



December 08, 2017

Bill 148 SUMMARY

(changes to Ontario Employment Standards Act)

While much attention has been focused on Bill 148’s planned increase to the minimum wage, the legislation will also introduce a number of additional changes regarding leaves of absence, pay calculations and other employment-related matters. We have set out below a broad overview of certain of the major amendments.

Provision	Existing	New	Change	In-Force Date
Statutory Vacation	2 weeks of paid vacation or 2 weeks of unpaid time off with 4% vacation pay.	3 weeks or 6% vacation pay for employees with 5 or more years of employment.	Employers should review existing employment contracts to identify employees who are to receive the increased vacation entitlements.	01/01/2018
Public Holidays	Employees who are working on a statutory holiday are entitled to a substitute day off or additional premium pay for the public	Employers will be required to provide a written statement to an employee who is given a substitute day off, setting out the holiday on which they	This amendment imposes a more rigid accountability mechanism on employers who ask employees to work on public holidays or	

	holiday.	will work, the substitution day and the date the employee is given the statement.	seek to impose a substitute day.	
Holiday Pay	Total regular wages earned in four work weeks prior to the holiday divided by 20.	Total regular wages earned in the pay period prior to the holiday divided by the number of days worked in that pay period.	The incoming holiday pay formula will increase pay entitlement for some employees.	
Pay Equalization	No current provision.	Part-time, temporary and seasonal workers will be entitled to be paid the same rate as full-time employees in “substantially the same” position performing substantially the same work for the same employer. Exceptions will be made where the difference in pay is based on factors such as seniority, merit or quality of production.	These changes would reduce the financial benefit of hiring employees on a part-time, temporary or seasonal basis for some employers.	04/01/2018
Independent Contractors	No current provision.	Employers will now bear the onus of establishing that a worker is not an employee when a	Employers who use independent contractors will face a greater likelihood of being challenged and	Effective immediately

		complaint is filed.	monetary penalties in the event of a successful claim.	
Minimum Wage	The current general minimum wage rate is \$11.60.	The general minimum wage rate increases to \$14.00 on January 1, 2018, and to \$15.00 on January 1, 2019. Similar increases will apply to the minimum wage for students and for liquor servers.	Employers should review the current wage rates for employees and ensure compliance with the coming increases.	01/01/2018
Scheduling Changes	The <i>ESA</i> does not require employers to consider employee requests for changes to schedules or work locations.	Employees will be entitled to request changes to their schedule after 3 months of employment. An employer must provide written reasons if it denies the request.	Employers will have to be transparent in providing justification for such refusal. The amendments make it more difficult for employers to make scheduling changes on short notice.	
Pregnancy Leave: <i>for employees who suffer a miscarriage or stillbirth</i>	6 weeks.	12 weeks.	Employers will have the same general obligations to provide leave and reinstate employees following the end of the leave.	
Parental Leave	35 weeks leave if employee has taken pregnancy leave and 37 weeks if they have not.	61 weeks leave if they have taken pregnancy leave and 63 weeks if they have not.		
Family Medical Leave: <i>to provide</i>	8 weeks leave.	27 weeks leave in a 52-week period.		

<p><i>care for a family member with a medical condition and significant risk of death within 26 weeks</i></p>				
<p>Personal Emergency Leave</p>	<p>Employers with more than 50 employees are currently required to provide unpaid personal emergency leave of up to 10 days per year.</p>	<p>All employers will be required to provide 10 days of personal emergency leave, with the first 2 days provided as paid leave.</p>	<p>Employers will have to be diligent in monitoring personal emergency leave days to ensure that required payments are made.</p>	
<p>Child Death Leave and Crime-Related Child Disappearance Leave</p>	<p>104 weeks of leave where a child of the employee dies as a result of a crime, and 52 weeks of leave with respect to a crime-related disappearance of a child.</p>	<p>104 weeks leave where a child of the employee has died for any reason or with respect to a crime-related disappearance of a child.</p>	<p>Employers will have the same general obligations to provide leave and reinstate employees following the end of the leave.</p>	
<p>Critical Illness Leave: <i>for employees to provide care for a critically-ill family member</i></p>	<p>37 weeks to provide care to a critically-ill child.</p>	<p>37 weeks leave to provide care for any critically-ill child and will be entitled to 17 weeks leave to provide care for any critically-ill family member.</p>	<p>Employers should review the new leave entitlements to ensure compliance.</p>	
<p>Paid Domestic or Sexual Violence Leave</p>	<p>No current provisions exist.</p>	<p>15 weeks leave if the employee or a child of the employee experiences domestic or sexual violence</p>		

		and the leave is necessary for medical attention, to obtain assistance from a counselor, to relocate or to seek legal assistance. The first 5 days of this leave must be paid.		
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All Ontario employers are advised to undergo a review and revision process of their current employment policies and practices. Employers should also review their employment contracts and job offer templates, and make any updates necessary to ensure compliance with the amendments.