

Legislative Watch: New and Proposed Amendments to Provincial Legislation

April 18, 2024

New and proposed changes to certain provincial legislation that will impact employer obligations are coming to various jurisdictions in Canada. This article provides an overview of the most recent changes so that employers can make any necessary preparations in advance.

British Columbia Minimum Wage Increases Fixed by Legislation

On March 14, 2024, Bill 2: *Employment Standards Amendment Act, 2024* (Bill 2) received royal assent. Bill 2 will amend the British Columbia *Employment Standards Act* (BC ESA) such that it imposes automatic annual increases to minimum wage that are commensurate with inflation. As a result of this amendment, there will be automatic annual increases to minimum wage in British Columbia on June 1 of each year. Annual increases will be equal to the percentage of year-over-year change in the All-Items Consumer Index Price (CPI) for British Columbia.

The first wage increase pursuant to the amendment will occur on June 1, 2024, when British Columbia's minimum wage will increase from \$16.75/hour to \$17.40/hour. This is a 3.9% increase, which is consistent with the average rate of inflation.

Prior to Bill 2, minimum wage increases in British Columbia were discretionary changes made through an Order in Council and were often inconsistent. The changes to minimum wage adjustments will bring British Columbia in line with most other provinces and federal legislation in Canada, which fixes annual minimum wage increases to their respective CPI.

Proposed Changes to the British Columbia Labour Relations Code

On March 11, 2024, the British Columbia government proposed an amendment to the *Labour Relations Code* (LRC) which would change the definition of 'strike' and 'person.' If passed, these changes would allow British Columbia workers to refuse to cross picket lines of federally regulated workers or workers regulated under another province without it being considered an illegal strike. Currently, if a British Columbia worker refuses to cross a picket line established by federally regulated workers or by workers regulated by another province who are on strike, it may be considered an illegal strike.

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Though the proposed amendments seem minimal, they could have major consequences for employers in British Columbia. In particular, British Columbia workers striking in solidarity with federally or provincially regulated workers of another province may increase pressure on impacted employers and lead to earlier resolution of disputes.

The changes to the LRC are part of Bill 9 the *Miscellaneous Amendment Act*, 2024 which passed Third Reading on April 8, 2024.

New Obligations for Ontario Employers

On March 21, 2024, Bill 149 *Working for Workers Four Act*, 2024 (Bill 149) received royal assent. Bill 149 amends the Ontario *Employment Standards Act* (ON ESA) and places new obligations on employers in relation to job postings and applications, as well as Artificial Intelligence (AI) in the workplace.

As a result of Bill 149, employers in Ontario will no longer be able to require Canadian experience in job postings or applications, which will enable more qualified workers to fill in high-demand jobs and reduce systemic discrimination. In addition, employers will be required to include expected compensation or the range of expected compensation for all postings, increasing pay transparency.

The amendments also touch on the use of AI in the workplace and require employers to disclose if AI is used during the hiring process, whether it be for screening, assessing, or selecting applicants.

These new requirements may be subject to prescribed exemptions, but as of today's date no exemptions have been established. These new obligations for employers will come into force on a day to be named by proclamation of the Lieutenant Governor.

Bill 149 also clarifies vacation pay provisions under the ON ESA. Pursuant to Bill 149, an employee's written agreement is required if vacation pay is paid in any manner other than a lump sum before their vacation. This amendment will come into force on June 21, 2024, three months after the day that royal assent was received.

Conclusion

The upcoming and proposed changes to provincial legislation across the country create new obligations for employers. The change to the BC ESA requires employers to be familiar with the annual increases to minimum wage. Employers should review their lowest paid employees' salaries before June 1 of each year to ensure it is not below the annual increase. If the amendments to the LRC are passed, British Columbia employers with unionized workers cannot find workers who refuse to cross picket lines in solidarity with

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picketing workers outside of British Columbia to be insubordinate or engaged in illegal striking. Ontario employers, and all employers with Ontario staff, should familiarize themselves with the upcoming employer obligations to job postings and vacation pay, as well as disclosure requirements for use of AI in the hiring process.

Please contact a member of our [Employment & Labour Group](#) for assistance and information about these changes.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.