

Understanding the Impacts of Bill 148 and the New Bill 47

On October 23, 2018, the Ontario government introduced Bill 47, the *Making Ontario Open for Business Act, 2018*, “undoing” many of the key changes, as highlighted below, to workplace laws implemented by Bill 148, pertaining to:

1. Employment Standards Act (ESA)
2. Labour Relations Act (LRA)
3. Skilled Trades & Apprenticeships

On November 21, 2018, Bill 47 received Royal Assent. Changes to the LRA and Skilled Trades and Apprenticeships came into effect **immediately**. Changes to the ESA will come into effect on **January 1, 2019**. A summary of the changes to the ESA are provided, below:

EMPLOYMENT STANDARDS ACT		
<i>Provision</i>	<i>Bill 148</i>	<i>Bill 47</i>
Minimum Wage	Increase from \$14/hr to \$15/hr eff. Jan. 1, 2019	Maintain \$14/hr until the first potential adjustment in Oct. 2020 (linked with CPI)
Scheduling	Eff. January 1, 2019: <ul style="list-style-type: none"> - Employee right to request changes to schedule or work location - Minimum on-call pay - Right to refuse work - Minimum cancellation pay - Modified 3-hour role 	Repealed all except modified 3-hour rule, which will take effect on January 1, 2019. Rule will not apply where employer is unable to provide work due to fire, lightning, power failure, storms or similar causes beyond the employer’s control that result in stopping of work
Misclassification	Prohibit misclassification of employees and onus on employer to prove proper classification	Prohibit misclassification of employees but onus is on the individual to establish they are an employee
Public Holiday Pay	New formula was introduced January 1, 2018, then repealed effective July 1, 2018 and returned to the “old” pre-Bill 148 formula	No change – the “old” formula remains in place. (Total regular wages earned and vacation pay payable to the employee in the 4 week period before the work week in which the public holiday occurred, divided by 20)
Vacation Pay	Increased vacation (3 weeks) after 5 years of service	No change – Bill 148 language remains in place
Equal Pay for Equal Work	Effective April 1, 2018, EPEW provision expanded to include employee status	Repealed. ESA will continue to require EPEW on basis of sex, as it did pre-Bill 148
Personal Emergency Leave	Maintain basic emergency leave entitlement of 10 unpaid days per calendar year, but introduced first 2 PEL to be paid. Employer prohibited from requiring medical certification to substantiate absence.	Repealed. Replaced with 8 new <i>unpaid</i> leave days, as follows: <ul style="list-style-type: none"> - 3 unpaid sick days - 3 unpaid family responsibility days - 2 unpaid bereavement days Eligibility after 2 weeks of employment. Employee will be deemed to have taken their statutory leave day if they have a contractual entitlement for the same type of absence. Prohibition on requiring medical certification is removed.
Leaves of Absence	Enhancements to a number of statutory leaves, including paid time for Domestic/Sexual Violence	No change– Bill 148 language remains in place
Overtime	Simplified rules for OT pay for workers who have different rates of pay	No change– Bill 148 language remains in place