

Further Changes to the Ontario Employment Standards Act, 2000

As a follow-up to our June 2, 2017 alert regarding the proposed changes to the *Ontario Employment Standards Act, 2000*, (the “ESA”), employers should be aware that the Standing Committee on Finance and Economic Affairs (the “Committee”) adopted significant amendments to Bill 148, *The Fair Workplaces, Better Jobs Act, 2017* (“Bill 148”), which are currently being debated by the Ontario legislature.

We have highlighted a few of the amendments adopted by the Committee below, which are expected to make the biggest impact on Ontario employers, if passed:

Leaves of Absences

Parental Leave: The length of parental leave will increase by a total of twenty-six (26) weeks as follows:

- From thirty-five (35) weeks to sixty-one (61) weeks for employees who take a pregnancy leave
- From thirty-seven (37) weeks to sixty-three (63) weeks for employees who do not take a pregnancy leave

The above noted changes bring the *ESA* in line with recent changes to the *Employment Insurance Act*.

Domestic or Sexual Violence Leave: Employees who have been employed for at least thirteen (13) consecutive weeks shall be entitled to an unpaid leave of absence of up to fifteen (15) weeks where the employee or the employee’s child experiences domestic or sexual violence or threat of sexual or domestic violence. The leave must be taken for specific purposes defined within the legislation.

Personal Emergency Leave: Employees must have worked for an employer for one (1) week before becoming entitled to the two (2) paid days of personal emergency leave.

Record Keeping

Employers will have additional record keeping responsibilities in addition to the current record keeping requirements contained in the *ESA*.

Scheduling/On-Call Shifts

- Employees will have the right to refuse work or an on-call assignment where the request is made within ninety-six (96) hours before the start of the shift.
- Employers will be obligated to pay employees three (3) hours of wages where an employer cancels a scheduled shift or on-call shift within forty-eight (48) hours of the shift's commencement.
- Employees must have been available to work for at least three (3) hours in order to be entitled to the new on-call pay provided in Bill 148 (i.e. the requirement to pay at least three (3) hours of pay for employees who are on-call and who are either not called in to work or who are called in but work less than three (3) hours).

Public Holidays

Where an employee agrees to work on a public holiday and is entitled to a substitute holiday, the employer must provide the employee with a written statement which sets out the public holiday on which the employee will work, the date of the substitute holiday, and the date on which the statement was provided to the employee. The employer must keep records of this information.

For purposes of clarity, the proposed changes summarized in our June 2, 2017 Alert have not been amended by the Committee unless specifically outlined above. Therefore, we refer you to our June 2, 2017 Alert for further information regarding the proposed changes to the *ESA*.

We once again stress that Bill 148 is proposed legislation which is currently being debated by the Ontario legislature. Therefore, the proposed amendments are subject to change. We will continue to keep you updated as Bill 148 makes its 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.