

Bill 148 & *ESA* Update: What employers need to know

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The Ontario government is continuing to move forward with proposed changes to the laws governing Ontario workplaces.

Bill 148 passes second reading

We first reported on Bill 148, the *Fair Workplaces, Better Jobs Act, 2017* in our [Employment Update](#) in June 2017. Since that time, the Bill has passed second reading and is currently back before the Standing Committee on Finance and Economic Affairs.

For the most part, the significant changes to the *Employment Standards Act, 2000* (the “*ESA*”) contemplated by the previous version of Bill 148 remain intact. These include:

1. increases to the minimum wage;
2. restrictions on paying lower rates to part-time, temporary, seasonal or casual employees;
3. an additional one (1) week of vacation time after five (5) years of service;
4. the extension of personal emergency leave of up to 10 days to all workers (and not just those in larger workplaces);
5. a new requirement that the first two (2) days of personal emergency leave must be paid days;
6. new employee rights with respect to scheduling, and
7. changes that will affect temporary help agency employees and employers.

The most recent version of Bill 148 currently before Committee includes further changes to the *ESA*, which, if passed, may have significant impact on employers and employees:

- **Extended leaves of absence:** Employees will be entitled to extended leaves of absence for pregnancy leave and parental leave. For example, the entitlement to parental leave will be increased from 35 weeks to 61 weeks for employees who take pregnancy leave and from 37 weeks to 63 weeks otherwise. The extensions will mirror upcoming changes to the *Employment Insurance Act* to allow parents to extend parental EI benefits over a longer period of time at a lower weekly benefit rate.
- **Domestic or sexual violence leave:** A unpaid leave of absence will be added to the *ESA* that allows an employee to take up to 10 days (if taken as days) and up to 15 weeks (if taken as weeks) of unpaid leave if the employee or a child of the employee experiences domestic or sexual violence or the threat of domestic or sexual violence.
- **Scheduling changes:** The restrictions on scheduling changes are now subject to certain exceptions. For example, while employees will ordinarily have the right to refuse work requests made on short notice, this will not apply where the work is to deal with an emergency, to remedy or reduce a threat to public safety, or for other prescribed reasons. Further exceptions are provided where the nature of an employee's work is weather-dependent.
- **Record-keeping requirements:** Employers will be required to maintain new types of records that relate to employee rights with respect to scheduling, such as records of any cancellations of a scheduled day of work.
- **Personal emergency leave:** Employees will be entitled to two (2) paid days of personal emergency leave only once they have been employed by their employer for one (1) week or longer.
- **Public holidays:** Employers will continue to be permitted to provide employees that work on a public holiday with a substituted day, rather than paying premium pay. However, the employer will be required to provide the employee with a written statement setting out certain information about that substituted day.

We will continue to keep you updated regarding the status of Bill 148 as information becomes available.

Review of exemptions under the *ESA*

The government has also announced its intention to review exemptions under the *ESA* that apply to certain occupations. These exemptions apply to employment standards relating to, among other things, wages, overtime, hours of work and public holidays.

The first phase of the review involves obtaining input from the public on the following occupations that are currently exempt from certain employment standards:

- Architects
- Domestic Workers

- Homemakers
- IT Professionals
- Managerial and Supervisory Employees
- Pharmacists
- Residential Building Superintendents, Janitors and Caretakers
- Residential Care Workers

The deadline for providing input is December 1, 2017.