

Canadian Federal Statutory Changes and Other Notable Changes in the Federal Sphere

Quarterly Update: October 1 – December 31, 2018

Rhonda B. Levy, Knowledge Management Counsel, Littler LLP

1. Employment Insurance Parental Sharing Benefit: Launch Date Earlier than Originally Planned

[The federal government originally stated](#) that its Parental Sharing Benefit, first announced in its 2018 budget, would be available in June 2019; however [in the fall of 2018 the government announced](#) that it would accelerate the launch date to March 17, 2019. In an effort “to support greater gender equality in the home and in the workplace”, the Parental Sharing Benefit will provide up to an additional 5 weeks Employment Insurance (EI) benefits (for parents who take regular parental benefits at the rate of 55% of average weekly earnings over a 35 week period), or up to an additional 8 weeks EI benefits (for parents who take extended parental benefits at the rate of 33% of average weekly earnings over a 61 week period). This benefit is available on a “use it or lose it” basis when, in an eligible two parent family, including adoptive and same-sex parents, both parents agree to share parental leave. Parents will be eligible if their children were born or placed for adoption on or after March 17, 2019. The maximum number of weeks each parent can take is limited to 35 (regular parental benefits) or 61 (extended parental benefits), however to access the additional 5 or 8 weeks, any combination of sharing is allowed.

2. Bill C-86: New Pay Equity Legislation Receives Royal Assent but “In Force” Date to be Determined

On October 29, 2018, the federal government introduced [Bill C-86, Budget Implementation Act, 2018, No.2](#) (“Bill C-86”), which, among other things, introduced the *Pay Equity Act* (the “Act”). The purpose of the Act is “to achieve pay equity through proactive means by redressing the systemic gender-based discrimination in the compensation practices and systems of employers that is experienced by employees who occupy positions in predominately female job classes”. Bill C-86 received Royal Assent on December 13, 2018, and it will come into force on a day or days to be fixed by order of the Governor in Council. The Act applies to federally regulated employers with ten or more employees. It requires federally regulated employers to (a) evaluate their compensation practices to ensure they are providing equal pay for work of equal value, (b) establish a Pay Equity Plan within three years from the date on which they become subject to the Act, and (c) if the employer has more than 100 employees (or less than 100 employees if the employees are unionized), establish a Pay Equity Committee to develop and update the Pay Equity Plan. The Act also provides for the appointment of a Pay Equity Commissioner under the *Canadian Human Rights Act* who will be responsible for the Act’s administration and enforcement.

3. Security Breach Notification Requirements under PIPEDA In Force

Significant amendments to the [Personal Information Protection and Electronic Documents Act](#) (“PIPEDA”) became effective on November 1, 2018. Organizations regulated by PIPEDA now have mandatory notice requirements imposed on them in the event of certain “breaches of security safeguards”. A “breach of security safeguards” means “the loss of, unauthorized access to or unauthorized disclosure of personal information resulting from a breach of an organization’s safeguards or from a failure to establish those safeguards”. The new mandatory notice requirements include: 1. a report to the Office of the Privacy Commissioner of Canada; 2. notification of affected individuals if it is reasonable to believe the breach creates a “real risk of significant harm” to the individuals (“significant harm” includes bodily harm, humiliation, damage to reputation or relationships, loss of employment, business, or professional opportunities, financial loss, and identity theft); and 3. notification of “any other organization, a government institution, or a part of a government institution of the breach” when the notifying organization believes the organization or institution “may be able to reduce the risk of harm that could result or mitigate that harm, or if any of the prescribed conditions are satisfied.” (The regulations are silent with regard to the prescribed conditions.) Failure to report (and/or record) a breach or obstruction may result in fines of up to CAD \$10,000 for a summary offence, or up to CAD \$100,000 for an indictable offence.