

Employment and Labour

December 28, 2017

Bill 148: Compensation and Leave Policy Action Items for Employers

As a consequence of Ontario's shifting economic landscape, on November 27, 2017, the *Fair Workplaces, Better Jobs Act, 2017* (Bill 148) received royal assent and came into force. The Act contains numerous amendments to the *Employment Standards Act* (the "ESA"). These changes, some of which are already in effect, will require employers to revise both employment policies and compensation practices to bring them in line with the new rules. This Update is restricted to immediate action items concerning the *ESA*, that employers should alert themselves to as soon as possible.

Employers should already be reviewing their employment policies and compensation practices to ensure a smooth transition to the new standards and to how the changes impact their rights and responsibilities. It is especially important to educate management on these new changes to ensure that employee rights and entitlements are carefully adhered to while employers are in the process of updating their official policies, manuals and handbooks. The amendments have also bolstered the *ESA*'s enforcement mechanisms. Failure to carefully review and update current practices could result in costly penalties.

Leave Policy Changes

Effective December 3, 2017

- **Parental Leave:** Parental leave has been extended by 26 weeks. Employees who have taken a pregnancy leave are now entitled to 61 weeks of unpaid protected leave (previously 35). Employees who have not taken a pregnancy leave are now entitled to 63 weeks of unpaid protected leave (previously 37).

- **Critical Illness Leave:** The new Critical Illness Leave replaces the "Critically Ill Child Care Leave". Employees are now entitled to up to 37 weeks of leave – within a 52 week period – to care for a critically ill minor child who is a family member. Similarly, employees are now entitled to up to 17 weeks of leave – within a 52 week period – to care for a critically ill adult family member.

Effective January 1, 2018

- **Personal Emergency Leave:** Personal Emergency Leave now applies to all employers (and not just those with 50 or more employees). Employers must give 10 days of personal emergency leave annually, the first 2 of which must be paid. Employers can ask for documentation as evidence of the employee's entitlement, but may no longer request doctor's notes.
- **Family Medical Leave:** Leave for employees caring for a family member with a serious and life-threatening medical condition will increase to 28 weeks within a 52 week period (previously 8 weeks in a 26 week period).
- **Pregnancy Leave:** Pregnancy leave is increased from 6 to 12 weeks for employees who suffer a still-birth or miscarriage.
- **Child Death Leave and Crime-Related Child Disappearance Leave:** Both the child death leave and child disappearance leave are increased to 104 weeks (up from 52). In addition, the child death leave now applies to any child death (and is no longer limited to a death in the event of a crime).
- **Domestic Violence or Sexual Assault Leave:** An employee has been employed for at least 13 consecutive weeks is entitled to up to 10 days and up to 15 weeks of leave if the employee or a child of the employee experiences domestic or sexual violence or the threat of domestic or sexual violence. The first five days of leave are to be paid.

Goodman's^{LLP} Update

Compensation Changes

Effective January 1, 2018

- Minimum Wage: The general minimum wage will increase to \$14.00 per hour. The student minimum wage rate will increase to \$13.15 per hour; the liquor server minimum wage rate will increase to \$12.20 per hour; and the homemaker minimum wage rate will increase to \$15.40 per hour. The minimum wage rates are set to increase by another \$1.00 on January 1, 2019.
- Holiday Pay: The formula for public holiday pay will change to reflect the average daily wage that the employee would have earned had there been no public holiday. If an employer gives a substitute day-off to an employee who worked through a public holiday, this substitution must be confirmed in writing.
- Vacation: Employee entitlement will increase to 3 weeks per year at 6% pay for individuals employed for 5 years or more.
- Temporary Help Agency workers will need to be paid equally to permanent employees when performing the same job, and will be entitled to one week's notice or pay in lieu of notice if an assignment is terminated early.

Please contact any member of our Employment Law Group for further information or advice concerning the new changes.