

LABOUR LAW ALERT

New rights to unionize for non-employees

A major amendment to the Unions Act has taken effect as of 1 January 2019, expanding the circle of persons entitled to unionize to include those who provide work under non-employment arrangements (civil law contracts, self-employed). The new regulations apply to those who provide work for a consideration on a different basis than the employment relationship, provided that they do not employ others to provide their work on any basis and enjoy the rights and interests related to their work that can be represented and defended by a union.

These persons have now been given a number of rights similar to those of employees, including, without limitation:

- the right to **establish and join** trade unions;
- the right to be appointed a **protected union steward**, with whom the (civil law) contract cannot be terminated or adversely modified without consent of the board of a union's local chapter, which in practice means that consent of the board of the local union must be obtained in order to terminate or implement any adverse modification to the contract of the protected person; an infringement of this requirement will entitle the protected person to seek a compensation generally equal to his/her six-month salary and damages or redress;
- **the right to be excused from work** for the term on the board of the local union;
- **the right to be excused from work for the time necessary to conduct ad-hoc actions** related to his/her union responsibilities outside the workplace, provided that such actions cannot be conducted outside the working hours (unless special provisions stipulate otherwise, such a person will still have the right to receive his/her remuneration for that time);
- a person who provides work for a consideration and is not a union member **has the right to protect his/her rights** on the same terms as those who provide work for a consideration and are union members, if the local union chosen by that person agrees to defend his/her rights;
- **the right to seek damages for discrimination** on the grounds of union membership on the same terms as employees (before labor courts);
- **the right to initiate collective disputes** concerning the rights of persons employed on a different basis than an employment contract (e.g. claiming a pay rise).

In practice, these amendments have the potential to revolutionize the cooperation with the persons who provide work on a different basis than employment contracts. It should also be kept in mind that now any business decisions concerning such persons may now be assessed from the angle of discrimination for union membership.

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