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Bill C-58 to Amend Canada Labour Code
Will limit use of replacement workers and expedite process for maintenance of activities agreements

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Bill C-58, *An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations*, received royal assent on June 20, 2024 and will **come into force on June 20, 2025**. As discussed in our November 20, 2023 Legislative Update, Bill C-58 will amend the *Canada Labour Code* (CLC)[1] to limit the use of replacement workers and implement an expedited process for *maintenance of activities* agreements. These changes apply **only to federally regulated employers** governed by the CLC.

In short, Bill C-58 has the potential to result in more frequent and prolonged strikes among federally regulated organizations.

To minimize business interruption, every federally regulated, unionized employer should have a strike contingency plan in place. Depending on a range of factors (*e.g.*, nature of the business, location, size of operations, *etc.*), contingency planning can take several months to identify, source and operationalize. It may even include the hiring of additional personnel. As such, **it cannot be stressed enough that the time to start strike contingency planning is now – months before notice to bargain is given** (which can occur at any time within the four months immediately preceding the expiry of the collective agreement, or such longer period as provided in the collective agreement).

Limitation on the use of replacement workers

As of June 20, 2025, an employer will be prohibited from using the following classes of people to perform bargaining unit work during a legal strike or lockout:

1. Any employee, manager or person employed in a confidential capacity in matters related to industrial relations, hired after notice to bargain was given.

2. Any contractor (other than a dependant contractor) or any employee of another employer (*i.e.*, a traditional replacement worker).

3. Any employee whose normal workplace is one other than where the strike or lockout is taking place, who was transferred to the location the strike or lockout is taking place after the notice to bargain was given.

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[1] RSC 1985, c L-2.
** With the assistance of Aicha Raeburn-Cherradi and Ella Vitols

4. Any employee in the bargaining unit (except for maintenance of activities in compliance with section 87.4 or 87.7 of the CLC).

5. Any volunteer, student or member of the public.

There are two exceptions to these prohibitions:

1. If an employer utilized the services of any contractor or employee of another employer to perform bargaining unit work before notice to bargain was given, it can continue to use those workers during a strike or lockout, but only in the same manner, to the same extent, and in the same circumstances as they were used before notice to bargain was given.

2. To address an imminent and serious threat to life, health or safety, destruction of property, or environmental damage and there are no other means to deal with the situation.

The penalty to an employer for a breach, is a fine of up to $100,000 per day.

Note: An employer may use non-bargaining unit employees or managers to perform bargaining unit work, if they were employed at the workplace prior to the date on which notice to bargain was given.

Expediated process for maintenance of activities agreements

Maintenance of activities applies when the cessation of work during a strike or lockout would result in an immediate or serious danger to the safety or health of the public. Bill C-58 expedites the process to determine maintenance of activities and removes certain notice requirements.

Under Bill C-58, as of June 20, 2025, the parties must come to an agreement on maintenance of activities within 15 days from the notice to bargain. If an agreement is reached, it must be immediately filed with the Minister of Labour and the Canadian Industrial Relations Board (CIRB). If the parties agree no activities must be maintained, that agreement must also be filed with the Minister of Labour and the CIRB. If no agreement is reached, either party may apply to the CIRB for a determination on maintenance of activities issues. The CIRB must issue a decision within 82 days of that application.

Sherrard Kuzz LLP has extensive experience assisting clients to design and operationalize strike contingency plans for federally and provincially regulated employers. To learn more and for assistance, contact your Sherrard Kuzz lawyer or our team at info@sherrardkuzz.com.