

November 22, 2017

Ontario Completes Overhaul of Workplace Laws (Bill 148)

Ontario's [Fair Workplaces, Better Jobs Act, 2017](#), known colloquially as Bill 148, passed the Third Reading on November 22, 2017 and was presented to the Lieutenant Governor for Royal Assent. The Bill is expected receive Royal Assent and become a law in the coming days.

As previously reported in our May 30 article, [Ontario Moves Quickly to Overhaul Workplace Laws](#), and our August 25 article [First Round of Amendments to Bill 148 Does Not Address Many Employer Concerns](#) the Bill contains extensive amendments to the *Employment Standards Act, 2000* ("ESA"), the *Labour Relations Act, 1995* ("LRA"), and the *Occupational Health and Safety Act* ("OHSA").

One of the centrepieces and more controversial aspects of Bill 148 is the proposed increase in minimum wage from the current rate of \$11.60/hour to \$14.00/hr in January 2018, and eventually to \$15.00/hour by January 2019.

Some of the more notable changes to Ontario's workplace laws are set out below. A more detailed breakdown of the changes is available as a [PDF here](#).

Changes to the ESA will come into force as early as the day the *Fair Workplaces, Better Jobs Act, 2017* receives Royal Assent. Changes to the LRA will be effective the later of January 1, 2018 and the day the *Fair Workplaces, Better Jobs Act, 2017* receives Royal Assent.

EMPLOYMENT STANDARDS

- Subject to some exceptions, casual, part-time, temporary and seasonal employees will be required to be paid at the same rate as full time employees for performing work that is substantially the same
- Temporary help agency workers on assignments greater than 3 months will be entitled to a minimum of 1 week notice of termination, unless provided with an alternate offer of reasonable assignment
- Minimum 3 hours pay at regular rate of pay for any employee who:
 - Regularly works more than 3 hours and is given less than 3 hours of work;
 - Is "on-call" but not called into work; or
 - Has a shift cancelled by employer on less than 48-hours' notice
- Employee has right to refuse shifts which are offered on less than 4 days' notice
- Rebuttable presumption that workers are employees, with penalties to be levied against employers for misclassifying employees as independent contractors

- Increase paid vacation entitlement to 3 weeks after 5 years of service
- All employees to be entitled to additional six weeks of time off after a pregnancy loss or stillbirth
- Parental leave harmonized with amendments to *Employment Insurance Act* allowing parents to take a combined maximum of 18 months of pregnancy and parental leave
- All employees to be entitled to 10 days' Personal Emergency Leave ("PEL"), 2 of which must be paid
- Employers prohibited from requesting doctor's note for employee taking PEL day

LABOUR RELATIONS

- Establish card-based certification for the following:
 - Temporary help agency industry
 - Building services sector
 - Home care and community services industry
- Make remedial certification mandatory in the event of an unfair labour practice where the true wishes of the employees were not likely reflected in a representation vote or if a trade union was not able to demonstrate that 40% or more of the individuals in the bargaining unit appeared to be members of the union
- Provide union access to employee lists and certain contact information where the union is able to demonstrate 20% employee support
- Empower the OLRB to conduct votes outside of the workplace (including electronic and phone voting) and to give directions relating to the voting process to ensure neutrality
- Extend successor rights to retendering of building services contracts
- Empower the OLRB to restructure bargaining units after certification but before the first collective agreement
- Remove the 6-month limitation on the employee right to return to work after the start of a lawful strike
- Increase maximum fines under the Act to \$5,000 for individuals and \$100,000 for organizations (up from \$2,000 for individuals and \$25,000 for organizations)
- Impose new requirement for employers to provide a statutory declaration setting out the number of individuals in the bargaining unit described in a certification application, if the employer disagrees with the trade union's estimate
- Make first contract mediation universally available after a No-Board report has been issued, and allow for first contract mediation-arbitration where such mediation did not result in parties reaching a collective agreement

OCCUPATIONAL HEALTH AND SAFETY

- Employer prohibited from requiring a worker to wear footwear with an elevated heel

This is a significant development to Ontario's workplace laws with far-reaching and operational implications for provincially-regulated employers.

If you have any questions regarding the impact of any upcoming changes to Ontario's workplace

laws, or steps you can take to reduce their impact, please do not hesitate to contact a [Mathews Dinsdale lawyer](#).

North America: Canada - United States - Mexico

Central & South America: Argentina - Brazil - Chile - Colombia - Panama - Peru - Venezuela

Western Europe: Austria - Belgium - Cyprus - Denmark - Finland - France - Germany - Greece - Ireland - Italy

Luxembourg - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - United Kingdom

Eastern Europe: Belarus - Czech Republic - Estonia - Hungary - Latvia - Lithuania - Poland - Romania - Russia - Slovakia
Turkey - Ukraine

Middle East & Asia Pacific: China - India - Israel - Japan - Korea, Republic of - New Zealand - Singapore - United Arab Emirates

mathewsdinsdale.com | iuslaboris.com

