

Bill 88: Ontario Proposing More Employment Law Changes



Labour, Employment & Humans Rights Law Bulletin.

Context

In December 2021, the Ontario government passed the *Working for Workers Act, 2021*, which introduced new employer policies regarding disconnecting from work, prohibitions on non-compete agreements, removed Canadian experience requirements, and set out a new licensing regime for recruiting and temporary help agencies, amongst other key changes that were discussed in two previous bulletins, "[An Update on Ontario's Bill 27: Key Amendments for Employers](#)" and "[Ontario Proposing Significant New Employment Law Changes in Bill 27](#)"¹. Bill 88² is, in name, a follow up with further new employer obligations.

What is Being Proposed?

If passed, Bill 88 will introduce the following key legislative changes, among others:

- **Creation of a new *Digital Platform Workers Rights Act, 2022*.** This legislation would create rights for workers who accept work through a digital platform and obligations for digital platform operators. The Act would apply to all workers who perform work through the digital platform, regardless of whether or not they are an employee of the platform. Bill 88 proposes certain rights for applicable workers, including a right to a minimum wage, the right to receive information about remuneration, the right to certain protections should the operator of a digital platform decide to remove a worker's access and the right to be free from reprisal for seeking to enforce rights. The legislation will also impose certain record keeping obligations on platform operators, among other things³.
- **Removing certain business consultants and information technology consultants from the scope of the *Employment Standards Act, 2000 ("ESA")***⁴. The term "business consultant" is proposed to mean an individual who provides advice or services to a business or organization in respect of its performance, including advice or services in respect of the operations, profitability, management, structure, processes, finances, accounting, procurements, human resources, environmental impacts, marketing, risk management, compliance or strategy of the business or organization. The term "information technology consultant" is proposed to mean an individual who provides advice or services to a business or

organization in respect of its information technology systems, including advice about or services in respect of planning, designing, analyzing, documenting, configuring, developing, testing and installing the business or organization's information technology systems. If passed, subject to certain criteria (including certain minimum compensation), Bill 88 will result in the exclusion of business consultants and information technology consultants from the employee entitlements of the ESA⁵.

- **A new employer requirement in the ESA for a policy on electronic monitoring.** If passed, Bill 88 will introduce a new requirement that employers with 25 or more employees have a written policy about electronic monitoring that must inform employees of whether they are being monitored and if they are being monitored, the circumstances and purposes for which any information obtained may be used⁶.
- **A new leave for reservists under the ESA.** If passed, Bill 88 will introduce additional time off to participate in Canadian Armed Forces military skills training after being employed for three consecutive months⁷.
- **Reduce delays for certain individuals who apply for registration with certain regulated professions in Ontario.** Under the *Fair Access to Regulation Professions and Compulsory Trades Act, 2006*, certain regulated professions will be required to acknowledge the receipt of an application within 10 days and make a registration within 30 days after receiving the application⁸.
- **Amendments to the Occupational Health and Safety Act.** Requiring employers to provide naloxone kits when an employer becomes aware, or ought reasonably to be aware, that there may be a risk of a worker having an opioid overdose. Bill 88 also proposes that maximum fines for contraventions of the *Occupational Health and Safety Act* be raised to \$1,500,000 from \$100,000 for directors and officers of a corporation and to \$500,000 from \$100,000 for other individuals⁹.
- **The repeal of the Traditional Chinese Medicine Act, 2006.** The wind up of the College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario¹⁰.

Next Steps

Bill 88 was carried at First Reading on Monday, February 28, 2022 and referred to the Standing Committee on Social Policy on March 3, 2022. It is expected that the Committee will provide for an opportunity for public input and consultation on Bill 88 in the near future.

Footnotes

1. Government of Ontario, "[Working for Workers Act, 2021](#)".

2. Government of Ontario, "[Working for Workers Act, 2022](#)".

3. Ibid, Schedule 1, ss 7-18, 25-49.

4. Bill 88, Schedules 1-5.

5. Ibid, Schedule 2, s 2.

6. Ibid, Schedule 2, s 41.1.1.

7. Ibid, Schedule 2, s 5.

8. Ibid, Schedule 3, s 9.

9. Ibid, Schedule 4, s 25.2.

10. Ibid, Schedule 5.

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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