

New Obligations Coming into Force for Federally Regulated Employers

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June 1, 2023

Over the last few years, we have seen several new obligations imposed on federally regulated employers and 2023 will be no different. Starting on July 9, 2023, certain amendments to the *Canada Labour Code* (the Code) will come into force that will impact these employers. Details of the changes are outlined below.

1. Reimbursement of Work-Related Expense - Effective July 9, 2023, federally regulated employers will be required to reimburse an employee for “reasonable work-related expenses” within 30 days from the date the employee submits an expense for reimbursement. New regulations set out certain factors to be considered in assessing whether an expense is “work related” and “reasonable.” The factors to be considered include (among others):

- whether the expense is connected to the employee’s performance of work;
- whether the expense enables an employee to perform work;
- whether the expense was incurred for a legitimate business purpose and not for personal use or enjoyment;
- whether the expense was incurred at the request of the employer;
- whether any amount of expense was incurred beyond the amount necessary to enable the performance of the work; and
- whether the expense is one that is normally reimbursed by employers in similar industries.

2. Information Respecting Rights of Employers and Employees – Effective July 9, 2023, federally regulated employers will be required to provide employees with information respecting the rights of employers and employees under Part III of the Code. Employers will have 90 days from July 9, 2023, to provide these materials (which will be prepared and made available by the Minister of Labour) to current employees and post them in the workplace. New employees will need to receive copies of the materials within 30 days of hire *and* upon termination of their employment. Although the materials have not yet been published, we expect it to be similar to the “Know Your Rights” poster required to be provided by provincially regulated employers under the Ontario *Employment Standards Act, 2000*.

3. Written Employment Statement – Effective July 9, 2023, in addition to information about their rights under the Code, employers will also be required to provide a “written employment statement” to each employee that includes the following information regarding their employment:

- the names of the parties to the employment relationship;
- the job title of the employee and a brief description of their duties and responsibilities;
- the address of the ordinary place of work;
- the date on which the employment commences;
- the term of the employment;
- the duration of the probationary period, if any;
- a description of the necessary qualifications for the position;
- a description of any required training for the position;
- the hours of work for the employee, including information on the calculation of those hours and rules regarding overtime hours;
- the rate of wages or salary and the rate of overtime pay;
- the frequency of pay days and the frequency of payment of any other remuneration;
- any mandatory deductions from wages; and
- information about how the employee can claim reimbursement of reasonable work-related expenses.

Employers will have 90 days from July 9, 2023, to provide written employment statements to all current employees. New employees must receive a written employment statement within the first 30 days of employment. Employers must also provide employees with updated employment statements within 30 days of any changes to the information contained within the statement and must retain a copy of any employment statement for 36 months after an employee's employment ends.

4. Menstrual Products – Effective December 15, 2023, federally regulated employers will be required to provide clean and hygienic tampons and menstrual pads, in each toilet room at the workplace (regardless of marked gender), or another private location if more feasible at no cost to employees. Employers will also be required to ensure that a covered container for the disposal of menstrual products is provided in each toilet compartment.

In addition to ordering supplies of menstrual products, federally regulated employers should review their current expense policy and onboarding processes to ensure compliance with the new requirements. Of the new obligations, the most notable in our view is the requirement to provide a written employment statement to each employee, which could create a significant administrative burden for some employers, particularly as it relates to employees who may have no written employment contract or offer letter in place, or where their contract contains outdated information. We also note that employers should be careful to ensure that the roll out of written employment statements does not override or replace other existing terms and conditions of employment that the employer may seek to rely on, like termination provisions and restrictive covenants.

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