

Federal Government Proposes Changes to Canada Labour Code
~ Significant amendments to collective bargaining process on the horizon
October 7, 2026

On September 21, 2026, the federal government introduced [Bill C-39, An Act respecting certain measures to strengthen the economy](#). Bill C-39 proposes significant amendments to the *Canada Labour Code* (“CLC”) regarding the collective bargaining process, successor rights, and government intervention in a labour dispute involving a federally regulated employer. The bill also proposes clarification to federal paid medical leave, and an updated wage recovery regime.

If passed into law, the changes will impact an employer in a federally regulated industry, including, for example, cross-border transportation, banking, postal and courier services, energy and resources and telecommunications, representing roughly 6% of the country’s workforce.

Bill C-39 is still in second reading, having most recently been debated on September 25, 2026. As such, there is still considerable opportunity for additional amendments. To date, the government has not indicated when it expects Bill C-39 to come into force.

At a high level, the **current proposed changes** include:

- Mandatory early bargaining in certain circumstances.
- An extended conciliation period of 90 days.
- A special mediation process.
- A new framework for ministerial intervention to end a strike or lockout.
- An option for binding first contract arbitration nine months after bargaining begins.
- Mandatory post-dispute mediation between the union and employer.
- Broadened successor rights for contracted services.
- New power to make regulations with respect to vexatious complaints, and an expedited grievance and arbitration process.
- An expanded administrative monetary penalty scheme.
- Clarified paid medical leave rules.
- New wage recovery enforcement mechanisms.

Below is a summary of the key proposed amendments.¹ We will keep readers apprised as Bill C-39 makes its way through the legislative process. **For more information and assistance, contact your Sherrard Kuzz LLP lawyer or info@sherrardkuzz.com.**

¹ Thanks to Ella Vitols, articling student, for her assistance.

Mandatory early bargaining in certain circumstances

If passed, Bill C-39 will require mandatory early bargaining for the renewal of a collective agreement if the existing collective agreement:

- Was imposed through binding dispute-resolution (*e.g.*, interest arbitration)
- Was reached after a strike or lockout occurred, or
- Has a term of five years or more.

In that case:

- Parties will be required to start collective bargaining between 200 and 180 days before expiry of the collective agreement
- Parties will be required to notify the Minister of Labour (“Minister”) and Canada Industrial Relations Board (“CIRB”) of the first bargaining meeting and engage with the Federal Mediation and Conciliation Service (“FMCS”) without delay
- The statutory freeze on altering employment terms or conditions of employment will start on the 200th day before the expiry of the collective agreement
- A maintenance-of-activities agreement, or an agreement that no maintenance of activities is required, must be reached by the 185th day before expiry of the collective agreement.
- The 200th day before expiry replaces the ordinary notice-to-bargain date as the relevant reference date for several restrictions regarding replacement workers, including newly hired employees/persons, transfers to the workplace where a strike or lockout occurs, and the continuation of pre-existing contractor services.

Extended conciliation period of 90 days

If passed, Bill C-39 will extend the conciliation period to 90 days, or a longer period if agreed to by the parties. At present, the CLC’s conciliation period is up to 60 days, unless extended by the parties.

New special mediation process

Bill C-39 introduces a new special mediation process. The Minister can appoint a special mediator to assist the parties during conciliation. This appointment can be made at any time, but no later than the 75th day of conciliation, and will last for a period of 21 days.

If, following special mediation, parties do not reach agreement, or one of the parties rejects a tentative agreement, the special mediator must issue a report to the Minister.

The Minister must provide a copy of the special mediator’s report to the parties without delay and make it publicly accessible after five days, subject to redactions for confidential business or personal information.

The stated purpose of these changes is to have special mediation occur before a strike or lockout starts and provide a minimum 10-day period after the mediator's report is made publicly available before a strike or lockout occurs. However, the appointment of a special mediator does not suspend the right to strike or lockout.

The requirement to publicly release the special mediator's report would appear to allow the public to weigh in on contentious bargaining disputes prior to the use of Ministerial intervention to end labour disputes under section 107.

New framework for ministerial intervention to end strike or lockout

The Minister's use of section 107 of the CLC to end a work stoppage has been highly controversial. Bill C-39 introduces a new framework and will codify certain mandatory conditions before the Minister can use section 107 to direct the CIRB to order:

- The parties to end the work stoppage
- An extension of the collective agreement, or
- A binding method of resolving the issues in dispute (*e.g.*, interest arbitration).

These orders can only be made after the Minister has (a) considered the special mediator's report and (b) believes the strike or lockout underway adversely affects or may adversely affect the national interest. When considering the actual or potential adverse impact on "the national interest," the Minister may consider any relevant factor, including whether the:

- Strike or lockout has or may have any significant impact on the Canadian economy or may cause any serious social disruption
- Minister's direction to the CIRB has any impact on the freedom of association.

Option for binding first contract arbitration after nine months

Under Bill C-39, if a union is newly certified, it will be required to provide the certification order to the Minister, following which the FMCS must engage with the parties to assist in reaching a first agreement.

If a first collective agreement is not reached nine months after notice to bargain is given, either party may apply to the CIRB for an order directing binding resolution. Once the application is made, the CIRB must order a binding method of resolving the outstanding issues. Once issued, the order suspends the right to strike or lockout until the binding determination is made or an agreement is reached.

Mandatory post-dispute mediation

Under Bill C-39, if a collective agreement was entered into, renewed or revised because of an imposed binding dispute-resolution process or after a strike or lockout, the Minister must appoint a mediator to assist the parties to improve their relationship within six months after the day on which the parties entered into, renewed or revised the agreement. The parties will be required to meet with the mediator.

Expanded contractor successorship rights

Bill C-39 seeks to expand the successorship provisions of the CLC, starting with airports and potentially moving to certain prescribed industries. Under this proposed framework, if a new contractor replaces a previous contractor:

- Bargaining rights transfer to the new contractor
- Any collective agreement follows the work

- Any certification application will continue against the new contractor
- Any pending CIRB proceeding will continue against the new contractor.

“New contractor” is defined as an employer that provides the same or substantially similar services as a “previous contractor” which is defined as an employer that previously provided services at an airport or in a prescribed industry under a contract or arrangement that is no longer in force. The existing section of the CLC that provides limited wage-rate protections in certain successor-contractor situations will be repealed.

New power to make regulations

Bill C-39 gives the Governor in Council the ability to make regulations, including regarding:

- Prohibiting any person or organization from making a frivolous, vexatious, or bad faith complaint to the CIRB, and
- Establishing an expedited grievance/arbitration process, including timelines, procedures, and industry/application rules.

Expanded administrative monetary penalties

Bill C-39 expands the administrative monetary penalty regime to permit penalties for non-compliance with CLC provisions that restrict the use of replacement workers, and the proposed frivolous/vexatious complaint regulations.

Clarified paid medical leave in unionized workplace

Bill C-39 will amend section 239 of the CLC to clarify that if a collective agreement provides paid medical leave at least as favourable as under the CLC, and includes a third-party dispute settlement process, the collective agreement, not the CLC, applies.

Strengthened wage recovery enforcement

Bill C-39 provides the Head of Compliance and Enforcement (“Head”) with new compliance and enforcement measures. Under Bill C-39, if an employee who made a complaint relating to non-payment of wages enters into a written settlement with the employer, the employer must pay those amounts to either the employee or the Head by the date specified in the settlement. If the employer fails to do so, the Head may issue an enforcement order requiring the employer, or in some circumstances a director, to pay any outstanding amounts.

Further, the Head may issue an order to debtor if the Head (a) has issued a settlement enforcement order or payment order to the employer; or (b) received a complaint and has reasonable grounds to believe the employer failed or is likely to fail to pay any amount to which the employee is entitled. The employer will be required to pay the amount of the debt directly to the Head within 15 days after the order is issued.

Bill C-39 key takeaways

If Bill C-39 becomes law in its current form (without further amendment):

- **Prepare for earlier bargaining and statutory freeze.** If the proposed early-bargaining rules apply, an employer must begin bargaining 200 to 180 days before the collective agreement expires, with the freeze on changes to terms and conditions of employment beginning on the 200th day before expiry.
- **Consider staffing levels and contractors in the workplace earlier in the process.** If the proposed early-bargaining rules apply, replacement worker restrictions at a worksite where a strike or lockout occurs will be based on those employed at that location on the 200th day before the collective agreement expires.
- **Review labour-relations calendars and operational plans.** The proposed 90-day conciliation period, possible 21-day special mediation process, and maintenance-of-activities deadlines may change the timing of bargaining, contingency planning, and any potential work stoppage.
- **Assume greater scrutiny of bargaining positions.** A special mediator's report could be made public, increasing the potential for reputational damage and stakeholder scrutiny.
- **Do not assume government intervention will be immediate.** Before directing the CIRB to end a strike or lockout, the Minister must consider the special mediator's report and the actual or potential impact on the national interest.
- **Plan for increased risk in first contract bargaining.** If a first agreement is not reached within nine months after notice to bargain, either party may seek binding resolution from the CIRB, which would suspend the right to strike or lock out once ordered.
- **Expect sustained engagement following contentious negotiations.** If a collective agreement is entered, renewed, or revised due to interest arbitration or a strike or lockout, parties must meet with a Minister-appointed mediator within six months to improve their relationship.
- **Plan for expanded contractor successorship rights.** Initially at airports but, potentially, beyond.

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