

January 24, 2018

ESA Amendments (Bill 148)

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On November 27, 2017, Bill 148, the *Fair Workplaces, Better Jobs Act, 2017*, received royal assent and became law.

Karin Pagé, litigation lawyer with Perley-Robertson Hill & McDougall, wrote about this bill [here](#), after it had unanimously passed first reading on June 1, 2017. Since then, the long title of the bill changed to *An Act to amend the Employment Standards Act, 2000, the Labour Relations Act, 1995 and the Occupational Health and Safety Act and to make related amendments to other Acts*, to reflect a new section related to amendments to the *Occupational Health and Safety Act*.

Effective November 27, 2017, an employer can no longer require a worker to wear footwear with an “elevated heel” (i.e. high heels), unless it is needed for the worker to perform his or her work safely. An exception is made where the worker is employed as a performer in the entertainment and advertising industry.

In addition to the much-anticipated change to Ontario’s minimum wage — \$14.00 per hour as of January 1, 2018 and \$15.00 per hour as of January 1, 2019 — a number of other amendments to the *Employments Standards Act, 2000* may affect the enforceability of your existing employment agreements. The various changes discussed in our past article have all been implemented, with many of the significant changes taking effect in the near future:

- As of January 1, 2018, **Personal Emergency Leave** of up to 10 days (2 paid, 8 unpaid) is available for any employee, and a minimum of 3 weeks’ **Vacation Leave** (and 6 percent **Vacation Pay**) is available for employees with 5+ years of service.
- As of April 1, 2018, employees are entitled to **Equal Pay for Equal Work**, regardless of differences in employment status;
- As of January 1, 2019, an employee has the new “**Right to Refuse Work**” when the employer’s request to work or be “on call” is made less than 96 hours before the shift.
- Also as of January 1, 2019, the new “**Three Hour Rule**” comes into effect, which requires employers to pay an employee a minimum of three hours’ wages if the employee is required to be present but works less than three hours. Further, any collective agreement that attempts to circumvent this rule will no longer be effective as of January 1, 2020.

Other changes to various “leaves of absence” entitlements under employment legislation may affect your future employment relationship as well.



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As of December 3, 2017, **Parental Leave** has been extended from 35 weeks to 61 weeks, for employees who took pregnancy leave, and from 37 weeks to 63 weeks otherwise. All parental leave must start within 78 weeks (up from 52 weeks) of the day on which the child is born or came into the employee's custody, care and control for the first time. These increases do not affect employees currently on parental leave.

As of January 1, 2018, an employee is entitled to 28 weeks of unpaid **Family Medical Leave**, instead of only eight, to provide care and support to a family member with a serious medical condition. Moreover, the list of prescribed family members has also been expanded to include certain extended family members.

Given the number of changes brought on through Bill 148, employers may choose to revisit their employment practices and policies so as to keep up to date with the evolving legislation and maintain good working relationships with their staff.

In certain cases, it may be prudent to seek legal advice regarding your specific rights and obligations, as the case may be.

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