

MAJOR RESTRUCTURING OF THE QUEBEC LABOUR AND EMPLOYMENT INSTITUTIONS

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On January 1, 2016, an *Act to group the Commission de l'équité salariale, the Commission des normes du travail and the Commission de la santé et de la sécurité du travail and to establish the Administrative Labour Tribunal* (the "**Act**") came into force. This Act significantly restructured the labour and employment institutions in Quebec:

1. The establishment of the Commission des normes, de l'équité, de la santé et de la sécurité du travail

The Act established a new entity called the Commission des normes, de l'équité, de la santé et de la sécurité du travail (the "**CNESST**") which replaced the following three governmental institutions, each of which were responsible for protecting employees' rights in the workplace:

- the Commission des normes du travail ("**CNT**"), which was responsible for supervising the implementation and application of the *Act respecting Labour Standards* and its regulations.
- the Commission de l'équité salariale (the "**CES**"), which was responsible for overseeing and applying the *Pay Equity Act* and its regulations.
- the Commission de santé et sécurité du travail (the « **CSST** »), the workplace health and safety board which was responsible for the application of the *Act respecting occupational health and safety* and the *Act respecting industrial accidents and occupational diseases*, as well as their regulations.

All of the activities performed by the CNT, the CES and the CSST will now be continued by the CNESST. The CNESST's mission is to promote fair and egalitarian workplaces, to assure equal pay between men and women, and to assure a safe workplace, with compensation for employees who suffer workplace injuries, accidents or illnesses.

Since the legislation governing these institutions has not changed for the most part, employees still have the same rights, and employers remain bound by the same obligations with regards to labour standards, pay equity, and workplace health and safety.

2. The establishment of the administrative labour tribunal

The Act also established a new governmental body called the Administrative Labour Tribunal (the "**Tribunal**") to replace the Commission des relations du travail (the "**CRT**") and the Commission des lésions professionnelles (the "**CLP**") and to take over all activities within their jurisdiction.

Prior to this restructuring, the CRT was a tribunal with jurisdiction to render decisions under a variety of statutes including the Act respecting Labour Standards, the *Labour Code* and the *Act respecting Labour Relations, Vocational Training and Workforce Management in the Construction Industry*. The CLP was a tribunal with the power to review decisions rendered by the CSST under the *Act respecting occupational health and safety* and the *Act respecting industrial accidents and occupational diseases*. All matters falling within both the CRT and the CLP's jurisdictions will now continue within the Tribunal's jurisdiction.

In addition to establishing the Tribunal, the Act defines the Tribunal's jurisdiction, provides the rules of procedure that are to apply to proceedings before the Tribunal, establishes the framework applicable to Tribunal members, in particular to their recruitment and appointment, and sets the rules that are to govern the conduct of the Tribunal's business.

It should be noted as well that the Tribunal is divided into four divisions:

- The labour relations division;
- The occupational health and safety division;
- The essential services division; and
- The construction industry and occupational qualification division.

3. Overview of some of the interesting legislative amendments

As a result of this restructuring, numerous amendments have been made to a number of statutes, some of which may have a significant impact upon employers

- The Act added a new section to the *Labour Code* which provides that any complaint to the Tribunal relating to the application of section 12 (domination, hindering or financing of the employees' association), section 13 (intimidation or threats in relation to membership of an association), or in the case of a refusal to employ, section 14 (refusal to employ because of the exercise of a right arising from the *Labour Code*) must be filed within thirty (30) days of the alleged contravention coming to light.
- The Act gives the Tribunal the power to dissolve a union if it is proven that the union violated section 12.
- Until the Act came into force, the *Labour Code* provided that an employee who had been dismissed, was the subject of a disciplinary sanction, or who believed he had been the victim of psychological harassment, and believed that the union acted in bad faith, in an arbitrary or discriminatory manner, or showed serious negligence in his regard, can file a complaint within six months from the date of the

action which gave rise to the complaint. However, the Act modified this provision to allow the employee to file the complaint within six months of the employee becoming aware of the actions giving rise to the complaint. This can potentially provide the employee with additional time since it is only upon the employee's awareness that the six month delay begins to run.

- On January 1, 2017, all employers who must make contributions to the CSST will have their contributions reduced from 0.08% to 0.07%.
- The *Act respecting Industrial Accidents and Occupational Diseases* provides that in the case of a worker who was already handicapped when he suffered an employment injury, the Commission may, on its own initiative or on the application of an employer, impute all or part of the cost of the benefits to the employers. Prior to the enactment of the Act, the worker had no right to intervene in these proceedings. The Act now added a provision allowing the worker to intervene before the Tribunal in the proceedings on this issue.

For more information on the restructuring of the Quebec labour and employment institutions, or other labour or employment issues affecting your organization, please contact any member of [McMillan's Labour and Employment Group](#).

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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.

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