



Ontario, Canada: Fair Workplaces, Better Jobs Act, 2017 Aims to Protect Low-Wage and Part-Time Workers

Insights

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Last month, Ontario passed the Fair Workplaces, Better Jobs Act, 2017 (the “Act”). The Act was passed in response to the Changing Workplaces Review’s conclusion that there is a “need for reform of employment standards and labor relation legislation . . . to provide protection to vulnerable workers and those in precarious work situations.” The Act aims to satisfy that need with the following immediate changes to Ontario law:

- **Misclassification Protection.** The Act amends the Employment Standards Act, 2000 to prohibit employers from misclassifying employees as “independent contractors” and, in the event of a dispute, shifts the burden on the employer to prove that the individual is not an employee.
- **Extended Critical Illness Leave.** The Act provides all employees with the right to take up to 17 weeks of leave in a 52 week period to care for a critically ill adult family member.
- **Extended Parental Leave.** The Act extends parental leave to 61 weeks for pregnancy leave and up to 63 weeks for all other types of parental leave.
- **Amendment to Occupational Health and Safety Act (“OSHA”).** The Act amends OSHA to prohibit employers from requiring their employees to wear shoes with an elevated heel unless such footwear is required for workers’ safety.

The Act also provides for several changes that will take effect in the near future:

- **Minimum Vacation.** Starting January 1, 2018, employees that have been with a company for five years or longer are entitled to three weeks of paid vacation.
- **Fair Scheduling.** Starting January 1, 2019, employers that cancel an employee’s scheduled shift within 48 hours of the scheduled start time will be required to pay that employee three hours of paid work.
- **Increased Minimum Wage.** The Act raises Ontario’s minimum wage to \$14 per hour on January 1, 2018 and then to \$15 per hour on January 1, 2019 (the Act further provides that the minimum wage will increase annually at the rate of inflation).
- **Equal Pay.** Starting April 1, 2018, employers must pay part-time, temporary, casual, and seasonal employees equal pay as their full-time employees if they perform the same job as full-time employees.

Takeaways for Canadian Employers

Companies with Canadian employees should review the contents of the Act and ensure that: (1) they are not incorrectly classifying employees; (2) they are not requiring their employees to wear shoes with elevated heels unless it is necessary for employee safety; and (3) they understand that their employees are entitled to longer parental and critical illness leave. Such employers should also calendar the effective dates for the remaining changes and review their policies and procedures to ensure compliance with those reforms.

Fisher Phillips attorneys will continue to monitor developments and provide updates as they are available.