

JANUARY 2003**IMPORTANT CHANGES TO THE
*LABOUR STANDARDS ACT***

Some significant changes have been made recently to the *Labour Standards Act*. The revised Act provides employees with additional recourses, while imposing a number of new obligations on employers. The government extends the Act's protection to a larger number of workers, promotes a better balance between work and family life, and affords greater protection to employees seeking remedy. This Act constitutes public policy, and many collective agreements will have to be amended as a result. Several sections of this Act also apply to employers in the construction industry. All amendments to the Act will be effective May 1, 2003, unless otherwise specified. In this newsletter, *DE GRANDPRÉ CHAÏT's* Labour and Employment Law Group summarizes the key changes of which employers should be aware.

EXPANDED PROTECTION

The Act now extends protection to those who look after or care for a person in the family household, be it a child, a sick person, a disabled individual, or a senior. Their salaries will be gradually increased as of May 2003 to bring them up to the minimum wage by January 2006. The Act also applies to agricultural workers and live-in housekeepers.

PAID STATUTORY HOLIDAYS

All employees are eligible for paid statutory holidays, or failing that, the payment of a compensatory indemnity, regardless of whether the employee was assigned to work on the holiday. The compensatory indemnity amounts to 1/20 of the salary earned during the four weeks preceding the holiday.

GUARANTEED PAYMENT OF MINIMUM WAGE

Changes have been made to ensure that employees earning minimum wage receive full payment of this wage, even if their compensation is performance-, commission- or invoice-based. The Act specifies that employers cannot require employees to pay for their work uniforms when such garments identify them with the establishment. When the wearing of a specific uniform is mandatory, the employer must supply it free of charge. An employer cannot demand an amount of money from employees for the purchase, use or upkeep of a uniform, if this payment causes the employee to receive less than minimum wage. Moreover, employees must be reimbursed for expenses reasonably incurred in the performance of their duties while travelling at the employer's request. Fees for employer-required training must also be reimbursed.

RECONCILIATION OF WORK AND FAMILY LIFE

The legislator's stated goals are to make it easier for employees to balance work and family responsibilities. A series of measures allow employees to take time off work without loss of pay or benefits, and with the right to return to work when the leave is over.

Thus, employees may now take off up to 10 days of work per year if their presence is required by a spouse, child, spouse's child, father, mother, brother, sister or grandparent. Employees will be able to take up to 12 weeks off if their presence is required by one of the people stated above, in the event that person is suffering from a serious illness or has been involved in a serious accident. Employees will be able to claim up to 104 weeks'

leave to care for a child suffering from a serious illness. They will also be able to take up to 26 weeks off as a result of illness or accident, and will be entitled to resume their jobs at the end of this period.

The minimum weekly rest period has been increased from 24 to 32 hours, and employees may refuse to work more than four hours beyond their usual daily work schedule or, if applicable, more than 14 hours per 24-hour period.

TWO (2) YEARS OF UNINTERRUPTED SERVICE

After two years of uninterrupted service (rather than three, as was the case before), employees who believe they were dismissed without good and sufficient cause may now file a complaint with the *Commission des normes du travail*.

CHANGE IN EMPLOYEE STATUS

The Act introduces a recourse whereby employees may request a ruling by the *Commission des relations du travail* on all disputes arising from an employer's decision to change an employee's status to that of entrepreneur or self-employed worker. Thus, under certain circumstances, the Commission could decide that the complainant should retain his or her status as a salaried employee, regardless of restructuring changes enacted by the employer.

PSYCHOLOGICAL HARASSMENT

A new recourse has been enacted whereby employees may file a complaint if they believe they have been victims of psychological harassment in the workplace. Psychological harassment is defined as being vexatious conduct that manifests itself through repeated and unwelcome behaviours, words, acts, or hostile gestures. The Act states that it is the employer's responsibility to provide employees with a harassment-free work environment. The *Commission des normes du travail* will examine the employee's complaint and refer employees to a hearing before the new *Commission des relations du travail*, if it deems the complaint to be well founded. The amendments concerning psychological harassment come into effect in June 2004.

MASS LAYOFFS

A mass layoff notice must be sent to the minister for all layoffs involving 10 people or more. The length of notice varies according to the number of employees being laid off: 8 weeks for layoffs of 10 or more employees; 12 weeks for 100 or more employees; and 16 weeks for 300 or more employees. Employers who fail to inform the minister or to give sufficient notice could be liable to pay laid-off employees an equivalent compensatory indemnity. This collectively awarded indemnity is over and above the compensation employers must pay employees should they fail to give the notice of termination of employment required under article 82 of the *Labour Standards Act*.

Because this Act constitutes public policy, these changes apply to unionized and non-unionized companies alike. Many collective agreements will have to be reviewed as a result.

If you would like an opinion on the impact these legislative changes will have on your firm, please get in touch with one of the lawyers in *DE GRANDPRÉ CHAIT's* Labour and Employment Law Group or with your own legal counsel.

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