DENTONS

2024 Year in Review

The labour, employment, immigration and pension law developments that mattered most

January 2025

The Canadian workplace continued to evolve in 2024 as employers dealt with a legal landscape marked by increasing regulation from Canadian legislatures and new challenges to the enforcement of contractual termination provisions. News reports were filled with stories of an immigration crisis caused by an influx of temporary foreign workers and record levels of international students and significant labour unrest grabbed the country's attention with strikes and lockouts impacting several key sectors of the Canadian economy.

This guide reviews the legal developments that we thought mattered most to Canadian employers in the areas of wrongful dismissals, human rights, labour relations, occupational health and safety, pensions and benefits and business immigration. In addition, we recap the legislative changes that provincial and federally regulated employers should know about in British Columbia, Alberta, Ontario and Québec and identify the trends that we think should be top of mind for Canadian employers as they prepare for 2025 and beyond.

Contents

Wrongful dismissals

Canadian courts issued several interesting decisions in wrongful dismissal cases that provided guidance to employers on the important topics of employment contracts, just cause terminations and damages.

- **When it comes to termination provisions, where you live matters**

  The British Columbia courts issued several favourable decisions for employers in 2024 when it came to employment contracts. In *Egan v. Harbour Air Seaplanes LLP, 2024 BCCA 222*, the employee argued that the termination clause was unenforceable because it provided the plaintiff employee with notice and severance in accordance with the *Canada Labour Code*, without specifying the minimum or maximum amount of notice that would apply. The British Columbia Court of Appeal rejected this argument, confirming that a "practical common-sense approach" to the interpretation of termination clauses should apply and that referencing statutory minimums can displace the common law presumption of reasonable notice, provided the clause is unambiguous.

  Such an interpretative approach did not win the day in Ontario. In *Dufault v. the Corporation of the Township of Ignace, 2024 ONSC 1029*, the Ontario Superior Court of Justice ruled that a termination clause which stated that the plaintiff employee's employment could be terminated "*at any time*" was unenforceable because there are circumstances under employment standards legislation in which termination is prohibited (e.g. reprisal for attempting to exercise a protected right or on return from a statutory job-protected leave). The Ontario Court of Appeal upheld the decision on the basis that the termination clause had invalid for-cause language, but expressly declined to rule on whether the "at any time" language invalidated the clause. Stay tuned for future cases on this point.

- **Beware of two-step employment offers**

  In *Adams v. Thinkific Labs Inc., 2024 BCSC 1129*, acceptance by an employee of a detailed email offer of employment, including compensation, vacation and leave entitlements etc., formed a binding employment contract. A subsequent formal employment agreement without fresh consideration, introducing additional clauses such as a termination clause, was unenforceable.

- **Tricky facts can make for longer notice periods**

  - **Seasonal employment can extend common law notice:** In *Smith v. Lyndebrook Golf Inc., 2024 CanLII 103671*, a golf superintendent with under a month of service was awarded five months' pay in lieu of notice. The court emphasized the employee's specialized skills, the seasonal nature of his work and the limited off-season employment opportunities as justifying an extended notice period.

  - **Courts accept that older employees may face a competitive disadvantage due to their age:** In *Harris v. Town of Hay River, 2024 NWTSC 47*, the court ruled that a 69- year-old senior manager with 18 months of service was entitled to eight months of notice. In so doing, the court cited a previous case where a 59-year-old employee with approximately one year of service received 12 months' notice and another instance where a 56-year-old senior employee with 18 months of service received twelve months of notice.

- **Medical evidence not necessary for aggravated damages**

  In *Krmpotic v. Thunder Bay Electronics Limited, 2024 ONCA 332*, the Court of Appeal ruled that aggravated damages can be granted without medical evidence. The employer's dishonesty about the termination, coupled with personal and family evidence of mental distress beyond ordinary hurt feelings, were sufficient to justify the trial judge's CA$50,000 aggravated damages award.

- **Long service employees are not immune from just cause terminations**

  In *Arora v. ICICI Bank of Canada*, 2024 ONSC 4115, the Court upheld the termination for cause of an Assistant VP with over 15 years of service who was caught sharing company confidential information with competitors, making plans to compete and who was dishonest during the investigation. The Court held that just cause can be justified even for long-term employees with no prior disciplinary issues where fundamental duties like honesty and loyalty are breached.

Takeaways for employers

The case for an annual review of an employer's contractual termination provisions has never been stronger. As employees continue to work into their "golden years" and fears of economic headwinds grow, there is an elevated risk that a court will favour employees and award larger than expected notice periods. In addition, the fact that courts are now comfortable with awarding significant damage awards in the absence of medical evidence supporting an employee's claims for mental distress and aggravated/moral damages means that employers must train their managers to be careful in how they approach the termination meeting.

Human rights

Human Rights Tribunals and Commissions continue to be plagued by delay. In a report issued in November 2024, Tribunals Watch Ontario reported that parties can expect to wait between four and ten years to get to a hearing. Where a case does end up making it to a hearing, the decisions indicate that adjudicators across Canada continue to give the benefit of the doubt to employees alleging discrimination when the facts support a *prima facie* case. That said, adjudicators have also shown themselves willing to dismiss complaints that do not show a nexus between the treatment of the employee by the employer and a protected ground. Additionally, damages awards continue to increase (for example, in *Oliva, Pascoe, and Strong v. Gursoy*, 2024 AHRC 45, an employee subjected to sexual harassment was awarded CA$75,000 in general damages, the highest award in Alberta's history).

- **Despite finding of toxic work environment, Tribunal dismisses discrimination claim**

  In *Thomas v. Signals Design Group*, 2024 BCHRT 135, the B.C. Human Rights Tribunal dismissed a complaint alleging sex discrimination where the complainant alleged she received radically different treatment as compared to her male counterparts and had to resign from employment because of the toxic work environment. The Tribunal accepted there was a toxic environment but found that that the employee's allegation that her sex was a factor in the behaviour of the employer was speculative and her evidence did not take her complaint out of the realm of conjecture.

- **Rejection of settlement offer results in no award of damages**

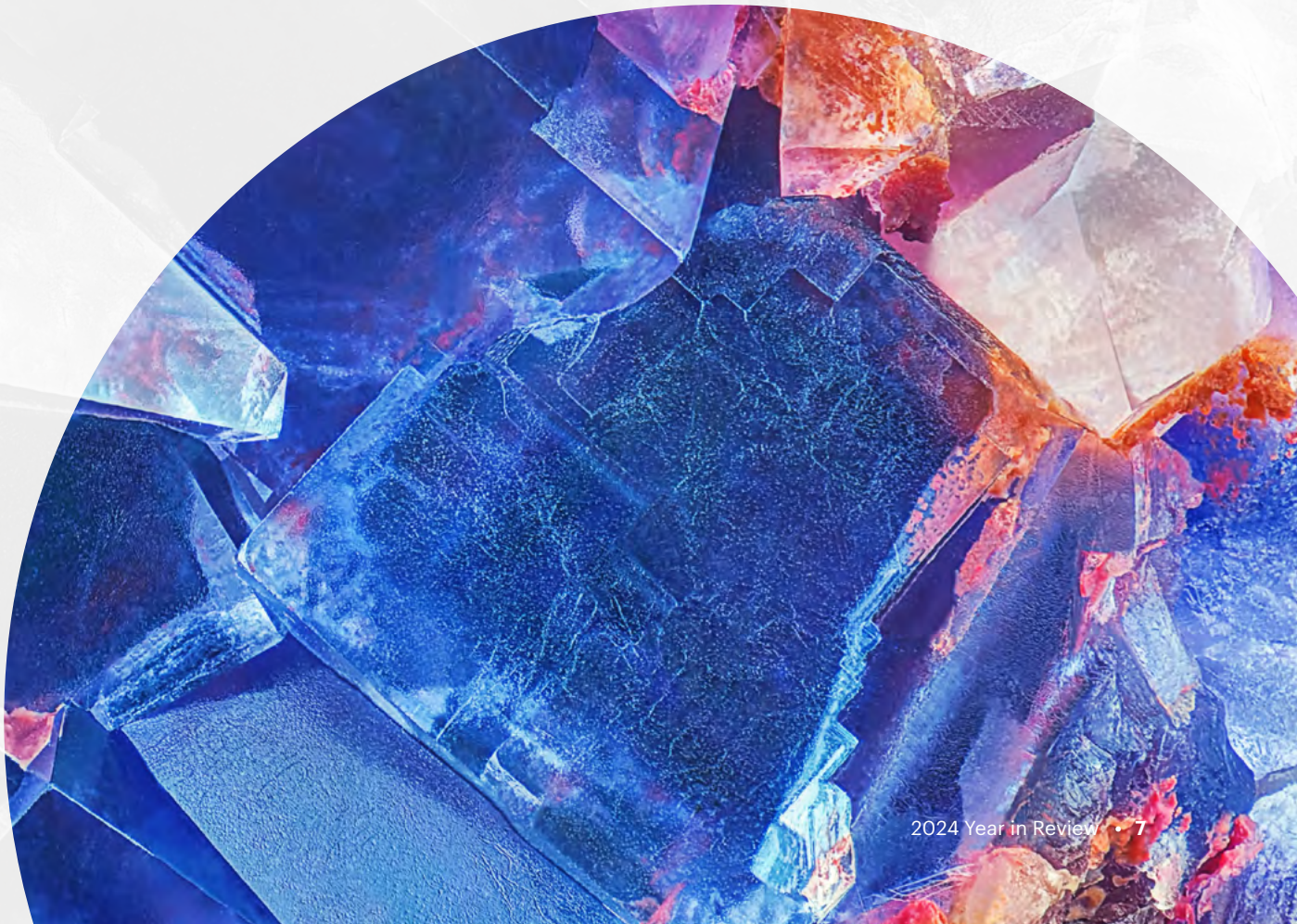
  In *Lambert v. Canadian Natural Resources Limited*, 2024 AHRC 105, the Chief of the Alberta Human Rights Commission and Tribunals upheld the Director of the Alberta Human Rights Commission's decision to dismiss a human rights complaint on the basis that the complainant refused a fair and reasonable settlement offer. During the Commission's conciliation process, the respondent employer offered to settle the claim by providing the complainant employee (who had found new employment within four months of their dismissal) with CA$25,000 in general damages for injury to dignity and CA$27,000 (less statutory deductions), representing 14 weeks' base pay for damages for lost wages. The complainant rejected the offer and the Director proceeded to dismiss the complaint as contemplated by section 21(3) of the *Alberta Human Rights Act*. The Chief held that the respondent's settlement offer was well within a reasonable range of damages and still reasonable even though the offer for lost wages represented a compromise from the complainant's best possible result at the hearing.

- **Québec Tribunal condemns discrimination against transgender worker**

  In *Commission des droits de la personne et des droits de la jeunesse (E.B.) c. 9302-6573 Québec inc. (Bar Lucky 7),* 2024 QCTDP 9, a restaurant denied a transgender woman employment as a barmaid after revealing her gender identity to the manager during training. In advancing her claim, the employee noted that up to the point of losing employment she had received positive feedback on her skills. The employer argued that its decision to deny employment was due to its concern that clients could react violently upon learning that they were being served by a transgender woman. The Tribunal held that the employer had breached the Québec Charter of Human Rights and Freedoms, which protects gender identity and expression. The Tribunal awarded the complainant CA$118.40 for material damages, CA$10,000 for moral damages, and CA$4,000 in punitive damages, emphasizing that prejudice or fear of clients being violent cannot justify such discrimination.

Takeaways for employers

It is more important than ever for employers to document matters relating to possible discrimination claims, and collect and preserve evidence of defences as Tribunals across the country continue to struggle to bring matters to adjudication in a reasonable timeframe. To avoid protracted litigation, settlement negotiations to resolve human rights complaints early remains a valid option. Where a settlement does not prove possible, employers may be able to have the complaint dismissed where a complainant fails to accept a fair and reasonable settlement offer (depending on the facts and your jurisdiction).



Labour relations

Unionized employers in Canada continued to deal with the economic consequences of the pandemic as concerns over the cost of living fuelled contentious rounds of collective bargaining across all industries. Despite a series of well publicized labour disruptions, Canadian employers did make gains in the areas of drug and alcohol testing.

- **Another year of strike strife**

  Airlines, Railways, Ports, even Canada Post were on strike in 2024. After a period of relative labour peace, work stoppages have materially increased over the last two years, according to Statistics Canada.

Year	2022	2023	2024
# of Work Stoppages Across all Industries	176	778	811

While the growing number of work stoppages is concerning, the fact that parties are increasingly failing to reach a deal at the negotiation table suggests that a new approach to collective bargaining may be necessary. This issue was clearly on display in the federal jurisdiction, as the federal labour minister used its powers under the *Canada Labour Code* to intervene in disputes involving Canada's railways, ports and postal service and direct the Canada Industrial Relations Board to order workers back to work and attend binding arbitration.

- **Federal Court of Appeal upholds pre-placement and random alcohol and drug testing for safety-critical workers in the nuclear industry**

  In *Power Workers' Union v. Canada (Attorney General) - Federal Court of Appeal*, the Federal Court of Appeal made an important finding that may assist unionized employers who are attempting to introduce or enforce random drug and alcohol testing in safety sensitive environments. In that case, the Power Workers Union challenged a new licensing requirement introduced by the Canadian Nuclear Safety Commission. The impugned requirement mandated both pre-placement, and random, drug and alcohol testing for employees who hold safety sensitive positions in nuclear facilities.

  Courts and arbitrators had previously held that employers must demonstrate, among other things, a pre-existing workplace drugs or alcohol problem to justify the introduction of random drug testing. The Federal Court of Appeal rejected that approach. In so doing, the Federal Court of Appeal acknowledged the established law that the introduction of a drug and alcohol testing program must be consistent with any express terms in the applicable collective agreement. Absent such terms, the management rights clause applied subject only to the obligation on the employer to exercise those rights in a reasonable fashion.

  In considering the balancing of rights in the context of the matter before them, the Federal Court of Appeal agreed with the lower court that employees in safety sensitive positions have a diminished expectation of privacy in the workplace. In effect, this reduces the evidentiary burden on employers to show an existing problem. In the words of the lower court at paragraph 30 of the Federal Court of Appeal's Decision: "one cannot 'wait and see' given the severe consequences that often result from nuclear incidents."

Takeaways for employers

As inflation eases, the hope is that the amount of work stoppages starts to return to pre-pandemic levels. That said, labour disruptions are rarely caused solely by monetary items. As a result, employers should continue to take steps to ensure that non-monetary items related to working conditions remain a focus.

Further, as the law on drug and alcohol testing continues to evolve it is important to note that while the context in the Federal Court of Appeal's ruling was the nuclear sector, it is now open for employers who operate in other safety sensitive environments to make the same argument to support the imposition of their own drug and alcohol testing programs.

Occupational health and safety

Canadian legislatures continued to focus on workplace safety in the 2024 legislative cycle with a flurry of legislative amendments that increased penalties and introduced new measures on workplace violence and harassment. In addition, following the Supreme Court of Canada issuing its highly anticipated decision in *R. v. Greater Sudbury (City)*, 2023 SCC 28, the Ontario Superior Court of Justice issued its own decision on the merits of the employer's due diligence defence.

- **Ontario proposes increased fines for employer health and safety breaches**

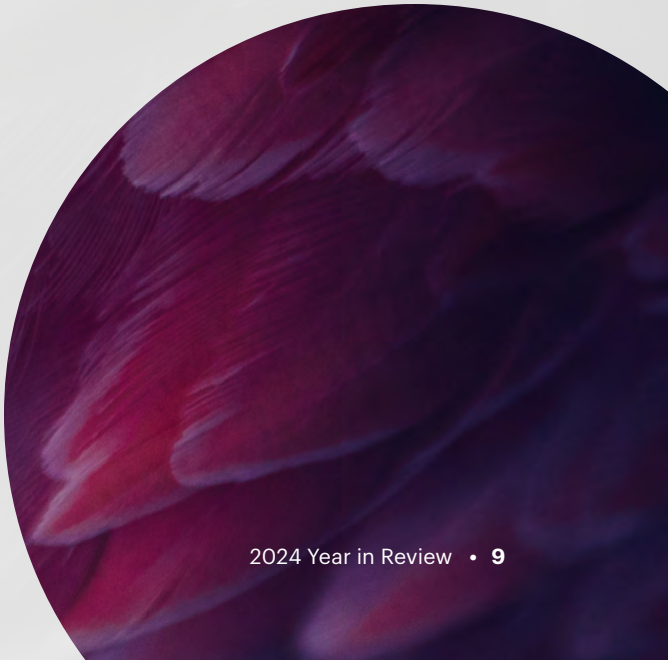
  On November 27, 2024, the Ontario government proposed amending the *Occupational Health and Safety Act* to set a minimum fine of CA$500,000 for a second (or subsequent) offence that results in death or serious injury of one or more workers in a two-year period. If passed, this would represent a significant change as there are currently no minimum fines set under the *Occupational Health and Safety Act*. Moreover, the maximum fine that may be imposed upon a corporation, if convicted of an offence under the *Occupational Health and Safety Act*, is CA$2,000,000.00.

- **Alberta introduces changes to its workplace violence and harassment laws**

  Alberta recently implemented amendments to the *Occupational Health and Safety Code*, including changes to Part 27, Violence and Harassment, that reflect a shift toward streamlining and simplifying regulatory obligations for employers. Previously, employers were required to develop, implement, review and revise, as needed, a violence prevention plan (consisting of a violence prevention policy and violence prevention procedures) and a harassment plan (consisting of a harassment prevention policy and harassment prevention procedures). With the recent amendments, employers are now required to develop, maintain, review and revise, as needed, an "all-in-one" violence and harassment prevention plan. While this plan must still include many of the same elements as previously required, the requirements are simplified which gives employers more flexibility in how they structure the plan. In addition, the previously mandatory requirements to include certain specific statements and commitments in the policies have been repealed. The province has implemented a transition period until March 31, 2025, during which time employers can comply with the previous requirements or the new requirements under the *Occupational Health and Safety Code*.

- **New first aid regulations in British Columbia**

  Effective November 1, 2024, all provincially regulated employers in British Columbia are required to complete a new first aid assessment to ensure appropriate workplace coverage and compliance with updated regulations. Key changes include aligning first aid certification levels and kit contents with Canadian Standards Association (CSA) standards, adding BC-specific requirements like personal protective equipment and oxygen therapy for advanced kits. Employers must also conduct annual first aid drills, maintain records and meet specific standards for less-accessible workplaces.



- **Ontario Superior Court of Justice rules on merits of employer's due diligence defence**

  Shortly after the Supreme Court of Canada issued its highly anticipated decision in *R v. Greater Sudbury (City)*, 2023 SCC 28, the Ontario Superior Court of Justice released its decision upholding the trial judge's finding that the employer exercised due diligence. In particular, the Superior Court considered the relevant considerations that the Supreme Court identified in its 2023 decision and concluded: (i) the employer did not have control over the workplace and the workers on it, (ii) the employer delegated control to the constructor to overcome its own lack of skill, knowledge or expertise, (iii) the employer evaluated whether the constructor had the capacity to perform the work safely and enforce compliance with the regulations under the *Occupational Health and Safety Act* before engaging the constructor to perform the work and (iv) the employer monitored and supervised the constructor's work. As a result, the Superior Court dismissed the Crown's appeal.

Takeaways for employers

Provincially regulated employers in Alberta have until March 31, 2025, to review their workplace violence and harassment plans to ensure that they comply with the new requirements under the *Occupational Health and Safety Code*. Similarly, employers in British Columbia should review their first aid procedures and processes to ensure that they remain in compliance with the amendments to the *Occupational Health and Safety Regulation*.

In addition, the Supreme Court and Superior Court's decisions in *R v. Greater Sudbury (City)* remind employers of the importance of ensuring that they are exercising their due diligence by pre-screening contractors for expertise and their safety record, expressly requiring contractors to control the work that they are engaged to perform (and ensure safety in the performance of that work) and effectively monitoring the contractor's safety practices that are in place while the contractor performs the work.

Workplace investigations

As workplace investigations become more frequent, we are beginning to see a stream of case law that provides employers with greater guidance on their obligations when conducting an investigation. In 2024:

- **Ontario arbitral decision highlights importance of retaining unbiased investigators, independent of solicitor-client relationship**

  In *Toronto Metropolitan Faculty Association v. Toronto Metropolitan University*, 2024 CanLII 109523, the Arbitrator found that TMU had a solicitor-client relationship with the external investigators it had hired to conduct workplace investigations. The Arbitrator, analyzing the retainer agreement and considering what "an informed person, viewing the matter realistically and practically" would perceive, concluded this relationship created a conflict of interest, undermining the impartiality required for procedural fairness.

- **A workplace investigation must be based on sufficiently serious and precise allegations**

  In *Syndicat du personnel enseignant du campus de Saint-Lawrence et Cégep Champlain - St. Lawrence* (Lisa Birch), 2024 QCTA 180, a Québec grievance arbitrator ruled in favor of a teacher, concluding that she was wrongfully subjected to an abusive and flawed psychological harassment investigation. In that case, the employer launched the investigation without clear allegations or identifying specific complainants, instead targeting her based on vague suspicions. The process was found to lack procedural fairness, with delays in informing the complainant of the accusations and unnecessary duplications of investigations. The employer also failed to follow recommendations or promptly lift restrictive protocols, further exacerbating the harm. The arbitrator concluded the employer's actions were abusive, undermining the complainant's dignity and workplace environment.

Takeaways for employers

In those cases where employers retain a third party to conduct a workplace investigation, the investigator's neutrality is critical in ensuring a fair process for all involved. As such, employers should hire investigators under an independent investigation retainer and should not retain the investigator under a "solicitor-client" relationship. Moreover, hiring an outside firm does not allow the employer to act arbitrarily or to conduct a "witch hunt." It remains the employer's responsibility to ensure that everyone's rights are respected, including those of alleged harassers, even when the complaint comes from a manager.

Pensions and benefits

The theme for pensions and benefits law in 2024 was good governance.

- **General damages awarded against a trust and plan administrator**

  The Nova Scotia Supreme Court's 2023 landmark decision in *Wilson v. Benefit Plan Administrators (Atlantic) Limited*, 2023 NSSC 272, continued to make waves amongst the pensions community. In that case, a trust and plan administrator were ordered to jointly pay CA$20,000 in general damages after they mistakenly informed a survivor that a death benefit had lost significant value. As the case represented the first time a court had ordered general damages against a trust and pension plan administrator, this decision highlights the importance of good governance.

- **Ontario Court approves rectifying drafting errors**

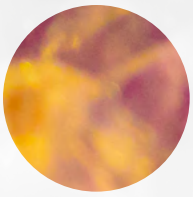
  In *IBM Canada Limited v. Ceci and Ratelle*, 2024 ONSC 1771, the Ontario Superior Court approved rectifying drafting errors from a plan restatement that inadvertently accrued additional benefits for disabled defined benefit and non-contributory defined contribution (DC) members, while adversely affecting contributory DC members. Upon discovering the errors, the plan sponsor worked with members and applied to the court, with their application being granted. This case reflects the importance of a plan sponsor taking charge in correcting a plan error.

- **Canadian Association of Pension Supervisory Authorities (CAPSA) issues important guidelines on governance frameworks and risk management**

  On September 9, 2024, CAPSA released revised Guideline No. 3 Guideline for Capital Accumulations Plans and a new Guideline No. 10: Guideline for Risk Management for Plan Administrators. Notably, these Guidelines provide important guidance on governance frameworks and risk management and are summarized in our recent blog posts.

Takeaways for employers

Good governance is expected to continue to be the theme for 2025 as regulators continue to release guidelines aimed at ensuring proper oversight. Employers with retirement and savings plans (now including RRSP, DPSP, TFSA plans) should ensure they develop governance frameworks if they don't have them already or if they do, revise them to bring them into compliance with the new guidelines.



Business immigration

Canada's immigration policy dominated headlines for much of 2024 as commentators expressed concern over the country's rapid population growth and support for immigration plunged to the lowest level in decades. As a result, Immigration, Refugees and Citizenship Canada (**IRCC**) implemented various restrictions and program changes to fortify system integrity and reduce overall immigration levels over the next three years.[1] Notable changes in 2024 included the following:

- **Temporary foreign worker program:** The threshold to determine whether a labour market impact assessment (**LMIA**) qualifies as high-wage was increased by 20% over the provincial/territorial median wage, resulting in more LMIAs being classified as low-wage.[2] This is significant as the more restrictive low-wage stream involves stricter employer requirements and obligations, including the following recent changes: (1) reduced caps on the proportion of low-wage foreign workers,[3] (2) refusals to process in high unemployment areas,[4] and (3) maximum duration reduced to one year.
- **International student program:** Intake levels of foreign students were dramatically reduced and recent graduates must meet stricter eligibility criteria to qualify for a post-graduation work permit. Full-time students are permitted to work off-campus 24 hours per week during academic sessions.
- **Elimination of "flagpoling":** Foreign nationals in Canada are no longer permitted to access immigration services at a Canadian port-of-entry after visiting a bordering country, a previously common and accepted practice known as "flagpoling." Only a limited set of applicants in Canada are permitted to apply for a work permit at a port of entry.[5]

Takeaways for employers

Employers should expect more changes aimed at tightening the immigration system in 2025. For example, candidates under the Express Entry program will no longer receive points for having an LMIA-supported job offer as of spring 2025.[6] Given this new regulatory environment, employers should prepare themselves for heightened scrutiny and processing hurdles to hire foreign workers in 2025.

1. 2024 Annual Report to Parliament on Immigration, Immigration, Refugees and Citizenship Canada.
2. Upcoming changes to the High-Wage Labour Market Impact Assessment Stream, Dentons Canada, Helen Park and Denise Alba.
3. Program requirements for low-wage positions, Employment and Social Development Canada.
4. Refusal to process a Labour Market Impact Assessment application, Employment and Social Development Canada.
5. Program delivery update: Who can apply at a port of entry, Immigration, Refugees and Citizenship Canada.
6. News Release - Canada takes action to reduce fraud in Express Entry system, Immigration, Refugees and Citizenship Canada.

Legislative updates

British Columbia

- **New protections for Gig Workers**

  New protections for online platform workers (**Gig Workers**) came into force, introducing changes to the *British Columbia Employment Standards Act* and Regulation & the *Workers Compensation Act* and establishing the Online Platform Workers Regulation. Under the new Regulation, Online Platform Workers are now considered to be employed by the operator of the online platform from which they accept work. Read more about the key provisions in our blog post here.

- **British Columbia minimum wage increase fixed by legislation**

  On April 22, 2024, Bill 2: *Employment Standards Amendment Act, 2024* came into force. The Bill amended the BC *Employment Standards Act* to impose automatic annual increases to the minimum wage in British Columbia to match inflation and the Consumer Price Index. Prior to this amendment, annual increases, if any, to the minimum wage were discretionary decisions made through an Order in Council.

- **Pay transparency in British Columbia**

  Following the passing of the *Pay Transparency Act* in 2023, the British Columbia legislature passed the Pay Transparency Regulation and introduced an online reporting tool and other guidance materials to guide employers in completing their reports. Importantly, employers with 300+ employees in British Columbia will be required to submit pay transparency reports by November 1, 2025. Read more about what this means for your business here.

Alberta

- **Amended violence and harassment plan requirements – Transitional period to March 31, 2025**

  As set out above, recent amendments to the *Occupational Health and Safety Code* (Code) clarify employers' obligations in respect of violence and harassment prevention by requiring employers to implement a single violence and harassment prevention plan. Employers must implement a violence and harassment prevention plan that sets out procedures for informing workers about the hazard of violence and harassment, reporting violence or harassment and investigating complaints or incidents of violence or harassment. The plan must also contain provisions to protect the confidentiality of the involved parties, except where disclosure is necessary as set out in the Code. Employers must review their plan if an incident indicates review is necessary, where there is a change to the work or worksite which may affect the potential for violence or harassment, if requested by the joint health and safety committee or health and safety representative or every 3 years at the latest. Employers must provide training to workers on the plan that is implemented, as well as when any revisions are made.

Ontario

- **Job posting requirements – Effective January 1, 2026**

  Pursuant to Ontario Regulation 476/24: Rules and Exemptions re Job Postings, publicly advertised job postings by employers with 25 or more employees must:

  - **Include compensation details:** Publicly advertised job postings must disclose total compensation (including base salary, bonuses, commissions) or a range of expected compensation. If a range is provided, it cannot exceed CA$50,000. Compensation information is required only for positions where the expected compensation or the upper limit of the range is CA$200,000 or less.
  - **Disclose AI use:** If artificial intelligence is used to screen or assess candidates, this must be clearly stated.
  - **Do not include "Canadian Experience" requirements:** Job postings cannot demand Canadian work experience.
  - **Indicate vacancy status:** The job posting must state if the position is for an existing vacancy.

- **New pre-employment information requirements – Effective July 1, 2025**

  Under Ontario Regulation 477/24: When Work Deemed to be Performed, Exemptions and Special Rules, employers with 25 or more employees must provide new hires with the following details before their first day (or as soon as practicable):

  - Legal and operating name of the employer.
  - Contact information, including address and key contacts.
  - Anticipated work location.
  - Starting wage, pay period and pay day.
  - General description of initial hours of work.

- **New job-protected long-term illness leave of absence – Effective June 19, 2025**

  - In accordance with Ontario's Working for Workers Six Act, 2024 (Bill 229), effective June 19, 2025, an employee with at least 13 weeks of service is entitled to an unpaid leave of up to 27 weeks if the employee is unable work due to a serious or critical medical condition.

- **No medical notes – Effective October 28, 2024**

  - In accordance with Ontario's *Working for Workers Five Act, 2024* (Bill 190), employers are prohibited from requiring employees to provide medical notes or certificates from a qualified health practitioner as evidence of their entitlement to their statutory sick leave.

- **Application of the *Occupational Health and Safety Act* – Effective October 28, 2024**

  - In accordance with Ontario's *Working for Workers Five Act, 2024* (Bill 190), the *Occupational Health and Safety Act* applies to telework performed in or around a private residence, thereby extending statutory obligations and protections to workers working from home.
  - The definition of workplace harassment and workplace sexual harassment is now expanded to expressly include harassment that occurs in a workplace "virtually through the use of information and communications technology."

- **Written agreement for alternate arrangement for vacation pay – Effective June 21, 2024**

  - The *Employment Standards Act, 2000,* as amended provides that an employer is required to pay an employee their vacation pay as a lump sum prior to the employee commencing vacation. In accordance with Ontario's *Working for Workers Four Act, 2023*, a written agreement is now required if an employer intends to pay vacation pay by any other method.

Québec

- **Expanded employer duties to prevent workplace violence and harassment**

  On March 27, 2024, Québec enacted the *Act to Prevent and Fight Psychological Harassment and Sexual Violence in the Workplace*, introducing significant amendments to existing employment and occupational health and safety laws. The *Act* broadens employer responsibilities to prevent harassment by any individual in the workplace, including suppliers and customers and mandates specific content for harassment prevention policies, effective September 27, 2024.

- **New statutory limits on employers' right to request medical certificates**

  An *Act mainly to reduce the administrative burden of physicians*, which came into effect on October 9, 2024, limits employers' ability to request medical documentation for certain employee absences. Effective January 1, 2024, employers can no longer demand proof for the first three absences of up to three days for reasons such as illness, organ donation or situations involving violence. For family-related absences, such as short-term caregiving or childcare, medical certificates are entirely prohibited (but employers still can request other type of supporting documents). This new act does not impose restrictions on employers' ability to request documentation for other types of absences, such as those involving serious illness or death of a family member.

Federal

- **Increased notice of termination for federally regulated employees**

  Effective February 1, 2024, federally regulated employees are now entitled to graduated notice of termination entitlements based on their length of service, up to a maximum of eight weeks. In addition to the new graduated notice of termination entitlements, employers must also provide dismissed employees with a written statement of benefits setting out their vacation benefits, wages, severance pay and any other benefits or wages arising from their employment.

- **Replacement workers banned and mandatory planning for labour disruptions**

  Effective June 20, 2025, amendments to the Canada Labour Code will come into effect prohibiting federally regulated employers from using replacement workers during a strike or lockout, except in limited circumstances. The prohibition extends not only to contractors or employees of another employer engaged by the company, but also employees or managers hired after notice to bargain has been given, existing employees who do not normally work at the location where the strike or lockout is taking place and volunteers, students or members of the public.

In addition (and also effective June 20, 2025), federally regulated employers and trade unions will be required to agree on the maintenance of activities during a strike or lockout. The Canada Labour Code currently gives either an employer or trade union the option of triggering the maintenance of activities process, which requires the parties to agree on how specific services, operation of facilities or production of goods will continue in the event of a strike or lockout. Once these amendments come into effect, parties will automatically have to enter into an agreement no later than 15 days after notice to bargain is given, even if there is agreement that there are no activities that need to be maintained during the strike or lockout. Further, after the amendments come into effect, no notice of strike or lockout can be issued until a maintenance of activities agreement is in place.

- **New leaves of absence for pregnancy loss, bereavement and placement of a child**

  On the earlier of December 12, 2025, or a day to be fixed by order, amendments related to pregnancy loss and bereavement leave will come into force, entitling employees to up to eight weeks of unpaid pregnancy loss leave in the case of still birth, up to three days of unpaid pregnancy loss leave in the case of any other pregnancy loss and up to eight weeks of unpaid bereavement leave in the event of the death of a child. Regulations related to these amendments are targeted to come into force on the same day the amendments take effect.

  Additional amendments to the Canada Labour Code introducing a 16-week unpaid leave for employees who have responsibilities related to placement of a child and the requirement that employers develop a disconnecting from work policy have been introduced though Bills C-59 and C-69 and will come into force on a date yet to be fixed by order. These amendments are targeted to come into force in 2025.

Trends to watch for in 2025

1. Return to office – but this time it's for real

Perhaps the pandemic's greatest legacy is the move to remote work. While employees were once tethered to their office five days a week, today's workplace has been transformed so that it is literally anywhere. But after years of fully remote and hybrid arrangements, is 2025 the year when the pendulum swings back to the more traditional in-office attendance?

In September 2024, Amazon's CEO, Andy Jassy, made news when he announced that effective January 2, 2025, the vast majority of the company's employees would be required to be in office five days a week. AT&T subsequently followed suit announcing that it would be requiring its office employees to work from the office five days per week beginning in January. And now, President Trump has ordered US federal government employees to return to the office five days a week.

While the return to office experience in Canada has been uneven, it is worth noting that a report by the C.D. Howe Institute declared that over half of paid employees in the country have returned to work in person in the last four years. As such, one can expect that Canadian employers will be closely following the experience of their American counterparts as they take steps to bring employees back to the workplace on a more regular schedule.

2. Managing employee speech in the workplace

Canadians will head to the polls this year, as the federal election will take place on or before October 20, 2025. Elections always spur debate; however, in recent years the political discourse across the country and around the world has become more divisive. To the extent that this type of passionate debate spills into the workplace, employers risk negative impacts to their workplace productivity and culture.

The Canadian Charter of Rights and Freedoms assures Canadians the freedom of expression; however, this protection applies to the actions of governments rather than private sector employers. While some provincial human rights codes prohibit discrimination based on a person's political belief or conviction, it is not universal. In any event, employers retain the power and indeed the obligation, to maintain a safe workplace free of discrimination and harassment. On that basis, employers could rely on their workplace harassment policies to ensure that any discourse in the workplace remains respectful. Similarly, employers may also want to remind employees that the company's social media policy may apply to the employee's off-duty online conduct where there is an impact on the workplace.

3. Trump tariffs

The catastrophic impact of President Trump's threat of applying a 25% tariff on all Canadian profits has been well-reported. In a report released by the Canadian Chamber of Commerce's Business Data Lab, the business group speculated that such a move would shave 2.6% (or approximately CA$78 Billion) from the country's GDP. In those circumstances, employers would no doubt be looking to trim their labour costs through temporary and permanent layoffs. Depending on the scale of the cuts, Canadian employers would be required to comply with the applicable group termination rules which require employers to comply with additional regulatory obligations.

Conclusions

The workplace remains one of the few areas of our society which impacts almost every Canadian on a daily basis. As such, it is critical that employers remain current on the legal landscape that governs their respective operations. We look forward to continuing our work with employers across the country and around the world on this mission.

If you have any questions, please do not hesitate to contact any member of our Employment and Labour, Pensions or Immigration law team.

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