**Backgrounder**

Ontario’s *Fair Workplaces, Better Jobs* plan explained…

Below is background information on the proposed changes to minimum wage, the Employment Standards Act (ESA) and the Labour Relations Act (LRA). **This information is directly from Ontario government’s technical briefing *Fair Workplaces, Better Jobs* plan.**

Minimum Wage:

If passed, the government is proposing to increase the **general minimum wage** to:

* 14 per hour on January 1, 2018
* $15 per hour on January 1, 2019

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| **Minimum Wage Categories** | **Current to Sept. 30, 2017** | **Oct. 1, 2017 to Dec. 31, 2017** | **Jan. 1, 2018 to Dec 31, 2018** | **Jan 1 2019 to Sept. 30, 2019** |
| **General Minimum Wage** | $11.40 per hour | $11.60 | $14.00 | $15.00 |
| **Students under 18** (who work less than 28 hours/week while in school | $10.70 per hour | $10.90 | $13.15 | $14.10 |
| **Liquor Servers** | $9.90 per hour | $10.10 | $12.20 | $13.05 |
| **Hunting and Fishing Guides** | $56.95: Rate for working less than 5 consecutive hours in a day | $58.00 | $70.00 | $75.00 |
|  | $113.95: Rate for working 5 or more hours in a day whether or not the hours are consecutive | $116.00 | $140.00 | $150.00 |
| **Homeworkers** (employees doing paid work in their own home for an employer) | $12.55 per hour | $12.80 | $15.40 | $16.50 |

Proposed Changes to Employment Standards:

1. **Equal Pay for Equal Work Provisions: Casual Part- time, Temporary & Seasonal Employees**
   1. Ensure that casual, part-time, temporary and seasonal employees are paid equally to full-time employees when performing the same job for the same employer;
   2. Enable employees to request a review of their wages if they believe that they are not receiving equal wages to full-time employees – employer must respond to request with an adjustment in pay or a written explanation;
   3. Exceptions to requirements for equal wages based on:
      1. Seniority
      2. Merit
      3. Production output
      4. Others (sex and employment status do not qualify)
   4. Workers would be protected for inquiring about their wage rate.
      1. Proposal would come into force April 1, 2018
2. **Equal pay for Equal Work Provisions: Temporary Help Agency (THA) Employees**
   1. Ensure THA paid equally to permanent when performing same job.
      1. Proposal would come into force April 1, 2018
3. **Termination of Assignment**
   1. Require THA to provide an assignment employee with at least 1 weeks’ notice when an assignment scheduled to last longer than 3 months terminated early;
   2. If less than 1 week given employee must be paid for the difference, unless the assignment employee is offered at least one week’s worth of reasonable work during the notice period.
      1. Come into effect Jan 1, 2018
4. **Scheduling**
   1. New Scheduling rules;
   2. Employees would have the right to request schedule or location changes after having been employed for three months, without fear of reprisal;
   3. Employees who regularly work more than three hours per day, but upon reporting to work are given less than three hours, must be paid three hours at their regular rate of pay;
   4. Employees can refuse to accept shifts without repercussion if their employer asks them to work with less than four days' notice;
   5. If a shift is cancelled within 48 hours of its start, employees must be paid three hours at their regular rate of pay;
   6. When employees are "on-call" and not called in to work, they must be paid three hours at their regular rate of pay. This would be required for each 24-hour period that employees are on-call;
   7. If a collective agreement is made between an employer and a union, the agreement would prevail in place of some of these new rules.
      1. Come into effect Jan 1, 2019
5. **Overtime pay**
   1. Employees who hold more than 1 position with an employer and who are working overtime must be paid at the rate for the positon they are working OT.
      1. Come into effect Jan 1, 2018
6. **Employee Misclassification**
   1. Proposed Legislation would make it an offence to misclassify employee as “independent contractors”;
   2. In event of dispute onus to prove on employer;
   3. No change to definition of employee.
      1. Come into force upon royal assent
7. **Joint Liability**
   1. Remove the provision that requires proof of "intent or effect" to defeat the purpose of the Employment Standards Act, 2000 when determining whether related businesses can be treated as one employer and held jointly and severally liable for monies owing under the Act.
      1. Come into effect Jan 1, 2018
8. **Paid Vacation**
   1. Three weeks after 5 years with the same employer.
      1. Come into effect Jan 1, 2018
9. **Public Holiday pay**
   1. Simplify the formula for calculating public holiday pay so that employees are entitled to their average regular daily wage.
      1. Come into effect Jan 1, 2018
10. **Paid Emergency Leave**
    1. Eliminate 50 employee threshold;
    2. Ensure all employees are entitled to 10 PEL days per year, including two paid PEL days;
    3. Reasons expanded for taking to include domestic or sexual violence (and threat of).
       1. Come into effect Jan 1, 2018
11. **Leave for Death of Child or Crime-Related Disappearance**
    1. Create new separate leave for child death from any cause for a period of up to 104 weeks.
       1. Come into effect Jan 1, 2018
12. **Family Medical Leaves**
    1. Increase family medical leave from up to 8 weeks in a 26-week period to up to 27 weeks in a 52-week period.
       1. Come into effect Jan 1, 2018
13. **Physician Notes for Absences**
    1. Would prohibit employers from requesting a sick note from an employee taking Personal Emergency Leave.
       1. Jan 1, 2018
14. **Employee Contact**
    1. Would no longer require employees to contact their employer before filing claim under the Employment Standards Act (ESA).
       1. Come into effect Jan 1, 2018
15. **Penalties for Non-compliance of ESA**
    1. Amend a regulation under the ESA to increase the maximum administrative monetary penalties for non-compliant employers from $250, $500, and $1000 to $350, $700, and $1500, respectively.
       1. Come into effect Jan 1, 2018
16. **Electronic Agreements**
    1. Would make clear that electronic agreements between employers and employees, such as an agreement to work excess hours, can serve as an agreement in writing.
       1. Come into effect Jan 1, 2018
17. **Exclusions**
    1. Ensure that almost all existing ESA requirements and entitlements would apply to Crown employees. If the proposed legislation passes, this proposal would come into force on January 1, 2018;
    2. Ensure that all ESA requirements and entitlements would apply to people receiving training for work through their employer;
    3. Individuals working as part of an experiential learning program run by a university, community college, private career college or high school would be excluded from the requirements and entitlements under the ESA. If the proposed legislation passes, this proposal would come into force on January 1, 2018;
    4. Ensure that students who are employed and regularly work more than three hours are paid for at least three hours even if they work less than three hours. If the proposed legislation passes, this proposal would come into force on January 1, 2019;
    5. Ensure that all ESA requirements and entitlements would apply to employees working in a simulated job or working environment for their rehabilitation (commonly known as a "sheltered workshop"). If the proposed legislation passes, this proposal would come into force on January 1, 2019;
    6. Beginning in fall 2017, the Ministry of Labour will conduct a review of ESA exemptions and special industry rules, including consultation with affected stakeholders. This review would include exemptions in place for managers and supervisors.

Proposed Changes to the Labour Relations Act (LRA):

1. **Union Certification**
   1. Establish card-based union certification for the temporary help agency industry, the building services sector and home care and community services industry;
   2. Eliminate certain conditions for remedial union certification, allowing unions to more easily get certified when an employer engages in misconduct that contravenes the LRA;
   3. Make access to first contract arbitration easier, adding an intensive mediation component to the process;
   4. Require the Ontario Labour Relations Board (OLRB) to address first contract mediation-arbitration applications before dealing with displacement and decertification applications;
   5. Allow unions to access employee lists and certain contact information, provided the union can demonstrate that it has already achieved the support of 20 per cent of employees involved;
   6. Expressly empower the OLRB to conduct votes outside the workplace, including electronically and by telephone;
   7. Empower the OLRB to authorize Labour Relations Officers to give directions relating to the voting process and voting arrangements to help assure the neutrality of the voting process.
2. **Successor Rights**
   1. Extend successor rights to the retendering of building services contracts.
3. **Structure of Bargaining Units**
   1. Legislation would allow the OLRB to change the structure of bargaining units within a single employer, where the existing bargaining units are no longer appropriate for collective bargaining;
   2. Proposed changes would also allow the OLRB to consolidate newly certified bargaining units with other existing bargaining units under a single employer, where those units are represented by the same bargaining agent.
4. **Return to Work Rights and Procedures**
   1. Currently, the LRA gives employees the right, under certain conditions, to return to work within six months of the commencement of a lawful strike. The proposed changes would remove the six-month limitation;
   2. The proposed legislation would require an employer to reinstate an employee after a legal strike or lock-out (subject to certain conditions), and to provide access to grievance arbitration for the enforcement of that obligation.
5. **Fines**
   1. Increase maximum fines under the Labour Relations Act to $5,000 for individuals and $100,000 for organizations (from the current $2,000 for individuals and $25,000 for organizations).

*Changes to Labour Relations Act will come into force 6 months after Royal Assent.*

The Ministry of Labour will begin an Exemption Review to determine possible categories of exclusion.

**Enhancement of Employment Standards Enforcement:**

* The plans to hire up to 175 more employment standards officers and launch a program to educate both employees and small and medium-sized businesses about their rights and obligations under the Employment Standards Act;
* Employment standards officers will resolve all claims filed within 90 days and inspect 1 in 10 Ontario workplaces. Additionally, the program will provide compliance assistance to new employers specifically focusing on medium and small business.

**Q&A: Ontario’s *Fair Workplaces* plan**

**Q: What will the threshold for card-based certification be?**

* Threshold to be certified still must be 50% of vote

**Q: Does government plan to take an economic impact assessment of the proposed changes?**

* No commitment or plan to do independent economic analysis

**Q: Do workers have to be employed a certain amount of time to get equal pay for equal work provision?**

* A new employee is entitled to similar work; holds for temp agency workers Changing casual, part time
* Equal treatment will not extend to health benefits

**Q: What is the timeline for implementation of the exemption study by Ministry of Labour?**

* Employment Standards Act exemption study is to commence in fall (next couple months)
* No fixed time determined for the Labour Relations Act
* The government is looking into an exemption study which is different than advised in the Changing Workplaces Review

**Q: What are the proposed timelines and coming into effect dates?**

* Employment Standards Act legislation:
  + Prohibition around misclassification on employees (come into effect on royal assent)
* Minimum wage to jump to $14 on Jan 1, 2018 and then to $15 Jan 1, 2019
* Scheduling provisions will come into effect Jan 1, 2019
* All amendments to the Labour Relations Act would take affect 6 months after royal assent