

# Occupational health and safety: Three new provisions to the AIAOD, effective April 6, 2023

April 03, 2023

April 6, 2023, marks the coming into force of three major amendments to the [Act respecting industrial accidents and occupational diseases](#) (the AIAOD) regarding contestations to decisions of the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (the CNESST).

This article summarizes the changes resulting from the [Act to modernize the occupational health and safety system](#) (the AMOHS), which was adopted in September 2021 and constitutes a major reform of the Québec occupational health and safety system.

## 1. Extension of the time limit for challenging an administrative review decision

The period for challenging a decision made by the CNESST's *Direction de la révision administrative* (the DRA) before the Administrative Labour Tribunal (the Tribunal) will be increased from 45 to 60 days.<sup>1</sup>

## 2. Contestation of a CNESST decision directly before the Tribunal

In some cases,<sup>2</sup> a person may be able to apply directly to the Tribunal for review of a CNESST decision within **60 days** of the decision, without going through an application for review with the DRA.<sup>3</sup> This contestation can be made following a decision on:

- i. an opinion given by the *Bureau d'évaluation médicale*;<sup>4</sup>
- ii. an opinion of the special committee, which analyzes occupational lung diseases;
- iii. a report made by a committee on occupational oncological diseases;
- iv. a financing decision;
- v. a decision regarding special provisions for employers held personally responsible for the payment of benefits.

It should be noted that when a person directly contests one of these decisions before the Tribunal, the possibility of requesting a reconsideration of the decision by the CNESST is waived.<sup>5</sup>

### **3. New maximum processing time for administrative review**

A person may contest before the Tribunal a decision regarding which the person applied for a review if the DRA did not render a decision within 90 days of receiving the application. If the person has requested more time to present observations or produce documents, the 90-day period runs from the time observations are presented or documents are produced.<sup>6</sup>

## **Contact us**

For any questions you may have about the legal framework governing the occupational health and safety regime in Québec, please reach out to your BLG lawyer or one of the key contacts below from our [Labour and Employment](#) Group.

<sup>1</sup> Section 101 of the AMOHS which amends section 359 of the AIAOD.

<sup>2</sup> If a decision that is the subject of an application for review is also contested before the Tribunal, the latter shall refer the matter to the CNESST for a review decision.

<sup>3</sup> Section 103 of the AMOHS, which amends section 360 of the AIAOD.

<sup>4</sup> In the cases referred to in subparagraphs i) ii) and iii) of this article, the Tribunal may, where applicable, decide any other question that is the subject of the decision.

<sup>5</sup> Section 107 of the AMOHS, which amends section 365 of the AIAOD.

<sup>6</sup> *Idem*, note 2.

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