Annual Employment Law Update



Overview

- Each year there are amendments to legislation and case law decisions that impact your obligations, rights, and powers as an employer.
- The purpose of today's webinar is to review a sampling of key legislative amendments and case law developments.
- This webinar acts as a compliment to the issue specific seminars and webinars that we hold throughout the year.
- This webinar touches on issues that impact all employers (unionized or not), for unionized employers, please note we hold a labour law update webinar in March each year.
- This webinar should not be relied on in lieu of legal advice, and you should always consult with your employment lawyer to understand your legal options and obligations.

1)i) Legislative Amendments:

Employment Standards Act – Minimum Wage

- Under the Ontario Employment Standards Act, 2000 ("ESA"), Ontario's minimum wage increases annually based on the Ontario Consumer Price Index ("CPI")
- Most recently, the CPI rose by 3.9 per cent, resulting in an increase in the General Minimum Wage of 65 cents an hour, to $17.20 effective on October 1, 2024
- The Student Minimum Wage was increased to $16.20 per hour
- The Homeworker Minimum Wage was increased to $18.90 per hour
- In 2023 there were 935,600 workers earning at or below $17.20 per hour
- Ontario now has the second highest provincial General Minimum Wage

1)ii) Legislative Amendments:

Employment Standards Act – Increased Fines

- The Working for Workers Five Act, 2024 received Royal Assent on October 28, 2024
- This Act made many amendments to employment related legislations, including the ESA
- The amendments to the ESA included increasing the maximum fine for an individual convicted of an offence under the ESA or its Regulations from $50,000.00 to $100,000.00
- Also, O. Reg 289/01 was amended to increase the penalty for repeat offenders who

contravene the same ESA provision three or more times from $1,000.00 to $5,000.00

1)iii) Legislative Amendments:

Employment Standards Act – Temporary Help Agency and Recruiter Licensing

- Amendments made to the ESA in 2023 required that temporary help agencies ("THA") and recruiters operating in Ontario be licensed effective January 1, 2024
- This deadline for licensing was subsequently extended to July 1, 2024
- As part of the licensing process, THAs and recruiters were required to provide a $25,000.00 irrevocable line of credit
- This requirement was concerning to many in the industry
- On April 29, 2024, the Provincial Government introduced a regulatory amendment to address this and other concerns regarding the licensing process

1)iii) Legislative Amendments:

Employment Standards Act – Temporary Help Agency and Recruiter Licensing

- As a result, in addition to an irrevocable line of credit, THAs and recruiters can now instead provide a $25,000 surety bond
- Also, when an organization applies for both a THA license and a Recruiter license, it will not have to pay duplicate fees or provide duplicate security
- Further, a recruiter will not be required to provide security if it will not recruit any foreign nationals or, if it is recruiting foreign nationals, it is only for positions with wages at or above the average median hourly wage as published on the Government of Canada website (at present, $28.39 per hour)

1)iv) Legislative Amendments:

Employment Standards Act – Medical Notes

- On October 28, 2024, received royal assent Bill 190, Working for Workers Five Act, 2024, received royal assent
- Under Bill 190, employers are now prohibited from requiring a medical note from a qualified health care provider (e.g. a doctor) when an employee seeks to take a sick leave
- There are though two important qualifications to this prohibition
- First, employers are still entitled under the ESA to ask for documentation to support a sick leave request reasonable
- If the employee then chooses to provide a doctor's note, it is fine to accept the same
- However, the employer should be open to other documents
- Second, employers are still entitled to ask for medical documents further to addressing obligations under the Human Rights Code
- An employer normally needs medical documentation (e.g. a completed medical questionnaire) confirming if accommodation is an option and what accommodation would be needed
- When an employee requests a leave of absence, it is important that the employer and the employee engage in an open dialogue, supported by medical documentation

1)v) Legislative Amendments:

Employment Standards Act – Vacation Pay

- Generally, employees are entitled to vacation pay based on a percentage of earned wages and vacation days

- For example, an employee with 5 years of service is normally entitled to 6%vacation pay per year and 3 weeks of vacation days
- Employers normally address the accruing vacation pay by either paying it out when the employee takes their vacation or by paying it out with each paycheque
- Pursuant to Bill 149, Working For Workers Four Act, 2024 , as of June 21, 2024, employers are only be able to pay out accrued vacation pay with each paycheque if they have the employees' written consent
- Otherwise, the employer will have to pay out the accrued vacation pay when the employee takes their vacation or when it becomes immediately due (e.g. when the employee quits)
- As a result of this amendment, employers should ensure that their employment agreements and their employee handbooks all confirm the agreed upon practice for paying out vacation pay
- Thevacation provision of the employee handbook should also further define and limit your obligations as an employer
- For example, it should confirm that vacation pay is based on wages, if you do not wish for vacation pay to accumulate during a leave
- Further, it should confirm when earned and unpaid vacation pay will be paid out at the latest, to avoid a potential claim for more than 2 years' worth of vacation pay

Click here to view the full article.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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