per hour (previously \$12.45)
- Hunting/fishing/wilderness guides
  - working for fewer than five consecutive hours a day: \$71.75 (previously \$71.30)
  - working five or more hours, whether or not consecutive: \$143.55 (previously \$142.60)

### **Reminder: B.C. Government Implements New Minimum Age Requirements**

Just a reminder...Effective October 15, 2021, the British Columbia government will implement new rules that raise the general minimum age for employment from 12 years to 16 years.

Under the new rules, employers will not be allowed to employ children under 14 years of age unless they have the permission of the director of Employment Standards. They will also not be able to hire a child under 15 years of age unless the child's parent or guardian provides written consent. Children who are 14 or 15 years of age will be permitted to do light work if their parent or guardian consents to it in writing, but they will not be allowed to do any other work unless the director of Employment Standards approves it.

Despite the new requirements, employers will not need the director's permission to hire children between the ages of 12 and under 16 if they do not require or permit them to do work that is listed as not being light work under the *Employment Standards Act's* regulations. An exception will also apply in situations where a member of the child's immediate family is an owner of the business or farm employing the child and where a child works as a camp assistant, assistant coach, referee or umpire in a sports or recreational activity for children under age 16 years.

"Light work" is work that is unlikely to harm the health or development of a child who is 14 or 15 years of age. Regulations under the Act prescribe light work as including tasks such as administrative work, stocking shelves, preparing food, bussing tables, dishwashing, child care, cleaning, clearing snow, gardening, delivering goods, and troubleshooting user issues with technology, among other jobs.

For a list of jobs and occupations that are and are not considered light work, refer to regulations under the Act at [https://www.bclaws.gov.bc.ca/civix/document/id/oic/oic\\_cur/0489\\_2021](https://www.bclaws.gov.bc.ca/civix/document/id/oic/oic_cur/0489_2021).

The new requirements will not apply to child employees who meet all of the following conditions: they were hired before October 15, 2021, their position and duties have not changed since October 15, 2021, and as of January 15, 2022, they will be 16 years of age or, if their position and duties include only light work, 14 years of age.

For more information, see <https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards/hiring/young-people>.

### **B.C. Government puts forward Three Possible Models for Paid Sick Leave**

The British Columbia government has put forward three proposed models for permanent paid sick leave in the province, asking residents to provide feedback on options for three paid days, five paid days, and 10 paid days.

In August, the government launched consultations to determine the minimum number of paid sick days it should mandate under the *Employment Standards Act*. Recent amendments to the Act will require employers to provide paid sick leave to employees with more than 90 consecutive days of employment, beginning January 1, 2022.

During a first phase of consultations (August 5, 2021 to September 14, 2021), the government surveyed employers and workers about the types of paid illness and injury leave currently provided and whether they met workers' needs. Using the data collected from the surveys, the government launched another survey (running from September 22, 2021 to October 25, 2021), asking for feedback on models that would require employers to provide at least three, five or 10 paid sick days per year, in addition to the three unpaid days already required under the Act.

Results from the phase one surveys found that approximately 50 percent of B.C. employees do not have any employer-paid sick days and that about 60 percent of employers do not offer paid sick days to their workers. Of those who do have employer-paid sick days, approximately 70 percent of employees said they typically do not use all of the paid days they get each year. Employers responding to the survey also indicated that most employees do not use all of their paid sick days in a year.

The phase-two survey on the proposed models put forward considerations for each of the options, showing how they would affect employees and employers. Three days of paid sick leave would address the needs identified by almost four out of ten employees in the phase-one consultations, but between one-quarter and one-half of employers indicated that three paid days would have a major impact on their operations.

The five-day option would meet the needs of about two-thirds of employees, but approximately half of the employers indicated that five days would have a major impact on their operations.

Survey documents stated that 10 days of paid sick leave would address the needs identified by over nine-tenths of employees, but approximately 90 percent of employers indicated that 10 employer paid sick days would have a major impact on their operations.

In November, the government is expected to provide an update on the feedback it received and set out the next steps for implementing paid sick leave. In November or December, it expects to create and finalize regulations for paid sick leave, ahead of the January 1, 2022 implementation date.

Once paid sick leave comes into effect, employers will be required pay employees their average days' pay for each day of the leave. An average day's pay is the amount paid or payable to an employee for work done during and wages earned within 30 calendar days before the leave, divided by the number of hours the employee worked or earned wages in that 30-day period. Employers will have to include any vacation pay paid or payable for vacation taken during the 30-day period. Overtime pay will be excluded. Regulations under the Act could set out other payment methods.

Employment Standards rules currently require employers to pay employees for up to three days of sick leave related to COVID-19. This requirement remains in effect until December 31, 2021. For more information, see 15.6.13, COVID-19-related Leave.

For more information on the consultation, see <https://engage.gov.bc.ca/paidsickleave/>.

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

### **Quebec: Large Dealers have until Oct. 31 to Report QST on Employee Motor Vehicle Benefits**

Revenu Québec recently issued a notice reminding motor vehicle dealers that are large businesses that they have until the end of October to report the amount of Quebec Sales Tax (QST) arising on taxable benefits related to their employees' personal use of motor vehicles that the business made available to them from 2018 to 2020. After October 31, 2021, interest and penalties will apply.

The October 31, 2021 deadline was included in an *Act to amend the Taxation Act, the Act respecting the Québec sales tax and other provisions*, which received assent on June 4, 2021.

Under QST legislation, a business is considered a large business in a fiscal period if its total taxable sales (including those of its associated businesses) are more than \$10 million in the immediately preceding fiscal period.

For more information, see <https://www.revenuquebec.ca/en/businesses/consumption-taxes/gsthst-and-qst/special-cases-gsthst-and-qst/transportation/road-vehicles-businesses/special-situations-road-vehicles/use-of-courtesy-or-demonstration-vehicles/>.

### **Quebec National Assembly Passes Amendments to Its Privacy Protection Laws**

On September 22, 2021, the Quebec National Assembly passed legislation to update and strengthen provincial laws dealing with the protection of personal information.

Bill 64, *An Act to modernize legislative provisions as regards the protection of personal information*, will amend numerous provincial laws, including the *Act respecting the protection of personal information in the private sector* and the *Act respecting access to documents held by*

*public bodies and the protection of personal information*, once it comes into force. Most of the amendments will take effect on September 22, 2023, although some will come into force on September 22, 2022.

Here is a brief overview of some of the changes that are included in the bill:

- There will be new rules for how public organizations and private businesses handle breaches of confidential personal information, including a requirement to publish governance rules for personal information.
- Organizations will have to carry out privacy assessments when they are buying or developing information systems or electronic services that involve collecting, using, releasing, keeping or destroying personal information.
- Before collecting, using or releasing an individual's personal information, organizations will have to request consent from the individual separately from any other information provided to them. Individuals will have to expressly give their consent (as opposed to implied consent) for certain uses or releases of sensitive information.
- There are some changes to the conditions for when organizations may release personal information without consent to a person or body wanting to use the information for study or research purposes or to produce statistics. The amendments will also clarify the conditions that apply to other releases of personal information when consent is not needed, including releasing the information outside of Quebec, to a spouse or a close relative of a deceased person, or by one business to another to conclude a commercial transaction.
- Private-sector organizations will be required to appoint someone to be in charge of the protection of personal information within the organization.
- Private-sector organizations will have to ensure that the parameters of the technology products or services that they use to collect personal information are set to the highest level of confidentiality by default.
- Increased penalties will apply for offences under the legislation.

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

## **Payroll Q & A**

Question: We are laying off some employees. We have given them notice, but have asked them to stay on until the end of the year to finish a project. We will pay each employee an extra amount (beyond their usual pay) for remaining on staff until the termination date. Is this type of payment a retiring allowance?

Answer: No, it is not a retiring allowance. A retiring allowance is a sum of money paid on or after retirement or termination of employment in recognition of an employee's long service or as compensation for loss of office or employment. The extra amount you are paying to employees who stay on the job is a retention bonus, which the Canada Revenue Agency does not consider to be a retiring allowance.

The cash payment of the bonus will be subject to C/QPP contributions, EI premiums, QPIP

premiums (for Quebec) and income tax deductions. For information on how to calculate the deductions, please refer to 1.2, Bonuses and Incentives.