

Employers don't Wynne under proposed legislative changes in Ontario and Alberta!

Employers in Ontario and Alberta may be in for some big workplace changes in 2018 – at significant costs to employers.

Ontario:

On May 30, 2017, Premier Kathleen Wynne announced the Liberal government's intention to introduce *The Fair Workplaces, Better Jobs Act, 2017*, which provides for broad ranging amendments to the *Ontario Employment Standards Act, 2000* and the *Labour Relations Act, 1995*. These proposed changes are in response to the government-commissioned report released last week, which was the result of a two (2) year review by an independent commission of employment legislation in Ontario.

While the legislation contains numerous amendments, we have highlighted a few below which are expected to make the biggest impact on Ontario employers, if passed:

- The minimum wage will be increased to \$15.00 by January 1, 2019. The increase is to be phased in over the next eighteen (18) months, rising to \$14.00 per hour on January 1, 2018 and then \$15.00 the following January. After that, it will rise with inflation.
- Employees are entitled to three (3) weeks of paid vacation time after (5) years of service with the same employer.
- The formula for public holiday pay ensures employees receive their average regular daily wage.
- All employees are entitled to ten (10) personal emergency leave days per year, including two (2) paid personal emergency leave days.
- Equal pay is to be provided to part-time workers doing the same jobs as full-time workers.
- If a shift is cancelled within forty-eight (48) hours of its start, employees must be paid three (3) hours at their regular rate of pay.

- When employees are “on-call” and not called into work, they must be paid three (3) hours at their regular rate of pay. This is required for each twenty-four (24) hour period that employees are on call.
- Employers will face prosecution, public disclosure of a conviction, and monetary penalties for misclassifying employees as independent contractors.

To enforce these changes, the government plans to hire up to 175 more employment standards officers by 2020-2021. Accordingly, after increasing its workforce, the Employment Standards program aims to resolve all claims filed within ninety (90) days and inspect 1 in 10 Ontario workplaces each year.

Again, this is simply proposed legislation. The bill is not even in its first reading in the legislature. However, the bill is expected to pass (perhaps with a few changes). If it does, the majority of the above noted changes will take effect January 1, 2018 (other than the minimum wage requirement outlined above).

Alberta:

On May 24, 2017, Labour Minister Christina Gray introduced the *Fair and Family Friendly Workplaces Act*, into the Alberta legislature, which provides a few significant amendments to the *Alberta Employment Standards Code*. The proposed amendments come after decades of the NDP calling for better rules while the Progressive Conservatives were in power.

Unlike Ontario, the proposed changes in Alberta are less controversial and ultimately aim to bring Alberta in line with many other provinces.

Some of the key employment law changes are:

- Raising the minimum age for employment to 13 from 12, while limiting the type of work youths can do, so they aren't exposed to hazardous materials or situations.
- Preventing employers from docking employee pay when a customer leaves without paying for gas or a restaurant bill.
- New proposed unpaid job protected leaves: long-term illness and injury (16 weeks), family responsibility (5 days), bereavement (3 days), and a child's critical illness (36 weeks). Unpaid leaves could also be taken by victims of domestic violence (10 days) and people who have had a child

die or disappear. The leave can range as long as two (2) years if the child's death was caused by crime.

On the labour side of things, the two primary changes are:

- If a first contract between an employer and a newly certified union local isn't reached within ninety (90) days, the matter can be referred to the labour relations board which can appoint an arbitrator, if required.
- Changing the process by which a union gets certified. In the past, unions could become certified by 'card checks' (i.e. the number of card-carrying union members) without a secret ballot. 'Card checks' were abandoned in 1988 in favour of the current system, a secret ballot. The new legislation proposes a hybrid approach - i.e. a vote won't be required if at least 65 per cent of employees have verified membership in a union. A secret vote will be held if that number is between 40 and 65 per cent.

Again, both of these pieces of legislation have not been passed by either legislature and, as a result, are subject to change. However, as already indicated above, we believe that these bills will pass in some form. We will be sure to keep you updated as these bills make their way through the legislature.

In the meantime, please feel free to contact e2r® to speak with an Advisor if you have any questions regarding how these proposed changes might affect your workplace.