

# IN CASE YOU MISSED IT: SIGNIFICANT CHANGES TO ALBERTA'S WORKPLACE LAWS ARE COMING

Posted on August 8, 2017

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In June 2017, the Alberta Government passed the *Fair and Family-Friendly Workplaces Act* (Bill 17), setting the stage for significant amendments to the *Employment Standards Code* (ESC) and *Labour Relations Code* (LRC). Most of the changes will come into force on January 1, 2018, and will affect all provincially-regulated employers in the Province of Alberta, both unionized and non-unionized.

In this article, we will summarize some of the most significant changes to the ESC and LRC.

## ***Employment Standards Code***

Bill 17 will introduce the following changes to the ESC, the statute governing minimum employment standards in Alberta:

- *Long-Term Illness and Injury Leave:* Eligible employees will be entitled to take an unpaid, job-protected leave of up to 16 weeks per year due to long-term personal sickness, injury or quarantine. Employers will be entitled to ask for a medical certificate issued by a physician stating the estimated duration of the employee's absence.
- *Personal and Family Responsibility Leave:* Eligible employees will be entitled to take an unpaid, job-protected leave of up to 5 days per year for personal sickness or the short-term care of an immediate family member. This will include attending to personal emergencies and caregiving responsibilities related to the education of a child.
- *Domestic Violence Leave:* An employee who is a victim of domestic violence will be entitled to take an unpaid, job-protected leave of up to 10 days per year for certain specified purposes, including seeking medical attention or counseling.
- *Leave Eligibility:* Employees will now be eligible to take leaves of absences under the ESC after 90 days of employment, as opposed to 1 year.
- *Overtime:* Employees will be eligible to take time off in lieu of overtime pay at a rate of 1.5 hours for each hour of overtime worked, as opposed to the current rate of 1 hour per hour of overtime worked. Employees will also be allowed to bank overtime for 6 months, as opposed to the current period of 3

months.

- *Rest Periods:* Employees will be entitled to a minimum 30-minute break (paid or unpaid) within every 5 consecutive hours of work. If agreed to between the employer and employee, breaks can be taken in two 15-minute installments.
- *Termination of Employment:* Employers will be prohibited from forcing employees to use entitlements such as vacation during a termination notice period, except as agreed to by both the employer and employee. The ESC will also be amended to prohibit the dismissal of employees on maternity and parental leave except where the employer's business is closed or suspended.
- *Temporary Layoff:* The possibility of an indefinite temporary layoff will be eliminated by requiring that layoffs be limited to 60 days within a 120-day period. Layoffs that exceed this period will be deemed to result in termination of employment. However, layoffs can be extended if wages and/or benefits are paid to the employee and the employee consents to the extension.

### **Labour Relations Code**

Bill 17 will also introduce the following changes to the LRC, the statute governing labour relations in Alberta:

- *Card-based Certification:* If between 40-65% of employees in a bargaining unit sign cards in favour of a union, a certification vote will be required. However, if more than 65% of employees sign cards, the union will be automatically certified without a vote (although the Alberta Labour Relations Board will retain the ability to require a vote should it doubt the authenticity of the support).
- *Unfair Labour Practices:* In unfair labour practice complaints involving discipline, dismissal or other alleged intimidation of an employee, the employer have the onus of proving that the action it took does not constitute an unfair labour practice, as opposed to requiring the employee prove that it does. In cases where employers have engaged in unfair practices, the Board will also have the ability to certify a union without a vote.
- *Dependent Contractors:* The definition of "employee" in the LRC will be broadened to include "dependent contractors", that is: contractors who are in a position of economic dependence on their principals (whether or not the contractor furnishes his or her own tools, equipment, etc.). Note that this particular change comes into effect on September 1, 2017.

### **What Next?**

The foregoing is non-exhaustive list of upcoming changes to the ESC and LRC. A more comprehensive list of amendments is available on the Alberta Government's website: "[Employment Standards Code changes](#)"; "[Labour Relations Code changes](#)".

In order to prepare for these changes, Alberta employers should start reviewing their policies, practices and procedures now to ensure that they are compliant come January 1, 2018. Do not hesitate to contact a member of McMillan's Employment and Labour Relations team should you have any questions regarding Bill 17 and the amendments to the ESC and LRC.

by Paul Boshyk and Gordana Ivanovic

### **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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