



## Employment Law Solutions for the Canadian Workplace

RELEASE 166 – SEPTEMBER 2022

### new and noteworthy

- **Provincial Legislation:** The entire content of Tab II, Provincial Employment Law Legislation Across Canada, has been reviewed and updated to ensure that the content reflects all relevant legislated provincial requirements currently in effect. The extensive charts comparing requirements across provinces have been included in this review.

### highlights of this release

- **Tab II-1.A What Employers Are Obligated to Pay:**
  - Section II.1.A.2, Minimum Wage, has been updated to note Quebec's specific requirement, under the *Regulation respecting a Registration System or the Keeping of a Register*, for employers to maintain a registration system containing information for each employee, including rates of pay, hours of work, time off without pay, and vacation time.
  - Section II.1.A.3, Hours of Work and Overtime, has been updated with further details on how overtime must be calculated and paid in different provincial jurisdictions, and the discussion of modified work agreements/arrangements and averaging agreements has been expanded and updated. Also, a note has been added explaining that tribunals have held that the employer is responsible to limit, with appropriate instructions, the number of hours that the employee is authorized to perform, and that an implicit authorization to perform overtime work can be inferred from the circumstances as well as the duties and responsibilities of the employee.
  - Section II.1.A.4, Statutory Holidays, has been updated to include Quebec's specific formula for calculating the indemnity for a statutory holiday, as well as Alberta's requirement that employer-designated general holidays be treated as statutory holidays. The discussion of the different statutory holidays celebrated in each province has been updated to reflect recent changes.

# release notes

*please review*

- Section II.1.A.6, Method of Payment, includes new and additional details on forms of payment, pay periods in different jurisdictions, and permissible deductions.

## ● **Tab II-1.B Leaves of Absence:**

- All sections have been updated with changes to the duration of the leave entitlement in various provinces, as well as changes to eligibility, notice requirements, timing of commencement and return to work, and requirements to provide benefits during leave.
- Section II.1.B.1, Maternity Leave, has new information about Quebec's special leave where there is termination of pregnancy. Also, a discussion of the case of *Moreira c. Pâtisserie Lajeunesse inc.*, heard by the Quebec Labour Commission (CNESST) has been added, to illustrate how an employee who became pregnant during a leave for reasons related to COVID-19, and whom the employer did not accommodate with modified duties, was deemed to be terminated in breach of the *Act respecting Labour Standards* rather than being eligible for leave-related benefits from the employer.
- Section II.1.B.2, Parental Leave, has a new discussion of how parental leave may be used by a birth mother in Ontario, where a birth mother who takes pregnancy leave must ordinarily begin parental leave as soon as the pregnancy leave ends but may delay the leave if the baby has not yet come into her care for the first time when the pregnancy leave ends—for example, if the baby has been hospitalized for an extended period.
- Section II.1.B.4, Bereavement Leave, has an added discussion detailing the circumstances in which an employee in Ontario is entitled to bereavement leave.
- Section II.1.B.5, Sick Leave, has added commentary and details regarding sick leave entitlement in Ontario, Quebec, and Alberta.
- Section II.1.B.7, Other Leaves, has an added discussion of the entitlement, in Ontario, to unpaid leave to provide care or support to a family member. Also, the entitlement, in Ontario, to 3 days of paid leave for reasons related to COVID-19 is noted.

## ● **Tab II-1.C What to Consider When Terminating Employees:**

- All sections have been reviewed to ensure the content reflects current understanding and practice. Clarifications and further details have been added, including new and revised citations to relevant legislation and cases.

## ● **Tab II-1.E Provincial Employment Law Charts and Concordance:**

- The following charts have been updated with the most current provincial and territorial requirements:

Chart 1: Minimum Wage

Chart 2: Hours of Work and Overtime

Chart 3: Statutory Holidays

Chart 4: Vacation

- Chart 5: Pay Periods
- Chart 6: Maternity Leave
- Chart 7: Parental/Adoption Leave
- Chart 8: Minimum Notice of Termination
- Chart 9: Minimum Age for Employment
- Chart 10: Table of Concordance



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