

Report of the Expert Panel on Modern Federal Labour Standards released

Date : December 20, 2019

As we discussed in a [previous Focus Alert](#), in addition to the Bill C-86 changes to the labour standards provisions of the *Canada Labour Code* (the “Code”), an independent Expert Panel was appointed in February 2019 to study, consult and provide advice on the following five complex issues:

1. A federal minimum wage;
2. Labour standards protections for non-standard workers;
3. Disconnecting from work-related e-communications outside of work hours (the “right to disconnect”);
4. Access and portability of benefits; and
5. A collective voice for non-unionized workers.

During the course of the Expert Panel’s work, other areas were identified that merited further consideration and recommendations. Those three issues are: enforcement and compliance; data; and monitoring and review.

The Minister of Labour released the [Expert Panel’s Report](#) on December 19, 2019. The Report contains 39 recommendations, some of which include:

- The establishment of a freestanding federal minimum wage, adjusted on an annual basis;
- That Part III of the *Code* define the concept of “employee”. The Report notes this recommendation is three-fold and Part III should include clear statutory definitions of “employee”, “independent contractor” and “dependent contractor”;
- That a process be established to review existing regulations under Part III that set exemptions, exceptions and special rules;
- That Part III of the *Code* be clarified to ensure that an employer cannot rely on a greater benefit with respect to one standard to offset a lesser benefit with respect to another standard;
- That there not be a statutory right to disconnect at this time;
- That employers subject to Part III of the *Code* consult with their employees or their representatives and issue policy statements on the issue of disconnecting;
- That Part III of the *Code* include a statutory definition of “deemed work” in order to clarify circumstances under which employees are deemed to be at work outside of their workplaces or worksites;
- That Part III of the *Code* provide a right to compensation or time off in lieu for employees who are required to remain available for potential demands from their employer, or on

standby;

- Further consultation and awareness raising to ensure that part-time employees in the federally regulated private sector are, where appropriate, being enrolled in employer-sponsored pension plans;
- That the federal government carry out stakeholder consultations and research into the potential for the development of a portable benefits model in the federally regulated private sector;
- That further study be carried out with respect to legal barriers in Part I of the *Code* to union representation in the federally regulated private sector;
- That a protection for “concerted activities” of employees be included in Part III of the *Code*; and
- That the Labour Program take specific steps to improve compliance, enforcement and operations.

In Our View

The Expert Panel’s discussion and recommendations will be closely considered by the federal government as it continues to contemplate changes to federal labour and employment legislation. The Prime Minister’s [Mandate Letter to the Minister of Labour](#) demonstrated an intention by the government to address issues covered in the Report, and improve labour protections in the *Code*, such as increasing the federal minimum wage to at least \$15 per hour, and co-develop new provisions with employers and labour groups that give federally regulated workers the “right to disconnect”.

We will be reviewing the Expert Panel’s Report in full and will provide a more detailed discussion of its findings and recommendations in an upcoming Focus Alert.

For further information please contact [Steven Williams](#) at [613-940-2737](#).