



HR Consulting & Recruitment Services

IMPLICATIONS OF BILL 148 FOR BROKERAGES IN ONTARIO

Introduction

Bill 148 – also known as 'Fair Workplaces, Better Jobs Act, 2017' became law in Ontario in November, 2017. While many of the Bill's changes came into force on January 1, 2018, a number of significant changes will come into effect later in 2018 and beyond.

Brokerages in Ontario should become familiar with the changes initiated by this Bill, as the implications to budgeting, scheduling and overall brokerage operations can be significant.

With primary focus on resulting changes to the Employment Standards Act (ESA), as opposed to the Labour Relations Act, which applies to unionized workplaces, this document outlines practical suggestions and recommended next steps for brokerages in Ontario.

Please note this is not an exhaustive list, and not all areas will apply to all brokerages.

If your brokerage employs 'Independent Contractors'

Effective 2017

Amendment	Employment Standard Act (ESA) Update (Broadly) Explained	Recommendations for Employers
Independent Contractor Agreements / Employee Misclassification	Employers are now prohibited from misclassifying employees as independent contractors. Misclassification is now considered an offence under the ESA. If there is a dispute the employer will have to prove that an individual is not an employee.	Review relationships with all independent contractors (including mortgage brokers) to ensure proper classification and ESA compliance.



HR Consulting & Recruitment Services

If your brokerage employs ‘Employees’

Effective January 1, 2018

Amendment	Employment Standard Act (ESA) Update (Broadly) Explained	NCHR's Recommendations for Employers
Increased Minimum Wage	<p>General minimum wage will increase to \$14/hour on Jan 1, 2018, and to \$15/hour on Jan 1, 2019.</p> <p>New minimum wages have also been established for student workers (under 18) and liquor servers.</p>	<p>Review hourly wages for applicable staff and increase pay accordingly.</p> <p>Don't forget to ensure your 100% commission based paid employees are also receiving at least minimum wage in alignment with these updates.</p>
Parental Leave Critical Illness Leave Pregnancy Leave Family Medical Leave Child Death Leave Crime Related Child Disappearance Leave	<p>Generally speaking, these Leaves have been extended in length, and some have been expanded in scope.</p> <p>Otherwise, employer obligations generally remain the same.</p>	<p>Become familiar with these revisions, which may come up from time to time in your workplace.</p> <p>If your employee policy manual currently itemizes these Leaves in detail, you will need to make revisions.</p>
Personal Emergency Leave	<p>All employers are obligated to recognize this Leave regardless of organization size.</p> <p>Employees are now entitled to two paid days off.</p>	<p>Incorporate the 2 paid PEL days and new restrictions on requesting medical notes to substantiate time off work into your existing sick day, personal day, and/or bereavement day policies as applicable.</p> <p>Failure to do this properly may result in employees being entitled to 2 more paid days off, at employer expense.</p>



HR Consulting & Recruitment Services

<p>Domestic or Sexual Violence Leave</p> <p>*New*</p>	<p>Qualifying employees are entitled to up to 10 individual days of leave and up to 15 weeks of leave if the employee or their child experiences domestic or sexual violence or the threat of domestic or sexual violence.</p> <p>The first five days of leave, <u>will be paid</u>.</p>	<p>Become familiar with this new Leave.</p>
<p>Vacation Time</p>	<p>Employees are now entitled to 3 weeks of vacation time and 6% vacation pay after 5 years with the same employer.</p>	<p>Review current vacation entitlements for all staff and ensure compliance.</p> <p>Update vacation policies if/as required.</p>
<p>Overtime Pay Rule</p>	<p>These provisions provide clarity for employees with multiple rates of pay and overtime. Blending of the rates is no longer permitted when calculating overtime pay.</p>	<p>Ensure all managers and payroll staff are aware of these new requirements.</p>
<p>Statutory Holidays</p>	<p>Employers are now required to provide a written statement to employees when providing a substitute day off for a Statutory Holiday.</p> <p>There is a new calculation required for Statutory Holiday payment.</p>	<p>Ensure managers and payroll staff are aware of these new requirements.</p> <p>Holiday pay will now be calculated as the average daily wages earned in the pay period leading up to the Statutory Holiday.</p>

A number of other provisions came into effect on January 1, 2018, including:

[Temporary Help Agencies](#) – will be required to give their employees at least one week’s written notice if an assignment ends early.

[Footwear with an Elevated Heel](#) - under the *Occupational Health and Safety Act*, employers cannot require workers to wear footwear with an elevated heel unless they are required for the worker’s safety.



HR Consulting & Recruitment Services

Employer Record Keeping Requirements – numerous changes have occurred, including the requirement to retain certain employee records for 5 years instead of 3 as previously required. Additional changes will come into effect by January 1, 2019.

Other Pending Legislative Changes

Please note that other amendments will be required by April 1, 2018 and January 1, 2019 respectively. The following is a brief summary of some of the more significant and broad-reaching changes. Employers are encouraged to become familiar with these pending changes now, as some of them may have a significant impact on brokerages.

Effective April 1, 2018

Equal Pay For Equal Work – Employers will generally be prohibited from paying part-time, seasonal, contract and temporary workers different pay rates than full-time employees if they are doing substantially the same job. Employees will also be permitted to request a review of their pay rate if they feel the new provisions of Equal Pay for Equal Work are not being followed by their employer.

Legalization of Recreational Cannabis – though not specifically related to Bill 148, the legalization of recreational cannabis is expected to take effect in July, 2018. Employers are encouraged to update their Drug and Alcohol policies accordingly.

Effective January 1, 2019

Increased Minimum Wage - to \$15/hour on Jan 1, 2019.

Three Hour Minimum Pay – if an employee is sent home early from their regular shift they will receive a minimum of three hours pay based on their actual wage rate. Currently the legislation requires three hours pay based only on minimum wage. Employees will also receive 3 hours pay if their shift is cancelled within 48 hours from the start of the shift.

Three Hour Minimum On-Call Pay – Employees will be entitled to three hours pay for being on call, even if they are not called into work.

Right to Request changes to Schedule or Work Location – After 3 months of employment, employees will be permitted to request changes to their schedule or work location, requiring a formal response from the employer.



HR Consulting & Recruitment Services

Summary

Bill 148 represents a significant shift in the employment legislative landscape in Ontario. At one time, this landscape could be described as reactionary, and largely based on a complaint driven system wherein employees had to file a complaint with the Ministry of Labour to initiate action against their employer who may have treated them unfairly (regardless of intent).

However, new provisions initiated by Bill 148 now include stronger enforcement mechanisms, more exemptions, and increased penalties for non-compliance. The province has also announced its intention to hire up to 175 more employment standards officers, signaling a renewed emphasis on ESA compliance and fairness for all.

Brokerages are encouraged to review their existing policies and pay practices as outlined herein, and make appropriate changes accordingly.

A summary of many of the key changes initiated by Bill 148 are outlined [HERE](#).

This article is intended to provide overview of Bill 148 and some suggestions towards compliance. This presentation does not constitute legal advice. Accordingly, we caution you to seek advice regarding the implementation of any strategies to better ensure legislative compliance.