

ONTARIO BILL 148: ENHANCED WORKPLACE ENFORCEMENT MEASURES ARE COMING

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In June 2017, the Government of Ontario introduced the *Fair Workplaces, Better Jobs Act, 2017* (Bill 148) which, if passed, will introduce numerous significant changes to the *Employment Standards Act, 2000* (ESA) and *Labour Relations Act, 1995* (LRA). In order to ensure that the proposed changes are fully and effectively implemented, the Government has also announced enhanced enforcement measures aimed at motivating compliance and deterring non-compliance.

In this bulletin, we will highlight some of the new enforcement measures proposed by Bill 148.

Employment Standards Act, 2000

Bill 148 proposes the following changes to the ESA, which is the statute governing minimum employment standards in the province of Ontario:

- **Notice of Contravention:** If a violation of the ESA is found, Bill 148 would empower the Director of Employment Standards (Director) to publish or make public the name of the contravening party, together with a description of the contravention and the penalty imposed. Similar amendments are also proposed for the contravention provisions of the *Employment Protection for Foreign Nationals Act, 2009*.
- **Warrant:** If an order to pay money has been made under the ESA, Bill 148 would give the Director the power to issue a warrant, directed to a sheriff in an area in which any property of the employer, a director or other person liable to make a payment is located, in order to enforce payment (plus interest and the costs and expenses of the sheriff).
- **Collection:** If passed, new provisions will be added allowing the Director to accept security for amounts owing under the ESA and/or register a lien respecting money owed pursuant to an order under the ESA. These powers may be delegated to collectors.

In addition to the changes proposed by Bill 148, the Government also announced that it plans to hire up to 175 more Employment Standards Officers (ESOs) by 2020-2021. Once the new ESOs are hired, the Employment Standards program will aim to resolve all claims filed within 90 days and inspect 1 in 10 Ontario workplaces annually. The program will also provide compliance assistance to new employers, with particular attention

paid to medium and small businesses.

Labour Relations Act, 1995

Bill 148 also proposes the following changes to the LRA, the statute governing labour relations in the province of Ontario:

- **Interim Orders:** If passed, Bill 148 would significantly expand the Ontario Labour Relations Board's (Board) power to make interim orders. These powers would include the ability to make interim orders in any proceeding; to impose conditions on an interim order; and the ability to issue an interim order without reasons.
- **Remedial Certification:** Bill 148 proposes to amend section 11 of the LRA by requiring the Board to automatically certify a union if an employer has contravened the LRA and, as a result, the union was not able to obtain 40 percent support, or if the true wishes of employees were not likely to be reflected in a vote.
- **Fines for Offences:** Bill 148 would increase the monetary penalties for contraventions of the LRA or of any decision, determination, interim order, order, direction, declaration or ruling made under the LRA. This includes an increase in the maximum fine liable on conviction from \$2,000 to \$5,000 for individuals, and from \$25,000 to \$100,000 for corporations, trade unions, councils of trade unions or employers' organizations.

Status of Bill 148

Bill 148 passed its first reading on June 1, 2016. Bill 148 will now make its way to Ontario's Standing Committee on Finance and Economic Affairs for further consideration and feedback from stakeholders. It will then return to the legislature for its second of third readings (possibly by as early as September 2017). We plan to issue further updates as warranted.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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