Ontario, Canada Government Introduces Bill 229 – Working For Workers Six Act, 2024



- If passed, Bill 229 would amend the ESA to add an unpaid Child Placement Leave and an unpaid Long-Term Illness Leave for eligible employees.
- Bill 229 would amend the OHSA including by setting a minimum fine of $500,000 for corporations convicted of a second or subsequent offence that results in the death or serious injury of one or more workers in a two-year period.
- Bill 229 would amend the WSIA including by adding specific cancers to the diseases presumed to be occupational diseases that occurs due to the nature of a worker's employment as a firefighter or fire investigator.

On November 27, 2024, Ontario introduced Bill 229 – *Working for Workers Six Act, 2024* (Bill 229) for First Reading. If enacted, the statutes amended would include the *Employment Standards Act, 2000* (ESA), the *Occupational Health and Safety Act* (OHSA), and the *Workplace Safety and Insurance Act, 1997* (WSIA).

ESA Amendments

If passed, Bill 229 would add the following leaves of absence to the ESA:

Child Placement Leave (To be proclaimed in force.)

This unpaid, 16-week leave could be taken only in a single period by an employee who has been employed by an employer for at least 13 weeks upon a child's placement or arrival into the employees' custody, care and control for the first time through adoption or surrogacy. If applicable, more than one employee could share this leave period.

The leave would begin the earlier of (a) six weeks before the placement's expected date, and (b) the day the placement occurs, and end no later than 17 weeks after the day the placement occurs.

An employee who wishes to take the leave must provide the employer with written notice of the days they intend to begin and end the leave at least two weeks before the day the leave is to begin.

An employer may require an employee who takes this leave to provide evidence reasonable in the circumstances of their entitlement to the leave.

Long-Term Illness Leave (In force six months after Bill 229 receives Royal Assent.)

This unpaid, 27-week (in a 52-week period) leave could be taken by an employee who has been employed by the employer for at least 13 consecutive weeks if:

- the employee will not be performing the duties of their position because of a serious medical condition, which may include a chronic or episodic condition; and
- a "qualified health practitioner" (*i.e.*, a physician, registered nurse or psychologist) issues a certificate stating the employee has a serious medical condition and sets out the period during which the employee will not be performing the duties of their position because of the serious medical condition.

The total amount of leave an employee may take is 27 weeks, even if they have more than one serious medical condition.

If an employee who has taken the leave continues to have a serious medical condition after they return to work but before the 52-week period expires, they are entitled to take an extension of the leave or a new leave if:

- A qualified health practitioner issues an additional certificate that sets out a different period during which the employee will not be performing the duties of their position because of the serious medical condition;
- The amount of leave taken and the amount of leave the employee will take does not exceed 27 weeks in total; and
- The leave ends no later than the last day of the 52-week period.

OHSA Amendments

If passed, Bill 229 would amend the OHSA by:

- Requiring employers to ensure that personal protective clothing and equipment (PPE) that is provided, worn, or used is a proper fit and appropriate in the circumstances. (The Backgrounder for Bill 229 indicates this expands to all sectors the requirement in the *Working for Workers Act, 2023* to provide properly fitting PPE in the construction sector for women and diverse body shapes.)
- Setting a minimum fine of $500,000 for corporations convicted of a second or subsequent offence that results in the death or serious injury of one or more workers in a two-year period.
- Allowing the Chief Prevention Officer (CPO) to:
    - establish criteria to be used to assess a training program delivered outside Ontario for equivalency.
    - establish policies regarding general training requirements established under the OHSA.
    - seek advice from an advisory committee appointed by the Ministry of Labour, Immigration, Training and Skills Development.
    - receive copies of any assistance, advice or report provided to the Minister of Labour (Minister) by a committee.
    - collect personal information, directly or indirectly, and use it to develop, monitor and evaluate a provincial occupational health and safety strategy; report on occupational health and safety; and provide advice to the Minister on the prevention of workplace injuries and occupational diseases, including planning or delivering programs and services related to the prevention of workplace injuries.
- Providing the Minister with the power to make an order in writing requiring a constructor to establish a worker trades committee for a project and, in such order, provide for the composition, practice and procedure of any worker trades committee that has been established by a constructor.

All amendments to the OHSA would become effective on Royal Assent, except for the amendment providing the Minister with the power to make orders regarding worker trades committees, which would become effective on the later of Royal Assent or January 1, 2025.

WSIA Amendments

If passed, Bill 229 would amend WSIA by:

- Adding primary-site kidney cancer and primary-site colorectal cancer to the diseases presumed to be occupational diseases that occurs due to the nature of a worker's employment as a firefighter or fire investigator, provided the worker was employed or served as a volunteer for a total of at least 10 years before being diagnosed. (To be proclaimed in force.)
- Requiring the distribution of surplus amounts in the workplace safety and insurance board funds to a Schedule 2 employer that is a municipality, if certain prescribed requirements are met, and subject to prescribed exceptions.

Both amendments to the WSIA are to be proclaimed in force.

We will monitor Bill 229 through the legislative process and report on any significant developments.

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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