

Changes to Employment Standards Act under Bill 47

Summary

- Freeze minimum wage at \$14 per hour until October 2020.
- Repeal fair scheduling laws that required employers to give notice of shift change or cancellation.
- Repeal of equal pay for equal work for based on employment status (contract, part-time, temporary workers).
- Remove all Personal Emergency Leave days, replace with three sick days; three family responsibility days; two bereavement days, all unpaid.

Changed articles in the Employment Standards Act

23

Bill 47 will repeal the scheduled increase in the minimum wage to \$15 per hour and enact a statutory formula for increases from \$14 per hour starting in October 2020.

5.1

During an investigation or proceeding on misclassification of employees, the employee bears the onus of showing that they are not an independent contractor.

24(1)(a).

Bill 148 changed public holiday pay calculation to be wages earned in a pay period divided by actual days worked. New s.24(1)(a) uses wages earned in last four weeks divided by 20.

Part VII.1

Repeals the new VII.1 of the *Employment Standards Act* that had added a simple right of an employee after three months of employment to make a request for changed work hours or location.

Part VII.2

Repeals the new Part VII.2 of the *Act*, meaning;

- “On-call rule” replaced with a new s. 21.2;
- Removal of right to refuse work on a non-scheduled work day on less than 96 hours’ notice; and
- Removal of new right to have 48 hours of notice of a cancelled shift or on call opportunity.

42(6)

Repeal provision allowing an employee to request review of pay rate for compliance with equal pay rule, and required employer to adjust pay or respond with reasons.

42.1.

Repeal requirement of equal pay for temporary, seasonal or casual employees doing the same work as other employees.

42.2.

Repeal requirement to pay agency workers doing the same work the same rate of pay based on agency employment status, dramatically affecting temporary workers.

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Repealed and replaced Personal Emergency Leave with separate employment standards covering leaves for Sickness, Family Responsibility and Bereavement. Effect of separation into three separate things is to further limit availability of leaves for any one of the purposes (i.e. sick days are capped at three; family responsibility capped at three; bereavement capped at two).

Total possible days is eight days, reduced from ten days. None of the days are paid.

Prohibition on doctor's notes as evidence (s. 50(13)) is repealed, putting the onus on sick workers to pay for proof of their illness and imposing unnecessary burden on the health care system.

Bill 148 changes unaffected by Bill 47

Vacation pay

Employees are still entitled to three weeks vacation after five years of five years of active or inactive employment.

Call-in pay

No change to call-in pay -at least three hours of pay at the employee's regular rate for employees who regularly work more than three hours but are sent home after less than three hours.

Domestic or sexual violence leave

Domestic violence leave provisions are unchanged. The first five days are paid. The total leave can be up to 10 days and 15 weeks.

SM:Ihcope343

Changes to Labour Relations Act under Bill 47

Summary

- Lost application process for employee lists with 20 per cent support.
- Lost changes to remedial certification.
- More limited process for Board to consolidate, restructure or reconfigure bargaining units.
- Lost first contract arbitration improvements.
- Lower fines for breaking the law.
- Kept: just cause protection for discipline after certification, before collective agreement.
- Kept: extended successor rights (protections for workers in contract-flipping).
- Kept: just cause protection during strike or lockout.

Changed articles in the Labour Relations Act

6.1

The article allowing unions to apply for an employee list with phone numbers upon demonstrating 20% support in a bargaining unit is repealed. In addition, unions must destroy any lists previously obtained through applications under this article.

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Previously, the Board had to grant remedial certification where an employer contravened the LRA so that a representation vote likely did not reflect the true wishes of employees, or so that a union was unable to demonstrate 40 per cent or more support. This article is repealed and replaced with pre-Bill 148 language where presumptive remedy is a vote or another vote.

15.1

Employer or Union can apply to the Board to review bargaining unit structures that are no longer appropriate for collective bargaining. Board may:

- consolidate, restructure, or reconfigure a bargain unit or units and create a new bargaining unit or units;
- determine which trade union shall be the bargaining agent for the employees and amend any certification order or description of a bargaining unit in a collective agreement;
- this may require votes amongst several unions;
- if more than one collective agreement, determine the appropriate collective agreement that applies to the new units;
- amend the CA expiry dates, seniority, or other
- decide what CA provisions apply to a new unit until bargaining is done.

15.2

Card-based application for certification if employer's business is a temporary help agency, a building services provider or a home care and community service is repealed. All certification applications will again require a vote.

16.1

Repealed the article that allowed a union or employer in new bargaining relationship to request "educational support in the practice of labour relations" and the Minister must then make that support available to both sides.

43(1)

Process of intensive mediation for all first collective agreement negotiations under Bill 148 is repealed, along with more available process of first contract arbitration.

69.2

Repealed article enabling Minister to make regulation to extend s. 69.1 to other services by providers that receive public funds.

80(1)

Restores the six-month time limit for unconditional return to work after start of strike.

80(3) to (7)

Repealed article that added requirements to reinstate employees at the end of a strike or lockout, which may be enforced at arbitration.

104

Fines for contraventions of the LRA lowered to pre-Bill 148 levels for employers and trade unions.

122

Amendment replaces mail as the official way for notices or communications to be sent by Minister. The deemed date of a "no-board" is the day it is sent.

Bill 148 changes unaffected by Bill 47

12.1

Just cause protection for discipline after certification and before a collective agreement is made.

69.1

Extended successor rights by deeming a sale of business to have occurred when there is a re-tendering of a building services contract.

80.1

Added just cause protection for employees during strike or lockout.

89.1

Parent trade union or a council of trade unions shall not, without just cause, assume supervision or control of or otherwise interfere with a local trade union directly or indirectly in such a way that the autonomy of the local trade union is affected, etc.

SM:lhcope343

Changes to Ontario College of Trades and Apprenticeship Act under Bill 47

Summary

- *The Ontario College of Trades and Apprenticeship Act, 2009* will eventually be repealed.
- Until the OCOT is dissolved, the Ministry of Labour will have complete control over the administration of the Board of the College of Trades, including the power to terminate all members of the Board, dissolve any trade board, and dissolve any divisional board.
- One-to-one ratios for apprentices will be legislated but the Minister can vary that ratio in special cases.

Background

The Ontario College of Trades was established in 2009 to administer skilled trades apprenticeships. The goal was to ensure high-quality work, and to enforce licencing requirements. Most of the changes announced including the wind-down are not directly referenced in Bill 47.

The government has failed to state what that OCOT would be replaced by, and in the legislation, is threatening removal of quality and training by downgrading a number of trades from highly skilled categories to craft trades.

Unions including Unifor have protected the trades by opposing one-to-one ratios. A one-to-one ratio means that apprentices will receive less on-the-job training. One-to-one ratios could lead to apprentices working alone without any support from a journeyperson.

SM:Ihcope343