

Relevant Amendments to the Employment Standards Act, 2000



The recent passing of Ontario Bill 47, the *Making Ontario Open for Business Act, 2018*, has resulted in changes to the Employment Standards Act previously made by Bill 148, the *Fair Workplaces, Better Jobs Act, 2017*.

The following table outlines these changes which take effect **January 1, 2019**.

	Bill 148	Bill 47
Leaves of Absence		
Domestic or Sexual Violence Leave	<ul style="list-style-type: none"> A new dual unpaid leave entitlement has been included to provide up to a 10 day leave and up to a 15 week leave for employees or an employee's child having experienced or threatened with domestic or sexual violence. The first 5 days of the leave will be paid per the new "domestic and sexual violence leave pay." 	No change
Critical Illness Leave	<ul style="list-style-type: none"> A new entitlement has been included to provide up to 17 weeks in a 52 week period for an employee to provide care or support to a critically ill adult who is a family member of the employee. This is in addition to the existing entitlement of up to 37 weeks in a 52 week period for an employee to provide care or support to a critically ill minor (under 18 years of age) who is a family member of the employee. 	No change
Pregnancy and Parental Leave	<ul style="list-style-type: none"> For pregnancy, an amendment was made to extend the leave available for employees who suffer a still-birth or miscarriage from 6 weeks to 12 weeks. In addition, the definition of "legally qualified medical practitioner" for leave purposes extends to include nurses with extended certificates of registration and midwives. For parental leave, an amendment was made to increase leave entitlement from 35 weeks to 61 weeks (for employees who took a pregnancy leave) and from 37 to 63 weeks (for employees who did not take a pregnancy leave i.e. adoptive parents and fathers). 	No change
Family Medical Leave	<ul style="list-style-type: none"> An amendment was made to extend a family medical leave, providing care or support to certain family members where the individual has a serious medical condition with significant risk of death, from 8 weeks in a 26 week period to 28 weeks in a 52 week period. The amendment also includes an expanded definition of a "qualified health practitioner" to certify the condition of the family member to include physicians, registered nurses with an extended certificate of registration (or an individual with equivalent qualifications) and prescribed health practitioners. 	No change

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	Bill 148	Bill 47
Leaves of Absence		
Paid Emergency Leave (PEL)	<ul style="list-style-type: none"> An amendment was made to remove the threshold of number of employees in a workplace (i.e. 50 or more) where PEL would apply. All employees will be entitled to 10 PEL days per year, including two paid PEL days. The reasons for taking PEL has also been expanded to include employees experiencing or being threatened with domestic or sexual violence. This is in addition to the existing reasons for PEL (i.e. illness, family illness, family death, emergency or family emergency). Employers retain the right to require evidence of entitlement to these days but are not permitted to require a certificate from a qualified health practitioner. 	<p>Repealed</p> <ul style="list-style-type: none"> Employees will be entitled to 3 unpaid sick leave days, 3 unpaid family responsibility leave days and 2 unpaid bereavement leave days. Employees must have been employed with the employer for two weeks to be entitled to the leaves. Employers retain the right to require evidence of entitlement to these days including doctor's note for sick leave.
Death or Crime Related Disappearance of a Child	<ul style="list-style-type: none"> A new entitlement has been included to provide up to 104 weeks of unpaid leave if a child of an employee dies for any reason. The existing entitlement for a leave related to a child disappearance (separate to the death of a child leave) increases from up to 52 weeks to 104 weeks. 	No change
Employee Pay		
Minimum Wage	<ul style="list-style-type: none"> Raising Ontario's general minimum wage to \$14 per hour effective January 1, 2018 Raising Ontario's general minimum wage to 15 per hour effective January 1, 2019 	<ul style="list-style-type: none"> Minimum wage will remain at \$14 per hours until October 1, 2020 when it will be adjusted annually at the rate of inflation.
Paid Vacation	<ul style="list-style-type: none"> An amendment was made to increase the minimum vacation entitlement to three weeks of paid vacation after five years of service with the same employer. 	No change
Overtime Pay	<ul style="list-style-type: none"> An amendment was made where employees who hold more than one position with an employer and who are working overtime must be paid at the rate for the position they are working during the overtime period. 	No change
Public Holidays	<ul style="list-style-type: none"> The public holiday pay calculations have been simplified so that employees are entitled to their average regular daily wage. 	<ul style="list-style-type: none"> Reverts to calculations prior to Bill 148.

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Employee Pay		
Equal Pay for Equal Work Provisions	<ul style="list-style-type: none"> A new requirement was made to provide the same rate of pay to casual, part-time, temporary, seasonal or temporary help agency employees doing substantially the same work as a full-time employee, with exceptions for seniority or merit. 	<p>Repealed</p> <ul style="list-style-type: none"> Rates of pay may differ based on employment status (i.e. temporary, part-time, and full-time).
Scheduling		
	<ul style="list-style-type: none"> Minimum of three hours of pay for shifts that are under three hours; 	No change
	<ul style="list-style-type: none"> If a shift is cancelled within 48 hours of its start, employees are entitled to three hours of pay; 	Repealed
	<ul style="list-style-type: none"> Employees can refuse a shift without repercussion if they receive less than 96 hours of notice and, 	Repealed
	<ul style="list-style-type: none"> On-call employees who are either not called into work or work fewer than three hours must be paid three hours of their regular pay rate. 	Repealed