



SHINING THE LIGHT ON HUMAN RESOURCES

**Fair Workplaces, Better Jobs Act
Bill 148**





WHAT TO KNOW ABOUT BILL 148

- Minimum Wage
- Vacation Entitlement
- Public Holiday Calculation
- Leave Entitlement (PEL)
- Leave Changes
- Equal Pay for Equal Work
- Scheduling Rights
- Enforcement of Bill 148
- Next Steps

REQUIREMENTS



RULES



STANDARDS



LAW



COMPLIANCE

GOVERNANCE



POLICIES



TRANSPARENCY



REGULATIONS



COMPLIANCE

- Posting Requirements
- Hours of Work
- Overtime
- Public Holidays
- Vacation
- Leaves
- Equal Pay for Equal Work
- Termination and Severance
- Special Rules



MINIMUM WAGE RATE OVERVIEW

Minimum Wage Type	Sept. 30, 2017	Oct. 1, 2017 - Dec 31, 2017	Jan 1, 2018 - Dec 31, 2018	Jan 1, 2019 - Sept. 30, 2019
General Minimum Wage	\$11.40 per hour	\$11.60	\$14.00	\$15.00
*Student Minimum Wage	\$10.70 per hour	\$10.90	\$13.15	\$14.10
Liquor Servers' Minimum Wage	\$9.90	\$10.10	\$12.20	\$13.05



VACATION - JANUARY 1ST 2018

What's New?

Employers are now required to provide 3 weeks of paid vacation (6%) to all employees who have been working for them for 5 years or more.

Examples

1. Joe has worked with the company since 2011 and has always received 2 weeks of paid vacation (4%). As of January 1, 2018, he will receive 3 weeks of paid vacation (6%).
2. Rebecca has worked with the company since May 1, 2013 and receives 2 weeks of paid vacation (4%). She will continue to receive this amount until May 1, 2018, at which point she will receive 3 weeks of paid vacation (6%).

PUBLIC HOLIDAYS - JANUARY 1ST 2018

Change in Calculation of Public Holiday Pay

The employee's public holiday pay entitlement is all of the regular wages earned by the employee in the pay period before the public holiday, divided by the number of days the employee worked in that period.

$$\text{Holiday Pay} = \frac{\text{Regular Wages Earned}}{\text{Number of Days Worked}}$$

PUBLIC HOLIDAYS - JANUARY 1ST 2018

Calculating Public Holiday Pay

Family Day falls on Monday, February 19, 2018. Suppose an employer's pay period is bi-weekly and runs from Friday to Thursday. In this case, the pay period used to calculate public holiday pay is the two weeks counting backwards from the Thursday before the holiday.

February 2018						
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
28	29	30	31	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19 Family Day	20	21	22	23	24

PUBLIC HOLIDAYS - JANUARY 1ST 2018

Calculating Public Holiday Pay – A Typical Case

Kathy works five days a week and earns \$100 per day. She has a bi-weekly pay period. She worked her last regularly scheduled shift before the public holiday and her first regularly scheduled shift after it. She was not on vacation or person emergency leave during the pay period before the holiday.

1. Calculate Kathy's total regular wages in the pay period previous to the holiday:

$$\text{\$100 per day} \times 5 \text{ days per week} \times 2 \text{ weeks in the pay period} = \text{\$1,000}$$

2. Divide her total earnings in the pay period by the hours she worked to find her public holiday pay entitlement:

$$\frac{\text{\$1,000}}{10 \text{ days}} = \text{\$100}$$

PUBLIC HOLIDAYS - JANUARY 1ST 2018

Calculating Public Holiday Pay – No Set Hours

Mohamed does not have a set number of hours per day or days per week, and as a result, his pay varies each week. He earns \$15 per hour and has a bi-weekly pay period.

1. Calculate Mohammed's regular earnings in the pay period before the public holiday:

$$\text{\$15 per hour} \times 50 \text{ hours worked} = \text{\$750}$$

2. Divide his total regular earnings by the number of days he worked:

$$\frac{\text{\$750}}{8 \text{ days}} = \text{\$93.75}$$

For assistance, use the [public holiday pay calculator](#).



PUBLIC HOLIDAYS - JANUARY 1ST 2018

Substitute Holiday

A substitute holiday is another **working day** that the employer and employee have agreed to use as a replacement for a public holiday. Employees are entitled to be paid public holiday pay for a substitute holiday. This day must be no later than **three months** after the public holiday being replaced, or **twelve months** if the employee has agreed electronically or in writing.

To use a substitute holiday, the employer must provide the employee with a written statement **before the public holiday** that includes:

- the public holiday being substituted
- the date of the substitute holiday
- the date that the statement was given to the employee

PERSONAL EMERGENCY LEAVE - JANUARY 1ST 2018

What's New?

- Paid personal emergency leave (PEL) is now available to all workers, not just those at a business with 50+ employees.
- Workers are given 10 PEL days, the **first 2** of which are **paid**
- 2 paid days must be taken before the unpaid days

Who Is Eligible?

- Employees receive 10 PEL days as soon as they start working for an employer
- Employees who have been employed for **1 week** or longer are entitled to their first 2 PEL days in each calendar year to be paid
- Employees are entitled whether they are employed on a full or part-time basis.

PERSONAL EMERGENCY LEAVE - JANUARY 1ST 2018

What Can It Be Used For?

- Personal illness, injury, or medical emergency
- Death, illness, injury, medical emergency, or urgent matter relating to family
- **Pre-planned (elective) surgery** if it is for an illness or injury, even though it is scheduled ahead of time not a medical “emergency”

Proof of Entitlement

- An employer may require an employee to provide evidence “reasonable in the circumstances” after considering the facts of the situation (e.g. duration of leave, pattern of absences, the availability and cost of the evidence)
- An employer **cannot** require employees to provide a medical note from a physician, registered nurse, or psychologist
- An employer may require medical documentation for issues such as satisfying return to work obligations, which is not prohibited

PERSONAL EMERGENCY LEAVE - JANUARY 1ST 2018

What Is An “Urgent Matter”?

- The employee’s babysitter calls in sick
- The house of the employee’s elderly parent is broke into, and the parent is very upset and needs the employee’s help to deal with the situation
- The employee has an appointment to meet with their child’s counsellor to discuss behavioural problems at school. The appointment could not be scheduled outside the employee’s working hours

What Is Not An “Urgent Matter”?

- An employee wants to leave work early to watch his daughter’s soccer game
- An employee wants the day off to attend her sister’s wedding as a bridesmaid

PERSONAL EMERGENCY LEAVE - JANUARY 1ST 2018

Compare Personal Emergency Leave and Employment Contract

- Employers are **not required** to add ESA required PEL on top of similar benefits already offered to employees – these days can overlap
- Employers are not prohibited from subtracting PEL days from paid sick days taken under the contract

Examples

1. If an employer offers 3 paid bereavement days under a benefits plan and the employee is absent 3 days because of the death of a parent and claims benefits under the plan, the employee is considered to have used 3 of their PEL days.
2. If an employee takes 3 days of PEL for personal illness in a calendar year, the employer **can** count those days against both the employment contract “sick days” entitlements **and** the employee’s PEL entitlement.

PERSONAL EMERGENCY LEAVE - JANUARY 1ST 2018

Additional Information

- PEL days are **not pro-rated** – an employee who starts partway through a calendar year is still entitled to **10 days** of leave for the remainder of that calendar year
- Employees cannot carry over unused personal emergency leave days to the next calendar year
- If the 2 paid days are not used, they are not paid out at the end of the year
- If an employee takes only part of a day as personal emergency leave, the employer **can** count it as a full day of leave
- PEL days **cannot be deferred**. Employees must be paid for the **first 2** that they use in each calendar year, and cannot “save days” for later

PERSONAL EMERGENCY LEAVE - JANUARY 1ST 2018

Example

Kevin tells his employer that he will be away from work in the morning to take his daughter for some scheduled tests at the hospital. He has the right to be on personal emergency leave for the half-day needed. His employer does not have to count the absence as a full day of leave, but can if they want. Kevin does not have the right to take the entire day off as leave – even if his employer counted it as such – as he only needs half the day for leave.

The employer is only allowed to count the half-day absence as a full day of leave when determining if Kevin's 10-day entitlement has been used up. The employer must still pay Kevin for the half day that he worked, and has to use these hours when calculating overtime.



LEAVE CHANGES

- **Child Death**
- **Child Disappearance**
- **Domestic Or Sexual Violence**
- **Care and Support**
- **Pregnancy and Parental**



CHILD DEATH

Where a child dies, an employee (or employees) with at least **6** months of consecutive service can take up to **104 weeks** off without pay.

CHILD DISAPPEARANCE

Where a child disappears, an employee (or employees) with at least **6** months of consecutive service can take up to **104 weeks** off without pay.

DOMESTIC OR SEXUAL VIOLENCE

An employee who has been employed for at least **13 consecutive weeks** will be 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.

* The first **5 days** of leave each calendar year will be paid; the rest will be unpaid.

CARE AND SUPPORT

Increases this leave from **8 to 27 weeks** and extends the “qualifying period” from **26 to 52 weeks**. Two employees with the same employer, taking this leave in respect of the same relative, can have combined leave of **27 weeks** (up from 8).

Family medical leave is unpaid, job-protected leave of up to **28 weeks** in a **52 week** period.

Family medical leave may be taken to provide care or support to certain family members and people who consider the employee to be like a family member. This leave is valid when a qualified health practitioner has issued a certificate indicating that the family member has a serious medical condition with a significant risk of death occurring within **26 weeks**.

PREGNANCY AND PARENTAL

Pregnancy leave in cases of miscarriage or still-birth is extended from **6 to 12** weeks after the loss occurs.

Where a person takes pregnancy leave, her entitlement to parental leave is extended from **35 to 61** weeks.

Persons who did not take pregnancy leave have parental leave extended from **35 to 63** weeks.

EQUAL PAY - APRIL 1ST 2018

Equal pay for equal work – Bill 148 sets out that **casual, part-time, temporary and seasonal workers** get paid the **same as full-timers** when they are “substantially” doing the same job for the same employer.



EQUAL PAY - APRIL 1ST 2018

Employees and temporary help agency workers who believe they are not being paid equally, will be permitted to request a review of their rate of pay with their employer.

Employers who receive a request, and disagree with it, will be required to provide a written response setting out the reasons for the disagreement. Employers will be prohibited from committing reprisals against employees (or temporary help agency workers) who make such a request and must permit or discuss or disclose their rate of pay to other employees.

SCHEDULING - JANUARY 1ST 2019

3 Hour Rule

- Employer must pay **3 hours' wages** to anyone who regularly works more than 3 hours, but is sent home after less than 3 hours
- Does not apply when work is stopped due to power failures or weather events

Right to Refuse

- Employee may refuse a shift or be “on-call” if given notice less than **96 hours** before the shift is to start
- Not able to refuse when shift is related to emergencies, or to remedy or reduce a threat to public safety

Cancellation Pay

- If an employer cancels a scheduled shift with **less than 48 hours notice**, the employee is entitled to **3 hours' pay**
- Does not apply when caused by circumstances outside the employer's control

SCHEDULING - JANUARY 1ST 2019

On-Call Pay

- If an employee is “on-call”, available to work, and not called in to work (or is called in for fewer than 3 hours), the employer **must** pay the employee for **3 hours of work**
- Employers are only required to pay an employee a minimum of 3 hours’ wages **1 time in each 24 hour period**, even if that employee is on-call multiple times during that period
- **“On-call” definition:** Employees who are required to be accessible by pager, phone, or email to respond and perform work. The work performed may include work done over the phone or by email, as well as work done at the employer’s workplace.

ENFORCEMENT

The blitz is on (soon) – To ensure its new rules are followed, the government says they will hire up to 175 additional employment standards officers. When those new officers are hired, the government says it is aiming to perform inspections at one out of every 10 Ontario businesses.



NEXT STEPS

- Keep track of the legislated changes as they come into force.
- Be pro-active and stay ahead of the curve.
- Communicate, educate and train employees.
- Update and change company policies and procedures to match the new legislation.
- Be innovative and prepared to try new things.

Human Resources Advisory



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