

Alberta workplace legislation changes effective January 1, 2018

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The employment and labour landscape in Alberta has recently undergone significant legislative changes. The *Fair and Family-Friendly Workplaces Act* changes came into effect **on January 1, 2018**, and the *Employment Standards Amendment Regulation* came into force on December 6, 2017. These changes collectively modify the *Employment Standards Code* of Alberta (the Code), which applies to 85% of employers in Alberta.

Some of the key highlights are outlined below for your quick reference:

Wages/overtime

- Minimum wage did not change on January 1, 2018, as it increased to \$13.60/hr on October 1, 2017, and it will increase again to \$15/hr on October 1, 2018.
- Employers are no longer to be allowed to pay employees with disabilities less than the minimum wage.
- Employers can only take deductions from an employee's earnings if the deduction is: required by law, authorized by a collective agreement or authorized in writing by an employee.
- On commencement of employment, employees can agree in writing to deductions for: company pension plans, dental plans, social funds, and registered retirement savings plans.
- Overtime agreements will allow time to be banked for six months rather than three.
- Overtime banking will be calculated at 1.5x for all overtime hours worked (currently hour-for-hour).

Unpaid leave of absence

- Employees will be eligible for job-protected unpaid leaves of absence after 90 days of employment (previously available after one year of employment).
- The following new unpaid job protected leaves are created by the legislation (in each case they are maximum amounts allowed per year):
 - **Long-term illness and injury leave** – up to **16 weeks** for long-term personal sickness or injury.
 - **Personal and family responsibility leave** – up to **five days** for personal sickness or short-term care of an immediate family member.

- **Bereavement leave** – up to **three days** for bereavement of an immediate family member.
- **Domestic violence leave** – up to **10 days** for employees addressing a situation of domestic violence.
- **Citizenship ceremony leave** – up to a **half-day** for employees attending a citizenship ceremony.
- **Critical illness of an adult family member** – up to **16 weeks** for employees who take time off to care for an ill or injured adult family member.
- **Critical illness of a child** – up to **36 weeks** for parents of critically ill or injured children.
- **Death or disappearance of a child** – up to **52 weeks** for employees whose child disappeared as a result of a crime, or up to **104 weeks** if a child died as a result of a crime.
- The following changes are made to existing unpaid leaves:
 - **Compassionate care leave:** job protection extended to **27 weeks** (from the current eight weeks), non-primary caregivers included, notice periods from employees shortened.
 - **Maternity/parental leave:** job protection for **maternity leave** will be extended from 15 to **16 weeks**, job protection for **parental leave** will be extended to **62 weeks** (currently 37 weeks). An employee may now be terminated during the notice and/or entitlement period only for situations where the business is closed or suspended.

Termination

- Employers are prohibited from requiring employees to use entitlements such as vacation or overtime during the termination notice period, unless agreed to by both parties.
- To be valid, the employer's termination notice must: be in writing and addressed to the employee concerned; and include a termination date.
- It's considered a violation of the Code to end the employment or lay off of an employee who: has started any job-protected leave, is entitled to or has started maternity or parental leave, is facing or might face garnishment action, has given or might give evidence at any inquiry or in any proceeding or prosecution under the Code, has requested or demanded anything to which the employee is entitled under the Code, has made or is about to make any statement or disclosure that may be required of the employee under the Code.
- If an employer intends to terminate the employment of 50 or more employees at a single location within a four-week period, the employer must give the Minister of Labour, the affected employees, and their unions(s) the following amount of written notice according to the number of employees affected:
 - 8 weeks – 50 or more employees but less than 100
 - 12 weeks – 100 or more employees but less than 300
 - 16 weeks – 300 or more employees
- Group termination notice must be provided directly to all affected employees as per the timelines above, regardless of how long the individual employees in the group have been

working. The notice must specify the number of employees whose employment will be terminated, and the effective date of the terminations.

Holidays/vacation

- The requirement to have worked for 30 days in the 12 months before the holiday has been removed. The distinction between regular and non-regular days of work has been eliminated.
- General holiday pay will be calculated as 5% of wages, general holiday pay, and vacation pay earned in the four weeks immediately preceding the holiday.
- Employees must be paid 4% (or two weeks) of their total wages as vacation pay until they have been employed for five years, after which they must receive at least 6%.

These are the key changes to the employment legislation only. If you have questions about any changes to the employment standards legislation, and how those might impact your business, please contact a member of the [Employment & Labour Group](#) at Osler.

Ontario employment standards changes

Please note, if you are also an Ontario employer, Ontario has also recently changed the employment standards requirements. The Ontario government has indicated an intention to stagger the implementation or target effective dates (commencing on January 1, 2018). A summary of those changes can be found on Osler.com:

- [Ontario government employment proposals affect business planning and budgets](#)
- [Ontario businesses need to prepare for major changes to employment and labour legislation](#)

You may also want to review our [webinar detailing the Ontario employment standards changes](#).

If you have questions regarding the Ontario employment standards changes, please feel free to contact any member of our [Toronto Employment & Labour Group](#) or our [National Employment & Labour Group](#).