



e2r Alert

Welcome Changes Coming to Alberta

Big changes are coming to Alberta's *Employment Standards Code*.

In an effort to aid in Alberta's economic recovery, Bill 32, *Restoring Balance in Alberta's Workplaces Act, 2020*, was introduced on July 7th, 2020 and upon Royal Assent, many of the changes will take effect on November 1, 2020. Some changes however would take effect as early as August 15th, 2020. Overall, the changes are meant to provide employers with greater operational and financial flexibility.

The following changes would take effect in August:

1. **Group termination notices:** The notice required to be given to the Minister when performing a group termination of 50 employees or more in the same work location will be reduced from a minimum of 8 weeks to a minimum of 4 weeks.
2. **Temporary layoffs:** The layoff period will be extended to 90 days within a 120-day period, or where the layoff is COVID-19 related, the period will be extended to 180 consecutive days.
3. **Variance and exemptions to mandatory employment standards obligations:** Employer associations or groups will be able to apply to the Director, and individual employers will be able to apply to the Minister to help employers adapt to changing economic circumstances in the province.
4. **Collective Agreements:** Employment standards requirements such as maximum daily hours of work, notice of work times, days of rest, and termination under temporary layoff, can be overridden by a collective agreement.

The rest of the changes would take effect in November:

1. **Averaging agreements related to hours of work:**

- While the employer must provide the employee(s) with 2 weeks' written notice prior to starting or changing an averaging agreement, employee consent is no longer required.
- Currently averaging periods are limited to 12 weeks but will be extended to 52 weeks or longer if a variance or exemption is issued, and there will be no requirement to have an end date.

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- Employers will be able to specify how amendments to the daily or weekly hours of work schedules of employees in the averaging agreement will be made.
 - An employee can bring a complaint for non-compliance with an averaging arrangement for up to 6 months after the end of the averaging period, or up to 6 months after the agreement comes to an end, whichever is earlier.
2. **Rest Periods** must include:
 - At least one 30-minute break for shifts between 5 to 10 hours and at least two 30 minutes breaks for shifts that are 10 hours or longer. Employer and employee can agree as to when and how these breaks can be taken.
 - Breaks can be paid or unpaid.
 3. **Holiday pay:** Calculated by averaging the employee's total wages over the number of days worked in the employer's choice of the 4 weeks immediately preceding the general holiday, or the 4-week period ending on the final day of the pay period immediately before the general holiday.
 4. **Payment of earnings upon termination:** Earnings can be paid to the employee within 10 consecutive days after the end of the pay period in which the employee was terminated, or within 31 consecutive days after the last day of employment, regardless of reason of termination.
 5. **Deductions from earnings:** Employers will be able to deduct overpayments without the employee's consent on written notice to recover overpayments from payroll errors within 6 months of the overpayment, and vacation pay paid before the employee became entitled to it.

Changes have also been made to Labour Standards. Some of these changes will take effect upon Royal Assent, while other changes such as access to union financial statements/opt-in for union dues, early renewal of collective agreements, rules for secondary picketing, "all-employee" units in the construction sector, building trades of Alberta project agreements, board standard of review (grievance arbitrator decisions), and the inclusion of nurse practitioners in the Labour Relations Code will take effect at a later confirmed date.

Some of the changes are as follows:

1. **First Contract Arbitration** would be pursued as a last resort, only where the Board found arbitration necessary to counteract the effects of an unfair labour practice.

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2. **Enhanced Mediation** would become an official alternative to mediation as a precondition to a strike or lockout vote, which protects employers and unions equally.
3. **Arbitrator's Powers** will no longer include relief against grievance time limitations, and arbitrators will be free to consider labour circumstances unique to Alberta.
4. **Boards would have increased authority to award costs** in grievance arbitration reviews and set a new standard for reviewing grievance arbitration decisions, hear certain cases without a full panel, develop regulations related to COVID-19 issues, and reject applications when deemed improper or an abuse of power.
5. **Reverse onus provisions** will be limited to wrongful termination complaints against employers and unfair labour practices against unions.
6. **Duty of Fair Representation Complaints** may be summarily dismissed by the Board where the complainant has refused a fair and reasonable settlement.
7. **Timelines for Certification and Revocation:** The Board will be required to complete its considerations "as soon as possible", but a final decision must be rendered within 6 months of the application being filed.
8. **Remedial Certification** requirements will be expanded to include a determination by the Board that on the basis of a prohibited practice by the employer or union.
9. **Time Bar to Repeat Certification Applications** will be extended to 6 months where a trade union coerced, intimidated, threatened, promised, or unduly influenced union membership or activity.
10. **Renewal** will be allowed before the expiration of a collective agreement.

There are also a number of construction industry specific changes including the elimination of early termination of collective agreements.

If you have any questions, please do not hesitate to reach out to speak to an e2r® Advisor.