

AMENDMENTS TO THE ACT RESPECTING LABOUR STANDARDS

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On June 12, 2018, Bill 176: An Act to amend the Act respecting labour standards and other legislative provisions mainly to facilitate family-work balance (the “**Act**”) was enacted. While most of the amendments immediately entered into effect, some of the amendments will only apply as of January 1, 2019.

Below is an overview of some of the most significant changes which came into effect on June 12, 2018:

- An increase in the number of weeks of absence authorized in certain situations. Specifically, an employee may now be absent from work for up to:
 - 27 weeks over a period of 12 months due to a relative’s serious and potentially mortal illness;
 - 36 weeks over a period of 12 months due to a minor child’s serious illness or accident;
 - 16 weeks over a period of 12 months due to a relative’s serious illness or accident;
 - 104 weeks due to the death or the disappearance of the employee’s minor child; and
 - 104 weeks due to the suicide of the employee’s spouse, father, mother or child of full age.
- A clarification of the definition of “relative” by expanding it and providing that certain days of absence may also be taken for the benefit of persons, other than relatives, for whom an employee acts as a caregiver.
- Expanding the definition of psychological harassment to include conduct, verbal comments, actions or gestures of a sexual nature. Moreover, a psychological harassment complaint can now be filed within 2 years of the last incident (instead of 90 days).
- Prohibiting differential treatment based solely on the employees’ hiring date in relation to pension plans or other employee benefits. However, this does not apply to a distinction made solely on the basis of a hiring date prior to June 11th, 2018. An employee who believes he has been the victim of such distinction has 12 months to file a complaint.
- Under certain conditions, an employer and an employee can agree to stagger working hours on a basis other than a weekly basis, without the authorization of the CNESST.
- The leave of up to 26 weeks over a 12-month period for sickness, an organ or tissue donation or an accident has been expanded to include leave for an employee who has been the victim of domestic or sexual violence.

- The payment of the annual leave indemnity may now be made before the beginning of the leave or in the manner applicable for the regular payment of the employee's wages.

In addition to the above, the following changes will come into effect on January 1st, 2019:

- Employees may now refuse to work more than two hours after their regular daily working hours (instead of four). Furthermore, employees may refuse to work beyond their regular daily working hours if not notified of their work schedule at least five days in advance.
- Employees with three years of continuous service (instead of five) will be entitled to at least three weeks of vacation per year.
- Employees will no longer be required to have at least three months of continuous service to qualify for leave of up to 26 weeks over a 12-month period for sickness, an organ or tissue donation for transplant, an accident, or domestic or sexual violence. However, the first two days of this leave will be remunerated if the employee has three months or more of continuous service.
- While employees were already entitled to 10 days unpaid leave per year to carry out obligations relating to the care, health or education of the employee's child or of a person for whom the employee is a caregiver, the first two days of this leave will now be remunerated if the employee has three months or more of continuous service.
- Employers must adopt and make available to their employees a psychological harassment prevention and complaint processing policy.
- Different wage rates based solely on employees' employment status will be prohibited.

Moreover, personnel placement agencies and recruitment agencies for temporary foreign workers must hold a licence and implement regulations concerning such agencies. Failure to do so will result in penal sanctions. Furthermore, the agency and the client enterprise will be solidarily liable for pecuniary obligations owing to the employee. These changes will only come into effect when the first regulation made by the government in this regard enters into force.

Please contact a member of our Quebec labour and employment team with any questions about the amendments to the Act Respecting Labour Standards or for any assistance in drafting or reviewing your employment policies and handbooks.

by Shari Munk-Manel and Mireille Germain

a cautionary note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

The logo for mcmillan, featuring the word "mcmillan" in a lowercase, sans-serif font. The "m" and "c" are in a dark red color, while the "m", "i", "l", "l", "a", and "n" are in a light blue color. The logo is positioned in the upper left corner of a banner image.

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