



As of January 1, 2018, significant legislative changes emerging from Bill 127 (The Stronger, Healthier Ontario Act Schedule 33 which received Royal Assent on May 17, 2017) and Bill 148 (Fair Workplaces, Better Jobs Act which received Royal Assent on November 27, 2017) came into effect. The Department of Human Resources continues to review applicable policies and collective agreements and identify areas that need to be addressed in order to ensure compliance. This document provides an overview of the legislative changes.

Bill 127, The Stronger, Healthier Ontario Act (Budget Measures) Schedule 33 Workplace Safety and Insurance Act (WSIA)

Bill 127, Schedule 33 amends the Workplace Safety and Insurance Act, 1997 (WSIA) to allow employees to claim entitlement to chronic mental stress injuries in the workplace that occur on or after January 1, 2018. Prior to this date, entitlement to WSIB benefits for mental stress was limited to acute reactions to a sudden and unexpected event (traumatic stress).

Bill 127 and the Chronic Mental Stress WSIB Policy define “Chronic Mental Stress” as stress caused by a substantial work-related stressor or series of stressors. In order for a work-related stressor to be considered substantial, it must:

- Be excessive in intensity and/or duration compared with normal pressures and tensions experienced by employees in similar circumstances.
- Have significantly contributed to the chronic mental stress.

For example: A mental disorder resulting from being subjected to harassment or bullying at work.

Consistent exposure to a high level of routine stress over time *may* also qualify as a substantial work-related stressor if the job typically has at least one or both of the following characteristics:

- Responsibility over matters involving life or death.
- Routine work in extremely dangerous circumstances.

Exclusions from entitlement:

- An employer’s decisions or actions that are part of the managerial function including but not limited to, terminations, demotions, transfers, discipline, changing an employee’s work hours or changes to productivity expectations.
- Interpersonal conflicts between employees and supervisors, co-workers or customers are not generally considered a substantial work-related stressor unless the conflict amounts to workplace harassment or results in a conduct that a reasonable person would consider egregious or abusive.

WSIB adjudication under “Chronic Mental Illness”:

Three conditions need to be met for a person to be entitled to WSIB benefits:

- A diagnosis by an appropriate regulated healthcare professional such as acute stress disorder, post traumatic stress disorder, adjustment disorder and anxiety or depressive disorder.
- The person has experienced a substantial work-related stressor(s).
- The work-related stressor(s) was the predominant cause of the diagnosed mental stress injury.

Further amendments to WSIA arose as of Bill 177, which received Royal Assent on December 14, 2017. This resulted in an amendment to the Chronic Mental Stress WSIB Policy to include transitional provisions for new or pending mental health related claims for individuals who were diagnosed with a work-related chronic mental stress disorder on or after April 29, 2014. Claims of mental stress occurring during this timeframe that have not yet been filed with the WSIB, can be filed by workers or their survivors until July 1, 2018.

Further information can be found on the WSIB Ontario website at <http://www.wsib.on.ca> (search: Chronic Mental Stress)

Bill 148, Fair Workplaces, Better Jobs Act

Bill 148 received Royal Assent on November 27, 2017. This Bill amends the Employment Standards Act (ESA), 2000, the Labour Relations Act (LRA), 1995 and the Occupational Health and Safety Act (OHSA), 1990. Many of the amendments came into effect on January 1, 2018. There are several exceptions to this date which are noted in this document.

Employment Standards Act (ESA), 2000

The chart below provides an overview of the amendments to the ESA that are part of Bill 148. Please note that not all of the changes outlined below will impact all of the employee groups at the University of Windsor.

| Amendments to ESA - Summary of Changes | Effective Date |
|--|---|
| <p>Minimum Wage Increases to minimum wage - \$14.00/hr in 2018 and \$15.00/hr in 2019.</p> | January 1, 2018 |
| <p>Equal Pay for Equal Work No part-time, casual, temporary and seasonal employees may be paid less than what is paid to full-time employees of the same employer who perform substantially the same job, where performance requires substantially the same skill, effort and responsibility and when work is performed under similar working conditions; unless, there are objective reasons for the differential including but not limited to seniority, merit or a system that measures earnings by quantity or quality of production. An employee may request a review of wages to which the employer must respond by either increasing the wage rate or providing a written explanation of the differential.</p> | April 1, 2018* |
| <p>Scheduling</p> <ul style="list-style-type: none"> • Various changes to scheduling and on-call provisions. • Right to request changes to schedule or work location. (Effective Date: January 1, 2019) | January 1, 2019* |
| <p>Vacation Entitlement After 5 years of service, vacation entitlements will increase to 3 weeks or 6 % vacation pay, whichever is applicable.</p> | January 1, 2018 |
| <p>Public Holiday Pay and Substitute Holidays New formula for the calculation of “public holiday pay” and new requirements regarding “substitute holidays” for part-time employees.</p> | January 1, 2018 |
| <p>Overtime Pay Elimination of the blended overtime rate for employees who work different jobs at different rates of pay for the same employer. The employee must be paid overtime at the rate for the position that they are working during the overtime period.</p> | January 1, 2018 |
| <p>Statutory Leaves</p> <ul style="list-style-type: none"> • Personal Emergency Leave - Employees are entitled to 10 emergency days per calendar year (2 paid days and 8 unpaid days). Employers can't require a medical note but can request evidence reasonable to the circumstances to substantiate the leave. • Domestic/Sexual Violence Leave - An employee who has been employed for at least 13 consecutive weeks is entitled to a leave of absence of 10 days and up-to 15 weeks to a maximum of 17 weeks to address matters arising from domestic/sexual violence. The first 5 days of the leave are paid. • Pregnancy/Parental Leave –The length of parental leaves will increase by a total of 26 weeks. The changes bring ESA in line with recent changes to the Employment Insurance Act. Pregnancy leave for employees who suffer a still-birth or miscarriage will be extended from 6 to 12 weeks from the day the pregnancy loss occurs. • Family Medical Leave – The length of this leave will increase to 28 weeks in a 52 week period. • Critical Illness Leave - Replaces the Critically Ill Child Care Leave to account for changes in the Employment Insurance Act. Provides for a leave of up to 37 weeks in a 52 week period to provide care and support to a critically ill minor child or a leave of up to 17 weeks in a 52 week period to provide care and support for a critically ill adult family member. | <p>January 1, 2018</p> <p>January 1, 2018</p> <p>December 3, 2017</p> <p>January 1, 2018</p> <p>January 1, 2018</p> <p>December 3, 2017</p> |

| Amendments to ESA - Summary of Changes | Effective Date |
|--|-----------------|
| <ul style="list-style-type: none"> • Child Death/Disappearance Leave – The child’s death no longer has to be crime related to qualify for the leave. The Disappearance leave is extended to 104 weeks. | January 1, 2018 |

*If a collective agreement is in place, the collective agreement prevails until the expiry of that agreement or January 1, 2020, whichever comes first.

In addition to the amendments outlined above, Bill 148 also includes other changes such as new employer record keeping requirements and increased penalties for non-compliance.

Further details including Frequently Asked Questions can be found on the Ministry of Labour website at <https://www.ontario.ca/page/plan-fair-workplaces-and-better-jobs-bill-148>.

Labour Relations Act (LRA), 1995

Bill 148 includes a wide array of amendments to the LRA including but not limited to the following areas:

- Union certification
- First contract mediation and arbitration
- Succession rights
- Review and consolidation of bargaining units
- Return to work rights and procedures following a strike/lockout
- Just cause provisions

Some of the changes provide the Ontario Labour Relations Board (OLRB) with broader powers. The changes came into effect on January 1, 2018.

Occupational Health and Safety Act (OHSA), 1990

Bill 148 includes a new provision to the OHSA to prevent an employer from requiring a worker to wear footwear with an elevated heel unless it is required to perform the work safely. Individuals who are employed as performers in the entertainment or advertising industry are exempt from this. This provision came into effect on November 27, 2017.

Contacts

Should you have questions regarding this communication, please contact Ms. Gerri Pacecca, Executive Assistant to the Vice-President, Human Resources at extension 2059 or via e-mail to mimma@uwindsor.ca.

Please direct specific inquiries regarding how the legislative amendments outlined in this document may impact your department to the following members of the Department of Human Resources:

Bill 127 (changes to WSIA)

Lisa Kiritsis, Manager, Occupational Health & Safety
Ext: 4547, kiritsis@uwindsor.ca

Bill 148 (changes to the Employment Standards Act)

Inquiries pertaining to Faculty, other Academic Related Appointments or Student Employment

Daniella Beaulieu, Director, Academic Labour Relations
Ext: 2094, daniell2@uwindsor.ca

Inquiries pertaining to Unionized Staff Groups or the Managerial and Professional Group

Bryce Chandler, Director, Employee and Labour Relations
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