



# What's New in HR Law

## Changes to Federal Labour Legislation: Banning Replacement Workers and the *Sustainable Jobs Act*

July 10, 2024 | By Mark Van Ginkel

### Bottom Line

On June 20, 2024, two pieces of federal legislation received Royal Assent and became law:

1. [Bill C-58](#) amends the *Canada Labour Code* to significantly limit the ability of employers to hire replacement workers during a legal strike or lockout.
2. [Bill C-50](#) establishes the *Canadian Sustainable Jobs Act*, which creates an accountability, transparency and engagement framework to facilitate the creation of environmentally sustainable jobs.

### Bill C-58 Bans Replacement Workers in Federal Workplaces

Bill C-58 amends the *Canada Labour Code* to prohibit federally-regulated employers from hiring any employees, or engaging any contract workers, to perform all or part of the duties of an employee who is in the bargaining unit that is the subject of a legal strike or lockout. However, the legislation states that where a non-bargaining unit employee or contractor is hired before notice to bargain was given, that employee can perform bargaining unit work during a strike or lockout.

*This article is for the purposes of only general information and does not constitute legal advice or opinion.*

There are some exceptions to the prohibition against hiring “scab” workers during a strike or lockout. Employers can hire such workers, even during a strike or lockout, if they are used solely to deal with a situation that could reasonably be expected to pose an imminent or serious threat to a person’s physical safety, serious damage to the employer’s property, or serious environmental damage affecting the employer’s property. This exception is likely to be interpreted narrowly.

Bill C-58 also creates significant penalties for non-compliance. Federally-regulated employers will be subject to fines of up to \$100,000 for each day that the legislation is violated.

The takeaway is that while employers cannot hire any new employees to replace bargaining unit employees, they are still permitted to re-allocate bargaining unit work to or re-assign their existing workforce (to the extent that those persons in the existing workforce were hired before notice to bargain was given).

### **Bill C-50 Enacts the *Canada Sustainable Jobs Act***

Bill C-50 enacts a new statute known as the *Canada Sustainable Jobs Act* (the “Act”). The stated purpose of the Act is to establish an accountability, transparency and engagement framework to facilitate and promote economic growth, the creation of sustainable jobs and support for workers and communities in Canada in the shift to a net-zero economy.

The Act establishes a 13-member Sustainable Jobs Partnership Council, whose mandate is to provide advice to the Federal Government on measures to foster the creation of jobs which are consistent with the shift to a net-zero economy, and measures to support workers, communities and regions in the shift to a net-zero economy including through skills development, training, and economic development and diversification. This is a broad mandate and it remains to be seen what specific recommendations the Council will develop.

Additionally, the Act requires that the appointed Minister must prepare a Sustainable Jobs Action Plan by the end of 2025 and every subsequent year following. The Act describes, in detail, what the Plan must include. In short, the Plan must outline how the federal government will create sustainable jobs in the shift to a net-zero economy and what measures are and have been taken in achieving this objective.

### **Takeaway**

Federally-regulated employers must recognize the reality that hiring replacement workers during a legal strike or lockout is no longer permitted. During collective agreement negotiations, consideration must be given to how a strike or lockout will impact the workplace and to what extent the existing workforce could be reassigned or work reallocated to maintain certain essential functions.

It remains to be seen how the *Canada Sustainable Jobs Act* will impact employers in the short-term. However, more opportunities for federal funding for sustainable jobs may become available in the future.

## Need More Information?

For more information or assistance with labour and employment issues in federally-regulated workplaces, contact [Mark Van Ginkel](mailto:Mark.Van.Ginkel@filiation.on.ca) at [mvanginkel@filiation.on.ca](mailto:mvanginkel@filiation.on.ca) or your [regular lawyer](#) at the firm.



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