



HUNTER-LIBERATORE-LAW

## Legislative Update – June 2023

There have been several legislative initiatives recently that are worthy of mention and/or reminders that they are now in force. The following is a quick review of these recent changes and emerging trends to be aware of.

### British Columbia

#### a) *Pay Transparency Act*

As we [previously reported](#), British Columbia introduced Bill 13, the *Pay Transparency Act* in March 2023. The Act received Royal Assent on May 11, 2023, and requires the following from BC employers:

- **Job Advertisements:** Starting **November 1, 2023**, employers must include wage and salary ranges on all publicly advertised job postings.
- **Pay History:** Employers are prohibited from seeking pay history information from job applicants or third parties (e.g., previous employers) unless that information is publicly accessible.
- **Reprisals:** Employers cannot reprise against employers who,
  - Ask about pay or pay transparency reports;
  - Disclose information about their pay;
  - Ask the employer to comply with their obligations under the Act;
  - Make a report regarding their employer's non-compliance with the act.
- **Pay Transparency Reports:** Specified employers must prepare and publicly post annual reports about the gender pay gap in the following stages:
  - November 1, 2023: BC government specified Crown corporations (ICBC, BC Hydro, WorkSafeBC, BC Housing, BC Lottery Corporation and BC Transit);
  - November 1, 2024: all employers with 1,000 employees or more;
  - November 1, 2025: all employers with 300 employees or more;
  - November 1, 2026: all employers with 50 employees or more;
  - post-2026: smaller employers, as prescribed.

Note: the information to be collected for the pay transparency reports is still to be prescribed by future Regulation.



## ***b) National Day for Truth and Reconciliation***

The *Miscellaneous Statutes Amendment Act, (No.2), 2023* received Royal Assent on May 11, 2023. It amends the *Employment Standards Act (ESA)* and clarifies that any provisions of a collective agreement regarding statutory holidays replace the ESA requirements regarding statutory holidays except for the National Day for Truth and Reconciliation.

This means unions and employers cannot agree to opt out of the National Day for Truth and Reconciliation.

This change came into force on **May 11, 2023**.

## **Nova Scotia**

The *Patient Access to Care Act* which includes the *Medical Certificates for Employee Absence Act*, received Royal Assent on April 23, 2023. The Act prevents employers from requiring an employee to provide a medical note for an absence from work due to sickness or injury, unless:

- the absence continues for more than five consecutive working days; or
- the employee has had at least two non-consecutive absences of five or fewer working days due to sickness or injury in the preceding 12 months.

The Act will come into force on **July 1, 2023**.

## **Ontario**

### ***a) Occupational Health and Safety Act***

In [April 2022](#), the *Workers for Workers Act* received Royal Assent and amended the *Occupational Health and Safety Act* to require certain employers keep unexpired Naloxone kits on site at their workplaces. This requirement is in force as of **June 1, 2023**.

Naloxone kits must be kept in the workplace if,

1. there is a risk of a worker opioid overdose;
2. there is a risk of the opioid overdose in the workplace; and



3. the risk is posed by a worker who performs work for the employer.

Employers must keep at least one Naloxone kit in each workplace where these conditions apply and must also ensure that a worker near the kit oversees it and has received training on its use.

Note: Ontario's Workplace Naloxone Program will provide a free Naloxone kit and free naloxone training for two workers to employers who are required to provide the kits. Employers can access the free kits and training through [St. John Ambulance](#) or through the [Red Cross](#).

### ***b) Regulations re Temporary Help Agencies and Recruiters***

Bill 27, amending the *Employment Standards Act* regarding temporary help agencies and recruiters, passed in December 2021 but would not come into effect until the licensing framework was prescribed by Regulation.

As of May 23, 2023, those Regulations ([Reg. 99/23](#), [Reg. 100/23](#), [Reg. 101/23](#)) have now been prescribed and cover the following subjects:

#### **Licensing**

- define who is a recruiter;
- when applying for a license or a license renewal, specify the information that must be included, the fee (\$750 per application) that must be paid, and the security that must be provided;
- specify additional circumstances when a license will not be issued or renewed;
- outline the process for license refusals, revocations and suspensions;
- specify information regarding licensed persons to be included in the public record;
- outline operations during a license review period;
- describe transition period requirements;

#### **Termination of Employment**

- specify that a contract of employment has not become impossible to perform or been frustrated (per s. 2 of Reg. 288/01) if the employment is terminated because the Director has refused to issue or renew, or has



revoked or suspended, a licence to operate a temporary help agency or to act as a recruiter;

- specify that a contract of employment has not become impossible to perform or been frustrated (per s. 9 of Reg. 288/01) if the employment is severed because the Director has refused to issue or renew, or has revoked or suspended, a licence to operate a temporary help agency or to act as a recruiter.

The Regulations will come into force on **July 1, 2023**.

Note also that effective **January 1, 2024**, temporary help agencies and recruiters are prohibited from operating as such, unless they hold a licence for that purpose.

### ***c) Fighting Against Forced Labour and Child Labour in Supply Chains Act***

The *Fighting Against Forced Labour and Child Labour in Supply Chains Act* received Royal Assent on May 11, 2023, and comes into force on **January 1, 2024**. As we [previously summarized](#), the Act requires applicable entities submit an annual report on the steps they have taken to prevent and reduce the risk that forced labour or child labour is used at any step in the production of goods.

## **Quebec**

Quebec was the first jurisdiction in Canada to require temporary help agencies and recruiters to be licenced. On May 24, 2023, the province tabled Bill 17 - [An Act to amend various provisions for the main purpose of reducing regulatory and administrative burden](#), for first reading. The Bill includes updates to licensing requirements (removing licencing renewal requirements) for personnel placement agency licences, temporary foreign worker recruitment agency licences and labour-referral service licences in the construction industry.

## **Federal**

### ***a) Canada Labour Code - Federal Minimum Age***

Amendments to the *Canada Labour Code* have raised the minimum age of employment from 17 to 18 effective **June 12, 2023**.



Employers may employ someone under the age of 18,

- in any office or plant,
- in any transportation, communication, maintenance or repair service, or
- in any construction work or other employment in a federal work, undertaking or business if:
  - the person is not required, under the law of the province in which they are ordinarily resident, to be in attendance at school; and
  - the work in which the person is to be employed
    - is not carried on underground in a mine,
    - would not cause them to be employed in or enter a place they are prohibited from entering under the [Explosives Regulations, 2013](#),
    - is not work as a nuclear energy worker as defined in the [Nuclear Safety and Control Act](#),
    - is not work that they are prohibited from doing under the [Canada Shipping Act, 2001](#) by reason of their age, or
    - is not likely to be injurious to their health or to endanger their safety.

Employees under 18 cannot work between 11 pm on one day and 6 am on the following day.

### ***b) Canada Labour Code – Free Menstrual Products***

[Regulation SOR/2023-78](#) will require employers to,

- provide menstrual products, including clean and hygienic tampons and menstrual pads, in each toilet room;
- if it is not feasible to provide the menstrual products in a toilet room, provide them in another workplace location that can be accessed by employees at all times and offers a reasonable amount of privacy;
- provide a covered container for the disposal of menstrual products in each toilet room (and in each stall, where applicable).

This Regulation will come into force on **December 15, 2023**.

### ***c) Canada Labour Code – Employee Information and Reimbursement of Expenses***



Amendments to the *Canada Labour Code* will add a new provision to the Code, requiring employers to provide employees with the following documents within 30 days of: (i) the start of employment; or (ii) an update to the documents:

- a copy of government materials setting out employers' and employees' rights and obligations under Part III of the Code;
- written statement containing information relating to their employment (Regulation SOR/2023-79 sets out the information that must be included in this statement).

Employers must also:

- post government materials in a readily accessible places;
- provide government materials related to termination of employment to employees whose employment has been terminated; and
- retain a copy of the employment statement for 36 months after an employee's employment ends, and provide additional copies to the employee upon request.

The Code and *Canada Labour Standards Regulation* have also been amended to require employers provide reimbursement of reasonable work-related expenses to employees. The federal government has published guidance for employers regarding reimbursement: [Reimbursement of work-related expenses – IPG-120](#)

These amendments will come into force on **July 9, 2023**.

#### ***d) Official Languages Act***

Federal [Bill C-13, An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts](#), received Royal Assent on June 20, 2023.

Bill C-13 includes:

- amendments to the [Official Languages Act](#) (OLA);
- a new Act – the *Use of French in Federally Regulated Private Businesses Act* (the Private Sector Languages Act) – that establishes French language rights for consumers and employees at federally-regulated businesses in



- Quebec and (at a later date) other regions in Canada with a strong francophone presence;
- related amendments to the [Canada Labour Code](#) (the Code).

i. The New Act

The Private Sector Languages Act will apply to employees of federally regulated private businesses who work in Quebec with some exceptions.

Quebec's Charter of the French language will apply instead of the Private Sector Languages Act, if a federally regulated private business in Quebec chooses to be subject to the Charter. The business must give notice that it will become or cease to be subject to the Charter. (Note: The Act authorizes the Minister of Canadian Heritage to enter into an agreement with the Quebec government to enable this provision.)

The Private Sector Languages Act includes the following requirements:

- **Employee Communications:** Requires employers to provide employee communications to Quebec-based employees (and former employees) in French.
- **Employee Rights:** In addition to the right to French language communications, employees have the right to:
  - work and be supervised in French;
  - use regularly and widely used work instruments and computer systems in French;
  - file complaints regarding the language of work.
- **Advertisements:** When a business publishes a job ad in a language other than French, it must also publish the ad in French and ensure that both versions are of the same nature and reach an audience of a proportionally comparable size.
- **Unionized Workplaces:** Unions have the right to receive communications and documents in French.
- **Committees:** Businesses must establish a committee to support them in using and fostering French.
- **Adverse Treatment:** Employers cannot treat Quebec employees adversely because they only speak French, don't have sufficient knowledge of a language other than French, exercised a right under the Act or took part in committee meetings or activities.
- **Complaints:** Employees, former employees and potential employees may file complaints with the Commissioner with respect to the



language of work. The Private Sector Languages Act must be proclaimed into force.

The expansion of the Act to other regions in Canada with a strong francophone presence is to come into force on the second anniversary after it comes into force for Quebec.

ii. Canada Labour Code

The Bill makes related amendments to the Code, requiring the Canada Industrial Relations Board to add full or part-time members with necessary expertise to assist the Board in carrying out its functions under the new Act. In particular, these members must have experience and expertise in official language rights.

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