

Big Changes to Ontario Labour and Employment Laws

January 4, 2018

Employers with operations in Ontario should be aware of some newly enacted changes to the *Employment Standards Act*. On Nov. 22, 2017, the Province of Ontario introduced the *Fair Workplaces, Better Jobs Act, 2017* ("Act"). This new legislation makes several important changes to both the *Employment Standards Act, 2000*, and the *Labour Relations Act, 1995*. The Act has made the following changes to the *Employment Standards Act* starting on Jan. 1, 2018:

- General minimum wage increased to \$14 per hour on Jan. 1, 2018, and will increase again to \$15 per hour on Jan. 1, 2019. Student minimum wage (under 18 years) increased to \$13.15 per hour. Minimum wage for liquor servers (who regularly receive tips) has been increased to \$12.20 per hour.
- Employees with five years of service with the same employer are entitled to three weeks of vacation time and to accrue vacation pay at the rate of 6 percent of gross earnings.
- Employees can now take up to 10 days of job-protected leave for personal emergencies. Previously, this rule applied only to workplaces with 50 or more employees. Furthermore, the first two days of the leave are paid if the employee has been with the employer for one week or longer; the rest remain unpaid. Employers can require employees to provide evidence for personal emergency leave but cannot require employees to provide a note from a physician, registered nurse or psychologist.
- An employee who has been with an employer for 13 consecutive weeks is entitled to up to 10 individual days of leave and up to 15 weeks of leave if the employee or the employee's child experiences, or receives threats related to, domestic or sexual violence.
- Family Medical Leave is increased from up to eight weeks in a 26-week period to up to 28 weeks in a 52-week period.
- The Act has established a protected leave of up to 104 weeks for parents who have lost a child (under 18 years of age), regardless of the cause. Formerly, only parents who experienced loss of a child as a result of crime were entitled to this kind of leave.
- Employees who experience pregnancy loss can seek a 12-week extension (up from six weeks) to their 17-week leave.

Additionally, effective April 1, 2018, employers will be required to pay part-time, casual, temporary, and seasonal employees who perform substantially the same kind of work in the same workplace the same wage rates as their full-time counterparts. Temporary help agencies must pay employees who are doing substantially the same work in the same workplace as the other employees of the agency's client at the same rate as regular employees of the agency's client.

To enforce these changes, the Province of Ontario is hiring up to 175 more employment standards officers and will be offering programming to educate both employees and businesses about their rights and obligations under the new provisions.

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Furthermore, the Act has made the following important changes to the *Labour Relations Act* starting on Jan. 1, 2018:

- An employer will be prohibited from disciplining or discharging any employee in a bargaining unit without just cause between the date of certification and the date a first contract is entered into (or the date when the union no longer represents that bargaining unit, if earlier) or between the date of the legal strike or lockout and the date the new collective bargaining unit is entered into (or the date when the union no longer represents that bargaining unit, if earlier).
- The Act eliminates certain conditions for remedial union certification which will have the effect of making it easier for certification. Unions can access employee lists and certain contact information, provided they demonstrate 20 percent support of employees in their proposed bargaining unit.
- The Act permits card-based union certification in the temporary help agency industry, the building services sector, construction and the home care and community services industries

These lists are not exhaustive and employers with operations in Ontario should fully review their workplace policies in light of all the changes that have recently been made. If you have any questions related to this or any other employment law matter, please contact your Miller Canfield attorneys.