Costlier goodbyes: Increased termination notice entitlements under the Canada Labour Code as of February 2024

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This article was orginally published on Sept. 26, 2023 and updated on Jan. 17, 2024: On Sept. 26, 2023, we published an article (see below) regarding the amendments to the Canada Labour Code that would, among other things, greatly increase the individual termination notice entitlements of employees working for federally regulated employers. ***As a reminder, these amendments are coming into force on Feb. 1, 2024.***

It is to be noted that the amendments to the group termination notice provisions are not yet in force, and no date is yet known as to when they will come into effect.

The federal government recently announced that as of Feb. 1, 2024, amendments to the *Canada Labour Code* (the Code) will come into force, notably entitling some employees working for federally regulated organizations[1] to greatly increased termination notices.

Longer termination notice entitlements

Employers will be required to provide employees with a graduated termination notice based on the length of their continuous service. In this manner, the Code will now more closely resemble the graduated notice mechanisms we see in provincial employment standards legislation.

Currently, 2024, every employee, as soon as they have completed at least three months of service, are only entitled to *two weeks' notice*, no matter their tenure.[2] However, this method of calculating notice will change soon.

As of Feb. 1, 2024, for employees with *up to three years* of employment, this entitlement to two weeks' notice remains unchanged.

However, once employees *have completed three years of continuous employment*, the notice periods *increase*. The changes are highlighted in the chart below:

Continuous service completed	*Termination notice*
3 months	*2 weeks* *(unchanged)*
3 years	3 weeks
4 years	4 weeks
5 years	5 weeks
6 years	6 weeks
7 years	7 weeks
8 years and more	8 weeks

Scope of the amendments

These amendments to the Code only affect the notice period in situations of *individual terminations*. Group termination entitlements (i.e. when 50 or more employees in a single industrial establishment are terminated within a period of four weeks) remain unchanged.

Further, the amendments also specify that these rules regarding individual termination notice do not apply to an employee whose termination of employment is made by way of dismissal for just cause.

Also, employers must keep in mind that these entitlements are the minimum statutory entitlements and consider the other rights an employee may enjoy. For example, unionized employees and non-unionized employees may be entitled to more generous arrangements, per the relevant collective agreement, employment contract or, where applicable, reasonable notice under common law or civil law.

New requirement: written statement of benefits

Employers will also be required to provide a statement of benefits to employees whose employment is terminated. This statement must outline:

- an employee's rights to vacation benefits;
- wages;
- severance pay; and
- any other benefits and pay arising from their employment.

We note that this entitlement already exists for employees included in a group termination. Thus, now, all employees whose employment is terminated will enjoy the same right.

Takeaways for employers

Employers should take good note of these changes and consider their impact on any upcoming terminations. It is also advised to update employment documentation, such as employment agreements and collective agreements, as well as any termination policy. That being said, even if this is not done, the new entitlements will apply as of Feb. 1, 2024.

Employers will also want to consider the interaction between these new rights and reasonable notice under the *Civil Code of Québec* and common law. In some cases, statutory notice may be included in this notion of reasonable notice, but not always.

Employers concerned with being required to pay higher termination benefits can consider mitigating these costs by providing working notice to employees instead. Indeed, the concept of termination notice is that it is worked, unless the employer cannot or does not wish to provide it as such (or not completely).

Nevertheless, whether the notice is worked, paid, or a combination of both, employers will want to plan their terminations more thoughtfully than ever as of February 2024, especially in terms of budgeting.

As always, our Labour & Employment Group will be happy to help you with any issues or questions you may have, including reviewing existing employment documentation and statements of benefits.

[1] Workplaces covered by Part I (Industrial Relations) of the Code, such as, for example, those in the banking, telecommunications and broadcasting, air, rail, and maritime transportation, sectors.

[2] Aside from severance entitlements, if any.

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