A New Year Brings New Amendments to the Labour Standards Act into Force

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On January 1, 2019, some provisions of Bill 1761amending, in particular, the *Act respecting labour standards* (the ALS), came into force. Here is a summary of the major changes:

Prohibition of Lower Wage Rates

The legislator has clarified the rules prohibiting employers from paying their employees lower wage rates or reducing the length of their vacation leave or their annual vacation pay, compared to other employees performing the same work in the same establishment, based solely on their employment status (sect. 41.1 and 74.1 ALS). Previously, there was no reference to employment status, the prohibition applying only where the employees involved worked less hours a week.

The Right to Refuse to Work

An employee may now refuse to work for more than two hours, rather than four, beyond their usual daily hours of work (sect. 59.0.1 ALS).

In addition, except for farm workers, and unless the nature of their duties requires them to remain available, employees may refuse to work unless they are notified at least five days in advance.

Three Weeks' Vacation Leave Entitlement Earned More Quickly

Starting January 1, 2019, employees who are credited with more than three years of uninterrupted service are entitled to three consecutive weeks of paid vacation. Previously, five years of uninterrupted service with the same company were required in order to qualify for three weeks of paid vacation (sect. 69 ALS).

Compensation for Days of Absences Owing to Sickness, Organ Donation, Accident, Domestic Violence, Sexual Violence or for Family Obligations

Henceforth, employees will no longer need to be credited with three months of uninterrupted service to be entitled to be absent for up to 26 weeks in any 12-month

period, owing to sickness, an organ donation, accident, domestic violence or sexual violence (sect. 79.2 ALS).

With respect to absences for family-related reasons, we wish to emphasize that, where circumstances warrant, employers may now request employees to provide documents attesting to the reasons for such absences. Apart from the employee's duty to take all reasonable means available to limit the taking and duration of such leaves, this addition provides employers with an additional tool to validate the grounds for employee absences (sect. 79.7 ALS).

No more than two of these days of leave of absence during the same year must now be remunerated, according to the calculation formula governing the indemnity payable for statutory general holidays (sects. 79.7 and 79.16 ALS), whether the absence be owing to sickness, organ donation, accident, domestic violence or sexual violence, or by reason of family obligations. More specifically, the sum payable is 1/20 of the wages earned during the four complete pay weeks preceding the week of leave, including tips for employees earning tips (sect. 50 ALS), without taking account of any overtime pay (1/60 of the wages earned during the 12 complete pay weeks preceding the week of leave, for employees remunerated in whole or in part by commission).

Days Off with Pay for the Death or Funerals of Relatives

An employee is now entitled to a total of five days of leave, including two with pay, upon the death of a relative (sect. 80 ALS).

Entitlement to Days Off for Birth or Adoption of a Child without Having to be Credited with Uninterrupted Service

Upon the birth of one's own child or the adoption of a child, or where an interruption of pregnancy occurs in or after the 20th week of pregnancy, employees remain entitled to five days of leave. Since January 1, 2019, however, they are no longer required to be credited with 60 days of uninterrupted service in order to be paid for the first two days of such absence (sect. 81.1 ALS).

Adoption of a Psychological Harassment Prevention Policy

The legislator has also imposed a sound management practice already implemented by a number of employers. Employers are now required to adopt and make available to their employees a psychological harassment prevention and complaint processing policy, including a section on harassing behaviour that manifests itself in the form of verbal comments, actions or gestures of a sexual nature (sect. 81.19 ALS).

This obligation is now added to the duty of employers, which has existed since the coming into force of the provisions on psychological harassment in 2004, to take all reasonable means to prevent psychological harassment and, when such behaviour is brought to their attention, to put a stop to it.

Lastly, we wish to point out that the provisions of Bill 176 concerning personnel placement and temporary foreign workers will come into force only as of the date of the first regulation promulgated to implement the new section 92.7 ALS, empowering the government to adopt regulations defining a personnel placement agency, a recruitment

agency for temporary foreign workers, and the terms and conditions governing their operation.

1 Bill 176, *An Act to amend the Act respecting labour standards and other legislative provisions, mainly to facilitate family-work balance*, S.Q. 2018, chap. 21.

By

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