Cassels

Important Changes Coming for Federally Regulated Employers

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Important new changes relating to equal pay for equal work, non-competes, and other employment restrictions are coming into effect for federally regulated employers. This article provides an overview of these changes and practical guidance on ways in which employers can prepare.

New Equal Pay Rules

As of October 20, 2026, new “Equal Treatment” wage rules (the New Equal Pay Rules) under the *Canada Labour Code* (CLC) will require equal pay for employees regardless of employment status as full time, part time, permanent or temporary.

The New Equal Pay Rules will prohibit differential wage rates among employees based on employment status where they:

- perform substantially the same kind of work.
- exercise substantially the same skill, effort and responsibility.
- work under similar conditions.
- work in the same “industrial establishment” (defined below).
- are subject to the same type of wage rate (such as a rate based on commission or time).

There are some exceptions where the New Equal Pay Rules will not apply. Differences in wage rates are permitted where the differences are attributable to one or more of the following:

- A system based on seniority or merit;
- A system based on the quantity or quality of individual employees’ production;
- Red-circling (maintenance of a wage rate following demotion or reclassification);
- The increase in wage rates to address a shortage of skilled workers that causes an employer difficulty recruiting or retaining employees;
- Differences in the geographic area where the employee works; or
- Differences attributable to travel status.

The particulars of any system providing for a difference in wage rates must be communicated in writing to employees or be readily accessible for examination.

1. Key Definitions

For purposes of the New Equal Pay Rules, the following key terms are defined as follows:

- **Employment status** means an employee's status as full-time, part-time, permanent, or temporary.
- "**Full time**" and "**Part time**": Full-time status is determined by the terms of the applicable employment agreement or collective agreement. Where no such agreement exists, employer policy governs. Otherwise, employees are deemed full time if they are scheduled to work, or usually work, an average of 30 or more hours per week. Part-time status means employees who are not full time.
- "**Permanent**" and "**Temporary**": An employee is considered "permanent" if the applicable employment contract provides for an indeterminate period of employment. "Temporary" status applies where there is a fixed term of employment or the employee is employed on a seasonal, casual or irregular basis.
- **Industrial establishment** means the physical or general location where work is being carried out. Two or more employer worksites will be considered part of the same industrial establishment if they are located in the same employment insurance region as defined in the Employment Insurance Regulations. Wage rates within an industrial establishment are compared under the New Equal Pay Rules. Additional rules apply to remote or traveling workers in determining which industrial establishment must be used for wage comparison purposes.

2. Wage Review Requests and Enforcement

Employees who believe they are not receiving equal pay based on their employment status may request a wage review from their employer. The employer must provide a written response with reasons within 90 days, either confirming the employee's wage rate has been increased or explaining why the current rate complies with the New Equal Pay Rules under the CLC. If wages are increased following the review, employees must receive back pay to the date of the wage review request.

Employers cannot reduce an employee's wage rate to achieve compliance.

Administrative monetary penalties may apply for violations. The CLC also prohibits reprisal against employees who exercise their right to request a wage review.

3. Unionized Workplaces

The New Equal Pay Rules will apply to unionized employees as well, but the application of the New Equal Pay Rules will not come into effect for existing collective agreements for a period of 2 years (i.e. October 20, 2028). Employers will therefore have 2 years to address differences in wage rates based on employment status that are not otherwise permitted under any of the exceptions (set out below).

4. Takeaways for Employers

We recommend that employers take the following steps to prepare for the New Equal Pay Rules:

- Review existing wage rates and determine whether any of the permitted exceptions apply to justify differences.
- Update record-keeping practices to ensure the required documentation (particulars of systems that support any differences, wage review requests and responses) is maintained.
- Prepare internal processes to respond to employee wage review requests within the 90-day window.

Ban on Non-Competes and Other Employment Restrictions

Subject to a few limited exceptions, a new proposed Bill C-31 will, if enacted, ban non-compete clauses and “other employment-related restrictions” for employers governed by the CLC. While the proposed amendments do not currently specify what “other employment-related restrictions” include, Bill C-31 contemplates anything that could unreasonably restrict the ability of employees to engage in any business, work, occupation or trade, profession, project or activity. Any provision that is captured by the prohibition would be void.

The few exceptions where non-competes and other employment restrictions would still be allowed include:

1. **C-Suite executives**: This would include the CEO and specified senior executives who report directly to the CEO, including the President, Chief Operating Officer, Chief Financial Officer, Chief Human Resources Officer, Chief Information Officer, Chief Technology Officer or Chief Legal Officer, provided the individual is a managerial employee and the only employee who holds the position or performs the position’s functions.
2. **Sale of a business**: If a person sells their business to an employer and then also becomes an employee of that employer.

The proposed amendments also provide that existing non?compete clauses and other employment-related restrictions will remain in force for one year from when the amendments come into effect. This creates a time?limited window to review and restructure contractual protections.

We are monitoring Bill C-31 closely. As it progresses through the legislative process, it would be advisable to review current employment contracts and other employment documents (such as equity and other incentive plans) that include non-competes and/or other restrictions and to consider how those documents and current protections may need to be revised for future compliance.
