



# 2019 LABOUR UPDATE

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The information in this presentation is not intended to replace professional or legal advice.

We strongly advise that you refer to the Canada Labour Code and not rely solely on the broad details presented herein to guide your decisions or to make changes to your policies.

The information herein is subject to change at any time.

2019

## LABOUR UPDATE

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## **Amendments to Code in force September 1, 2019**

Enacted by Bill C-63

## **Flexible Work Arrangements:**

After working 6 continuous months with an employer, an employee can request changes, in writing, regarding the number of hours the employee is required to work, their work schedule, their work location or any terms and conditions that apply to the employee that are prescribed by regulation.

The employer must make a decision to fully grant the request, partially grant the request or fully refuse the request.

Partial or full refusals must be communicated in writing and justified on several business factors.



## **Notice of Shift Change:**

An employer must provide 24 hours' notice in the event that the employer changes or lengthens an employee's shift or a period of time an employee is required to work.

However, this notice requirement does not apply if:

- the employer must change or lengthen an employee's shift as a result of a threat to the life, health or safety of a person;
- a threat of damage or loss to property; or
- threat of serious interference with the ordinary working of the employer's industrial establishment that was not reasonably foreseeable.



### **Leave for Traditional Aboriginal Practices:**

After 3 months of continuous employment, Indigenous employees are entitled to up to 5 unpaid days per calendar year to hunt, fish, harvest or engage in any other traditional Aboriginal practice prescribed by regulation.

The employer may request documentation substantiating that the employee is an Aboriginal person, within 15 days of the employee returning from the leave.



### **Extended Bereavement Leave:**

Starting on the first day of work, employees are entitled to up to 5 unpaid days, taken in one or two periods, after the death of an immediate family member.

After 3 months of continuous employment, the first 3 days are paid.





## **Maternity and Parental Leave:**

The minimum service requirement for eligibility has been removed.

New parents have an additional 8 weeks of aggregate parental leave if leave is taken by the second parent.



## **Flexibility Regarding Time Off:**

Subject to the regulations and certain specified conditions, an employee who works overtime can be granted 1.5 hours of time off with pay for each overtime hour worked.

The employee and employer must agree in writing, and the time off must be used within three months unless otherwise agreed (but not longer than 12 months or other period specified in a collective agreement), failing which overtime pay must be paid out.

## **Leave for Victims of Family Violence:**

This new leave provides an employee who is the victim of family violence, or who is the parent of a child who is the victim of family violence, up to 10 unpaid days leave per calendar year. The leave must be used for certain prescribed purposes.

The first 5 days of leave are paid where the employee has completed at least three consecutive months of continuous service to:

- obtain services from organizations that aid victims of family violence;
- to obtain counselling;
- to relocate temporarily or permanently;
- to seek legal assistance; or
- to take any measure as prescribed by regulation.

An employee who has likely committed the family violence is not entitled to this leave.

**Overtime:**

In addition to overtime pay, employees can now opt for paid time off at one and one half their usual wage rate for every overtime hour worked.

Paid time off must be taken within three months of the pay period during which the employee worked the overtime hours (certain rules for extension).

If the employee fails to take the paid time off (within 12 months), the employer must pay out the banked time at one and one half times the regular wage rate of the employee.

**Right to Refuse Overtime:**

An employee may refuse to work overtime in order to carry out their family responsibilities as specified (subject to certain exceptions).



## **Amendments to Code in force September 1, 2019**

Enacted by Bill C-86



### **Unpaid Breaks:**

Employees are entitled to an unpaid break of at least 30 minutes during every period of 5 consecutive hours of work, subject to certain exceptions.

### **Rest Periods:**

Employees are entitled to a rest period of at least 8 consecutive hours between shifts, subject to certain exceptions.



## Notice of Work Schedule:

Employers must provide written notice to employees of their work schedule at 96 hours before the start of the first work period, subject to certain exceptions.

Employees have the right to refuse to work any periods or shifts that start within 96 hours of the time the schedule is provided to them, subject to certain exceptions.

## **Vacation and Holidays:**

Vacation pay and time entitlements are increased to the following levels:

- 2 weeks vacation (4% vacation pay) after 1 year employment
- 3 weeks vacation (6% vacation pay) after 5 years employment
- 4 weeks vacation (8% vacation pay) after 10 years employment.

Vacation time may be taken in more than one period.

Vacation time may be postponed/interrupted if eligible for another leave.

Another day off may be substituted for a general holiday.

Employees also do not need to be employed for 30 days before receiving statutory holiday pay.







## **Continuous Service Requirements:**

Employees will no longer be **required** to complete 6 months of **continuous service** before being entitled to holiday pay, maternity leave, parental leave, critical illness leave and death or disappearance leave.

Service requirements for members of reserve forces is reduced to three months from six months.

## Personal Leave:

Starting on the first day of employment, employees are entitled to five days of personal leave, **the first three days of which are paid after three months of continuous employment.**

The leave is for specified reasons, including:

- treating their illness or injury;
- carrying out responsibilities related to the health or care of any of their family members;
- carrying out responsibilities related to the education of any of their family members who are under 18 years of age;
- addressing any urgent matter concerning themselves or their family members;
- attending their citizenship ceremony; or
- any other prescribed reason.



## **Medical Leave:**

Medical Leave replaces "Sick Leave."

Employees are now eligible for up to 17 weeks of unpaid leave for personal illness or injury, organ or tissue donation, or medical appointments during work hours.

Where the leave is in excess of 3 days, the employer may require a certificate from a health care practitioner.

The pension, health and disability benefits and the seniority of an employee who is absent from work due to medical leave, accumulate during the entire period of the medical leave of absence.





### **Court or Jury Duty Leave:**

Employees are entitled to a leave of absence to attend court to appear as a witness, act as a juror or participate in the jury selection process.

There is no limitation on the length or frequency of such leaves and no service requirement for eligibility.



## **Health Care Practitioners:**

The requirement that a certificate be provided from a medical practitioner in certain cases has been removed.

Employer must accept medical documentation supporting an employee's need for a leave supplied by a healthcare professional who is lawfully entitled to provide health services in a province.





### **Reservist leave:**

After 3 months (used to be 6) of continuous employment, reservists may qualify for this leave, which now also covers military skills training.

This leave cannot exceed 24 months in a 60-month period (subject to exceptions).



## **Medical and Nursing Breaks:**

Subject to the regulations, employees are entitled to unpaid breaks necessary for medical reasons.

Employees who are nursing are entitled to unpaid breaks to allow them to nurse or express breast milk.



The *Accessible Canada Act* (Bill C-81) came into force on July 11, 2019 with the objective to achieve a barrier-free Canada on or before January 1, 2040.

The new *Act* defines "barriers" to include anything:

*"architectural, physical, technological or attitudinal ... that hinders the full and equal participation in society of persons with physical, mental, intellectual, learning, communication or sensory impairment or a functional limitation."*





Develop plans and update at least every 3 years.

Here are 5 things federally-regulated entities should know about this new legislation:

- Entities are required to prepare and publish accessibility plans.
- Entities are required to establish feedback tools.
- Entities are required to prepare and publish progress reports.
- Entities could be fined up to \$250,000 for non-compliance.
- Entities may be required to pay monetary compensation to complainants.

## Updates on Cannabis Edibles

New regulations for **cannabis edibles** and topicals came into effect on October 17, 2019.

**Edible Cannabis:** Products containing cannabis that are intended to be consumed in the same manner as food;

**Cannabis Extracts:** Products that are produced using extraction processing methods or by synthesizing phytocannabinoids; and

**Cannabis Topicals:** Products that include cannabis as an ingredient and that are intended to be used on external body surfaces, including skin, hair, and nails.



## **Modernizing the Canada Labour Code**

What's on the horizon?

**Effective 2020 or Later**

Effective 2020 (or Later)

Changes passed but the effective date has not yet been identified.

## **Age of Employment**

The age of employment for work in hazardous occupations will be raised from 17 to 18 years of age.

Effective 2020 (or Later)

Changes passed but the effective date has not yet been identified.

## **Equal Pay for Equal Work**

As a general rule, pay rate differentials based on “employment status” (i.e. part-time employment) will be prohibited.

Exceptions permit employers to establish distinct pay rates on the basis of seniority or merit systems, systems measuring the quantity or quality of each employee’s production, or any other prescribed criterion

Temporary help agency employees will also be entitled to the same pay rate as employees of the client.

Effective 2020 (or Later)

Changes passed but the effective date has not yet been identified.

## Individual Termination

Employees will be entitled to longer notice periods for termination.

<b>Length of Continuous Employment</b>	<b>Notice Period</b>
3 consecutive months	2 weeks
3 consecutive years	3 weeks
4 consecutive years	4 weeks
5 consecutive years	5 weeks
6 consecutive years	6 weeks
7 consecutive years	7 weeks
8 + consecutive years	8 weeks

Effective 2020 (or Later)

A new regime will be in effect as early as 2020 to ensure that federally regulated workplaces are free from harassment and violence.

## Harassment and Violence (Bill C-65)

- To explicitly indicate that it includes the prevention of harassment and violence and of physical and psychological injuries and illnesses;
- Extends employers' obligations in respect of former employees in relation to an occurrence of harassment (within three months after the day on which the former employee ceases to be employed by the employer);
- Requires employers to provide harassment and violence prevention training to everyone in the workplace.



## Important Steps

1. Review existing policies
2. Identify where policy enhancements are needed
3. Be careful to not provide less than current policy (may lead to constructive dismissal)
4. Properly notify and/or train employees
5. Monitor future Canada Labour Code amendments







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