The $15 question - How to prepare for the new federal minimum wage

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What is new?

In the spring of 2021, the Federal Government of Canada announced its intention to establish a minimum wage applicable to employees working for federally regulated employers.

On June 30, 2021, a federal minimum wage of **$15 per hour** became law (the minimum wage), with the royal assent of Bill C-30, *An Act to implement certain provisions of the budget tabled in Parliament on April 19, 2021 and other measures* (the Act).

This new minimum wage **will come into effect on December 29, 2021.**

What does this mean for employers?

For many years, the applicable minimum wage for employees working for federal undertakings was the provincial minimum wage of the province in which the employee is usually employed.[1]

This meant that many federal employers could have employees occupying the same position but being compensated differently, based on these employees' province of employment.

As indicated below, this continues to be the case. However, after December 29, 2021, one thing is clear for these employees: **they may not be paid less than $15 per hour**.[2]

Therefore, employers with activities in provinces where the minimum hourly wage is below the new federal rate will have to budget for salary increases in 2022 and beyond.[3] While these increases may or may not be significant, it is clear that certain employers will be faced with *some* increases just before the end of the year.

In this regard, the following illustrate two potential scenarios facing these employers:

- The current minimum wage in Québec is $13.50 (which came into effect as of May 1, 2021). All Quebec-based employees covered by the *Canada Labour Code* **will be paid at the new $15 per hour rate as of December 29**. This will require their employer to provide them with an hourly increase of $1.50 as of that date.
- However, there is also an opposite scenario. The *Canada Labour Code*, as amended by the Act, will provide that if the minimum wage in the province where the employee is usually employed is higher than the $15 minimum wage, **the higher provincial wage will prevail.** Therefore, an employer with employees in, for example, British Columbia, where the minimum provincial hourly wage is currently $15.20, will not be able to reduce the hourly rate of its employees as a result of the amendments under the Act.

What is necessary to consider?

Federally regulated private sector employers may want to identify their employees receiving an hourly wage lower than the newly created federal minimum wage before the changes come into force.

These employers will also want to assess the economic impacts of this type of change before the new minimum wage comes into effect. This will include the need to consider certain legal issues that may arise, such as the following:

- **The impact on the employees' total compensation and the cost to the employer**: Certain amounts to be paid to employees are calculated on their hourly wage, such as vacation pay, overtime pay, or incentive pay, such as bonuses, and will increase once the minimum wage does as well. In addition, this increase to the minimum wage will also impact the employer's at-source deductions.
- **The potential wage scale compression:** In companies where employees are paid on a progressive scale (*e.g.* based on seniority or years of experience), increasing the lowest hourly rates to the minimum wage may have the effect of compressing the rest of the scale, including the hourly wages paid to more senior employees. This issue could be further magnified in companies where collective bargaining agreements are in force, and where the wage scales have been carefully negotiated with the unions.
- **The impact on the employer's pay equity obligations**: Employers should reassess their pay equity obligations, and notably consider whether it will be necessary to revise their plan presently in force to ensure that it considers the new minimum wage.

Employers will be wise to consider these issues before employee complaints, pay equity claims and/or union grievances are filed.

For any questions related to implementing the new federal minimum wage, or the *Canada Labour Code*, contact your BLG lawyer or any of the key contacts listed below.

[1] *Canada Labour Code*, s. 178 (1).

[2] Subject to certain legislated exceptions.

[3] In fact, the Act provides for an annual adjustment mechanism for the minimum wage.

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