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# Bill 148: Employment Law Amendments

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# Bill 148 and the *Employment Standards Act*

## History

- Bill 148 – *Fair Workplaces, Better Jobs Act*
- First introduced June 1, 2017; amended August 21, 2017
- Passed Second Reading October 18, 2017; referred to Standing Committee

## Impact

- If passed will amend primarily the *Employment Standards Act, 2000* (ESA) and *Labour Relations Act, 1995* (LRA)

# Amendments to the *ESA* will include...

- Increased Minimum Wage (\$14)
- Overtime Pay Formula Change
- “Equal Pay for Equal Work” Principle
- Increased Vacation Time (over 5 years)
- Leaves (Family, Personal, Pregnancy/Parental, Violence)
- Temporary Help Agencies
- Public Holidays
- Requests for Change (Schedule / Location)
- Scheduling Changes (3 Hour Rule)
- Misclassification of Employees
- Electronic Agreements
- Record-Keeping Requirements
- Penalties

# Amendments to the *ESA* will not include...

- Removed: Removing the requirement for Director's written approval to work hours in excess of 48 hours per week
- Removed: Allowing averaging to calculate overtime rate of pay and overtime rate of pay agreements

# Minimum Wage

- Increased Standard Minimum Wage:
  - January 1, 2018 → \$14
  - January 1, 2019 → \$15
- Minimum Wage increase yearly: October 1, 2019
- Minimum wage for employees who serve liquor (tipped)
  - January 1, 2018 → \$12.20

# Overtime Pay Formula Change

- Employees working at two Regular Rates of Pay
- All hours worked (regardless of rate of pay) count towards Overtime hours
- Regular Rate of Pay for the hours worked used to calculate Overtime Rate of Pay

# “Equal Pay for Equal Work” Principle

- “Equal Pay for Equal Work”
  - Regardless of **Employment Status**
    - I.e. Part Time, Contract, Seasonal, Casual, Temporary / Assignment Employees
  - Performing **substantially the same work**
- Rule prohibiting reprisal for inquiry and disclosure of rates of pay

# Vacation Pay and Time

- Minimum 2 weeks Paid Vacation Time for all employees (same)
- Minimum 3 weeks Paid Vacation Time for 5+year employees / 6% vacation pay (new)



# Leave

- Increased Pregnancy or Parental Leave (Total 18 months possible)
- Increased Family Medical Leave time (up to 27 weeks in a 52 year period)
- Amending “crime-related child death and disappearance” to “child disappearance” (up to 104 weeks)
- Creating a “child death leave” (not just crime related) (up to 104 weeks)
- Creating a “Domestic and Sexual Violence Leave” (up to 10 days / up to 15 weeks – to seek assistance, treatment)
- Personal Emergency Leave applies to *all* employers (not just 50+; up to 10 days – first 2 paid, last 8 unpaid)

# Temporary Help Agencies

- One (1) week's written notice or pay for early termination of assignment
- Exception – new assignment

# Public Holidays

- Calculation of Public Holiday Pay
- Substitute Days
- Adding “Family Day” as formal recurring Public Holiday (being the third Monday in February)

# Requests for Change

- Employees: can request changes to schedules and work location
- Employers: must discuss with employee, timely respond

# New Section - “Scheduling”

- Rules regarding Minimum Pay, Shift Changes, On-Call and Cancellations
- 3 Hours Pay Rule – Employee entitled to 3 hours pay where:
  - Fewer than 3 hours worked
  - Required for On-Call work
  - Insufficient notice of shift cancellation (under 48 hours)
- Changes to On-Call Work
  - Employee has the right to refuse requests / demands to be on call where insufficient notice provided (under 96 hours)

# Misclassification

- Prohibits Employers from treating Employees not as Employees
- If challenged, Employers will have to prove not Employees

# Electronic Agreements

- Allowing use of Electronic “Agreements”

# Record-Keeping Requirements

- Longer and more expansive Record-Keeping Requirements for both Employers and Temporary Help Agencies
- Retention period increasing from 3 → 5 years



# Penalties: Notice of Contravention

Increased penalties for non-compliance with *ESA*

- Inspectors discretion to impose penalties expanded
- Director's power to enforce expanded
  - Can order security for amounts owing to be paid, can issue warrants to Sherriff ~writs of execution, can register a lien real property or personal property
  - Can publish employer's information

# What this means for Employers

- Update Record Keeping practices: new records to keep, longer storage times
- Update Employee handbooks / manuals / policies: longer leave times, variety of leaves available, requests for change
- Review payroll: check for “equal pay” between employees
- Update payroll: new minimum wage, overtime pay rates, vacation pay (6% after 5 years)
- Increases in penalties for contravention, Inspectors and Directors will have greater enforcement powers



# Questions?



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