

Bills C-63 and C-86 to come into force September 1, 2019

Federal employers finally have an in-force date for previously proposed legislation as the federal government recently confirmed the changes to the *Canada Labour Code* will come into force on September 1, 2019.

You may recall, these changes were proposed as part of the *Budget Implementation Act, 2017, No. 2* (Bill C-63) and the *Budget Implementation Act, 2018, No. 2* (Bill C-86), however no date was communicated at the time for the implementation of the changes.

The changes introduce the following amendments to the *Canada Labour Code*:

Bill C-63:

- **Flexible Work Arrangements:** Employees with at least six (6) months of service can request a change to their work schedule, work location, number of hours or other conditions. The employer must respond to the request in writing and specify the reasons they are declining the request, if applicable, which must align with the various reasons for decline outlined in the legislation.
- **Notice of Shift Change:** The employer must give at least twenty-four (24) hours written notice of a shift change, except in certain situations the employer could not have reasonably foreseen.
- **Overtime:** Employees may refuse to work overtime to carry out their family responsibilities. Further, employees who work overtime can agree in writing to take time off in lieu of overtime pay. Lieu time must be taken within 3 months, unless otherwise agreed, but not longer than 12 months.
- **Leave for Victims of Family Violence:** Employees are eligible for up to ten (10) days leave per calendar year if they are the victim of family violence or if they are the parent of a child who is the victim of family violence. This leave can be taken to seek medical attention for themselves or their child in response to a physical or psychological injury or disability, to obtain services from an organization which provides services to victims of family violence, to obtain psychological or other professional counselling, to relocate temporarily or permanently, to seek legal or law

- enforcement assistance, to prepare for or participate in any civil or criminal legal proceeding. Five (5) days must be provided for employees with three (3) or more months of continuous service. The leave can be taken in one or more periods. The employer can require that each period of leave be of not less than one day and can request documentation to support the reasons for the leave.
- **Leave for Traditional Aboriginal Practices:** Employees who are an Aboriginal person and who have completed three (3) months of continuous service are entitled to up to five (5) unpaid days per calendar year to engage in “traditional Aboriginal practices” such as hunting, fishing, harvesting or other prescribed practices.
 - **Family Responsibility Leave:** Employees with three (3) months of continuous service are entitled to up to three (3) unpaid days per calendar year to carry out responsibilities related to the health or care of any family member, or responsibilities related to the education of a family member less than 18 years of age. The leave can be taken in one or more periods. The employer can require that each period of leave be of not less than one day and can request documentation to support the reasons for the leave.
 - **Extended Bereavement Leave:** Two (2) additional unpaid days have been added to the existing entitlement of three (3) paid bereavement days leave. The leave can be taken at any time beginning upon the day of death of the immediate family member up to six (6) weeks after the funeral, burial or memorial service.

Changes related to short-term internships which were not yet in force have been repealed under Bill C-63.

Bill C-86:

- **Breaks:** Employees are entitled to an unpaid break of a minimum of thirty (30) minutes for every period of five (5) consecutive hours of work. If the employer requires the employee to be at their disposal during this break, the employee must be paid for the break.
- **Rest Periods:** Employees are entitled to a rest period of at least eight (8) consecutive hours between shifts.
- **Notice of Work Schedule:** Employees must be notified in writing of their work schedule at least ninety-six (96) hours in advance. Where this notice

- is not provided, employees can refuse to work the shift, subject to certain exceptions.
- **Medical or Nursing Breaks:** Employers must provide unpaid breaks necessary for medical reasons or to nurse or express breast milk.
 - **Service Requirements:** Entitlement to holiday pay, maternity leave, parental leave, critical illness leave and death or disappearance leave will no longer require any amount of continuous service. Entitlement to leave for members of reserve forces is reduced from six (6) to three (3) months.
 - **Vacation:** Employees will be entitled to at least two (2) weeks' vacation time and 4% vacation pay upon completion of at least one (1) year of service, at least three (3) weeks' vacation and 6% of vacation pay upon completion of five (5) consecutive years of service, and at least four (4) weeks' vacation and 8% vacation pay upon completion of at least ten (10) consecutive years of service.
 - **Personal Leave:** A new entitlement to five (5) days of personal leave, the first three (3) of which will be paid for employees with at least three (3) months of continuous service. The leave can be taken for the purposes of treating personal illness or injury, tending to the health or care of any family member, carrying out responsibilities related to the education of a family member under 18 years of age, to attend a citizenship ceremony, to address any urgent matter relating to themselves or their family members, or any other prescribed reason.
 - **Medical Leave:** Employees remain entitled to a medical leave of up to seventeen (17) weeks for personal illness or injury, organ or tissue donation, or medical appointments during work hours. Notice of the leave should be given at least four (4) weeks in advance, unless there is a valid reason why it cannot be provided in which case it must be provided as soon as possible. Where the absence will be three (3) days or longer, the employer can require a certificate from a healthcare practitioner.
 - **Court/Jury Duty Leave:** Employees are entitled to an unpaid leave of absence to act as a witness, as a juror or to participate in the jury selection process. This leave has no restriction on the length or frequency.

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If you have any questions relating to the legislation changes outlined above or their impact on your existing policies and procedures, please contact us to speak to an e2r® Advisor.

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