

Bill 47, Making Ontario Open for Business Act – What You Need to Know

Bill 47 received Royal Assent on November 21, 2018, the changes to the Employment Standards Act under this Bill will take effect on **January 1, 2019**.

Please remember that the ESA provisions set out under Bill 148 are still in effect until December 31, 2018. Employees are still entitled to two paid days of Personal Emergency Leave if they have not taken that entitlement earlier in the year.

What is changing on January 1, 2019?

Minimum Wage

Will remain at \$14.00 per hour until October 1, 2020, increases will then be tied to inflation

Sick Leave, Family Responsibility Leave, & Bereavement Leave

Personal Emergency Leave will be replaced with three days of Sick Leave, three days of Family Responsibility Leave and two days of Bereavement Leave of which all are unpaid. **Employees after two consecutive weeks will be entitled to eight unpaid leaves each calendar year.**

If your current employment contract, employee handbook, or collective agreement provides a greater right or benefit to employees than the amended changes then the terms of the contracts will apply instead of the ESA standard.

Employers are not required to offer any additional leaves if the employment contract or collective agreement already provides a similar paid or unpaid leave.

Cautionary note, organizations should not eliminate any of the entitlements that were provided under Bill 148 without first seeking legal advice to avoid constructive dismissal claims.

Medical Notes

Employers will be able to ask for sick notes and other reasonable documentation to support employees taken the leaves. However, please keep in mind the directive from the Ontario Medical Association is for physicians not to provide sick notes.

What remains the same under the Employment Standards Act?

Vacation

Employees will still be entitled to 3 weeks of vacation time and 6% vacation pay after five years of employment

Public Holiday Pay

The public holiday pay calculation will remain the same based on the old formula.

“The employee’s public holiday pay for a given public holiday shall be equal to the total amount of regular wages earned and vacation pay payable to the employee in the four work weeks before the work week in which the public holiday occurred, divided by 20.”

Domestic & Sexual Violence Leave

The provisions set out under Bill 148 will remain, there will be no change, an employee who have been employed for at least 13 weeks will be entitled to leave of absence of 10 days and up to 15 weeks of which the first 5 days of the leave are to be paid.

Unpaid Leave Entitlements

The extensions to other unpaid leaves of absence put in place by Bill 148 (Family Medical Leave, Family Caregiver Leave, Critically Ill Child Leave etc.) will remain the same.

Three Hour Rule

Employers will be required to pay the minimum 3 hours of pay at the employee’s regular rate if an employee who regularly works more than 3 hours per day, reports to work, but works less than 3 hours.

What has been eliminated?

Equal Pay for Equal Work

Employers will be allowed to have different classes of employees to be paid different wages. Employees including supply and temporary will no longer be entitled to equal pay for equal work based on employment status. Employer are still responsible for pay equity obligations related to gender discrimination.

Scheduling Requests

Scheduling provisions that were scheduled to come into effect under Bill 148 for January 1, 2019 have all been cancelled. (On-call, right to request scheduling or work location changes, right to refuse work with less than 96 hours of notice)

Please feel free to contact us with any questions.

As the holiday season approaches, we wish everyone a wonderful and safe holiday season. May the magic and the memories of the holiday season stay with you throughout the year. We look forward to working with all of you in 2019.

Joy & Terri

The information contained in this handout is intended as a general guide only and organizations must create their own policies. It is not intended to replace professional legal advice. If legal advice is required for a specific issue or situation, organizations should contact a lawyer. Please be advised that TJ Solutions does not give legal advice.

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