

New Employment and Labour Changes with "Making Ontario Open for Business Act"

December 7, 2018

Bill 47, also called the "Making Ontario Open for Business Act," was passed and given royal assent on November 21, 2018. This new act relaxes demands on employers by repealing or altering many of the changes that came into effect last year under the Fair Workplaces, Better Jobs Act of 2017 ("Bill 148").

Specifically, employers should note the following requirements that Bill 47 repeals:

- The \$15/hour minimum wage requirement that was to take effect in January 2019 under Bill 148. Under Bill 47, there will be no minimum wage increase in January 2019. Rather, minimum wage will be subject to an annual inflation adjustment on October 1 of every year starting in 2020.
- The Bill 148 provision allowing for 10 personal emergency leave days, the first two of which were paid. Under Bill 47, employees will now have 8 unpaid leave days falling under the categories of sick leave (3 days), family responsibility leave (3 days), and bereavement leave (2 days). Bill 47 also removed the Bill 148 provision prohibiting an employer from requiring a doctor's note for sick leave.
- The requirement under Bill 148 that employers 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.
- The onus on employers to demonstrate that a worker is not an employee in the event of a dispute over worker classification. Under Bill 47, the onus is now on the worker to demonstrate that he/she is an employee for purposes of worker classification.

Furthermore, Bill 47 also reverts back to the old method for calculating public holiday pay, which requires employers to use the following formula: 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.

With regard to the Labour Relations Act, Bill 47 also repeals:

- A provision under Bill 148 that allowed unions to access employee lists and certain contact information provided they demonstrate 20% support of employees in their proposed bargaining unit.
- A provision under Bill 148 that allows the Labour Board to review the structure of bargaining units and make orders with respect to the structure of bargaining units.

Additionally, Bill 47 reverts back to the previous fines for convictions under the Labour Relations Act, which means a decrease from \$5,000 to \$2,000 for individuals and from \$100,000 to \$25,000 for corporations. It also revives a pre-Bill 148 section providing for first collective agreement arbitration where the parties to the agreement are unable to effect a first collective agreement, while simultaneously eliminating provisions allowing for first collective agreement mediation and mediation-arbitration.

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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.