

## Ontario Bill 47 and Bill 148 Comparison Chart

The following chart outlines the changes to the *Employment Standards Act, 2000* (ESA) and the *Labour Relations Act, 1995* that resulted from the passing of Ontario Bill 47, the *Making Ontario Open for Business Act, 2018*, in terms of its effect on the changes to the ESA and LRA previously made by Bill 148, the *Fair Workplaces, Better Jobs Act, 2017*. **Bill 47 received Royal Assent on November 21, 2018. Amendments made to the ESA come into force January 1, 2019, whereas changes to the LRA came into force upon Royal Assent.**

| <i>Employment Standards Act, 2000</i> |   |   |
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| Provision                             | Bill 148 Changes  | Bill 47 Changes   |
| <b>Locations and scheduling</b>       | As of January 1, 2019, employees may request a change to their schedule or work location after three months' employment. Employers must notify when the change comes into effect if approved, or else explain the reasons for the denial. | Repealed.   |
|                                       | As of January 1, 2019, the three-hour rule imposes minimum three hours' pay for short shifts under certain circumstances.   | Bill 47 does not change this provision, but it is renumbered from 21.3 to 21.2 due to the repeal of other sections. |
|                                       | As of January 1, 2019, on-call employees must be paid for at least three hours' work, even if they are not called in, under certain circumstances.  | Repealed.   |
|                                       | As of January 1, 2019, employees may refuse shifts offered with less than 96 hours' notice, under certain circumstances.  | Repealed.   |
|                                       | As of January 1, 2019, employees are entitled to three hours' pay if a shift or on-call period is cancelled with less than 48 hours' notice, under certain circumstances. This does not apply if a shift is shortened or lengthened.      | Repealed.   |
| <b>Overtime pay</b>                   | Employees who receive different wages for different work will have overtime pay calculated based on the actual work performed during the overtime hours, rather than the average of the different wages.                                  | Bill 47 does not change this provision.   |

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| <b>Minimum wage</b>             | As of January 1, 2018, the general minimum wage is \$14 per hour. As of January 1, 2019, the general minimum wage will be \$15 per hour.   | Minimum wage will remain at \$14 per hour until October 1, 2020, when it will be adjusted annually in line with inflation.  |
|                                 | Liquor servers may only be paid the liquor server minimum wage if they regularly receive tips or other gratuities; otherwise, they must be paid the general minimum wage.  | Bill 47 does not change this provision.   |
| <b>Vacation</b>                 | Employees who have worked for the same employer for five years are entitled to at least three weeks' paid vacation after each completed entitlement year.  | Bill 47 does not change this provision.   |
| <b>Public holidays</b>          | Public holiday pay is now based on the wages earned in the preceding pay period divided by the number of days worked in that period. Some exceptions apply.  | Repealed. Replaced with previous calculation before Bill 148. Public holiday pay is based on the total amount of regular wages and vacation pay earned in the four weeks before the work week with the public holiday, divided by 20. |
|                                 | Changes have been made to the written notice employers must provide when substituting a public holiday. These changes apply under various circumstances outlined in the act.   | Bill 47 does not change this provision.   |
| <b>Equal pay for equal work</b> | As of April 1, 2018, equal pay provisions will prohibit pay discrimination based on employment status.   | Repealed. Employers may pay different wage rates based on employment status, such as part-time versus full-time.  |
| <b>Pregnancy leave</b>          | Any employee whose pregnancy leave begins after January 1, 2018, and who is not eligible for parental leave will be entitled to end their pregnancy leave either 17 weeks after the leave began or 12 weeks after the birth, stillbirth, or miscarriage, whichever is later. | Bill 47 does not change this provision.   |
| <b>Parental leave</b>           | Parental leave may now begin as late as 78 weeks after the child is born or first comes into the employee's custody, care, and control. Parental leave now lasts up to 61 weeks for employees who take pregnancy leave, and 63 weeks for those who do not.                   | Bill 47 does not change this provision.   |

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| <b>Family medical leave</b>                    | Family medical leave is now 28 weeks, instead of eight.   | Bill 47 does not change this provision.   |
| <b>Critical illness leave</b>                  | Critical illness leave is now available for any prescribed family member, not just children. Leave entitlement is 37 weeks for minor children and 17 weeks for adults.  | Bill 47 does not change this provision.   |
| <b>Child death leave</b>                       | Entitlement of up to 104 weeks of unpaid leave for child death regardless of whether that death is crime-related.   | Bill 47 does not change this provision.   |
| <b>Crime-related child disappearance leave</b> | Entitlement has increased to a maximum of 104 weeks.  | Bill 47 does not change this provision.   |
| <b>Domestic or sexual violence leave</b>       | Available to employees who have been employed by their employer for at least 13 consecutive weeks. Provides up to 10 days of leave to be taken as individual days, and up to 15 weeks to be taken as full weeks. The first five days of leave must be paid. | Bill 47 does not change this provision.   |
| <b>Personal emergency leave</b>                | Personal emergency leave is now available to all employees. Two of the 10 days must be paid. Employers can no longer require a doctor's note.   | Repealed. Replaced with three unpaid <b>sick leave</b> days, three unpaid <b>family responsibility leave</b> days, and two unpaid <b>bereavement leave</b> days. Each has separate criteria for use and employers may ask for proof of entitlement to leave (e.g., doctor's note for sick leave). Employees must have been employed with employer for two weeks to be entitled to these leaves. |
| <b>Contractor and employee distinctions</b>    | Employees cannot be misclassified as independent contractors. Employers have burden of proof to establish that an individual is not an employee.  | Burden of proof that a person is not an employee no longer lies with the employer.  |
| <b><i>Labour Relations Act, 1995</i></b>       |   |   |
| <b>Provision</b>                               | <b>Bill 148 Changes</b>   | <b>Bill 47 Changes</b>  |
| <b>Card-based certification</b>                | A card-based union certification process will apply to workers in the temporary help agency industry, the building services sector, and the home care and community services industry.  | Repealed.   |

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| <b>Secret ballot certification</b> | Unions can more easily obtain certification where an employer has engaged in misconduct, access to first contract arbitration is easier, and the Ontario Labour Relations Board will be able to conduct votes outside of the workplace. | Some of the original provisions are repealed but replaced with similar provisions still providing the same rights.   |
| <b>Employee lists</b>              | Under certain circumstances, trade unions can apply for an order directing employers to provide a contact list of employees.  | Repealed. Unions which received employee lists must destroy them upon the act coming into force, and any pending applications for employee lists will be terminated.           |
| <b>Termination and discipline</b>  | Employers may not terminate or discipline an employee in a bargaining unit without just cause during a lawful strike or lock-out, nor between the date of certification and when the first collective agreement begins.                 | Bill 47 does not change this provision.  |
| <b>Arbitration and mediation</b>   | Mediation is now an available remedy during labour disputes, in addition to existing arbitration provisions.  | Repealed and replaced with new provisions that provide for first collective agreement arbitration.   |
| <b>Reinstatement</b>               | Employees shall be reinstated after a lawful strike or lockout to their former positions, subject to certain exceptions.  | The provisions remain, but are amended to state that an employee must submit an application for reinstatement within six months following the commencement of a lawful strike. |