

Fulcrum Search Science Inc.

Employment Law

Changes to the Employment Standards Act



On December 1, 1996 Bill 49, which included several changes to Ontario's Employment Standards Act (Act), was proclaimed into law. Some of these changes are as follows:

Monetary limits - Prior to December 1st, there was no cap on the amount that an employment standards officer could order an employer to pay. Now, an officer is not permitted to award more than \$10,000 in wages in respect of any employee. This limit does not apply to those provisions of the Act that contemplate reinstatement or hiring as a possible remedy for a breach of the Act.

Time limits - Prior to December 1st, no person could recover monies that were due to the person more than 24 months before the complaint was filed. Now a person is limited to the 6 month period prior to filing the complaint. This limit is subject to the \$10,000 monetary limit (if applicable) and a 60 day transitional provision.

Employee must choose between filing a complaint under the Act or commencing a civil action in court - Prior to December 1st, and employee could file a complaint under the Act, and commence a civil action - normally a wrongful dismissal action - in the courts. Now, an employee cannot commence two parallel proceedings in respect of the same matter.

Unionized employees - Prior to December 1st, a unionized employee could file a complaint under the Act. Now, a unionized employee is no longer entitled to file a complaint unless he receives special permission. Instead, unionized employees must file a grievance under the relevant collective agreement.

Most of these changes to the Act are employer friendly, and coupled with recent wrongful dismissal cases could very well result in lower severance packages in many situations.

Bill 49 is expected to be a prelude to more fundamental changes to the Act which are expected to be introduced later this year. Bill 49 introduces numerous amendments to the Act whereas this article is of necessity brief and provides only general summary information. Accordingly, readers are urged not to take any actions based on the information contained in this summary document. Instead, readers are encouraged to seek direct and specific advice from their professional advisers.

Workers' Compensation Reform Update - On November 26, 1996 the Ontario government introduced sweeping changes to the Workers' Compensation Act. For information on these changes you can dial the Ministry of Labour's Fax-on-demand system at (416) 326-6546 and follow the instructions. A copy of the proposed new law is available on the Ontario Legislative Assembly Web Site at: <http://ontla.on.ca./journals/bindex/htm>.

Doug MacLeod, Barrister & Solicitor. Doug advises employers on the intricacies of Ontario's employment laws. He can be reached at (416) 977-9894 or (416) 977-9850 (Fax)