

Minimum Wage

Bill 148 increases the minimum wage to \$14 per hour on January 1, 2018, and \$15 per hour on January 1, 2019. Any OSSTF/FEESO members earning less than that amount on each of those dates should move immediately to the appropriate amount on the date that it becomes effective, regardless of the rate that appears in the applicable collective agreement.

Domestic and Sexual Violence Leave

Effective January 1, 2018, there is a new provision for Domestic and Sexual Violence Leave that is available for employees who have been employed for at least 13 weeks. This leave is available where the employee or their child has experienced domestic or sexual violence or the threat of such violence. Two separate amounts of leave are available: 10 days and 15 weeks, although leave under each amount is deemed to be taken in whole units, regardless of whether the employee takes the whole day or whole week off. Under the Bill, the first 5 days of leave are paid days. The Bill states that the leave must be taken for one of the following reasons:

- i) To seek medical attention
- ii) To obtain services from a victim services organization
- iii) To obtain professional counselling
- iv) To relocate
- v) To seek legal or law enforcement provisions

This leave will be available to Bargaining Unit members where the overall leave entitlements in the collective agreement do not provide a greater right or benefit than these provisions, meaning that, in general, this leave will be available.

Public Holidays

Effective January 1, 2018, the method that employers use to calculate public holiday pay will change. Generally, under the new formula, public holiday pay will be the regular wages earned in the pay period prior to the holiday divided by the number of days worked during that pay period. This will have to be implemented immediately by employers, since it will apply to those being paid for the January 1, 2018 statutory holiday.

Vacation Entitlement

Bill 148 introduces an increase in both the number of vacation days and vacation pay that employees are entitled to after 5 years of service with an employer. The new entitlement increases the number of vacation days to 15 and the amount of vacation pay to 6% for employees who have completed 5 years of employment. In Bargaining Units where the vacation day/pay entitlement does not exceed this, members will be entitled to the increased amounts effective January 1, 2018. The increased vacation pay entitlement will generally not apply to salaried employees. However, it is OSSTF/FEESO's position that any pay rates that are characterized as "inclusive of vacation pay", such as OT daily rates, will need to take the new entitlement into account.

Pregnancy and Parental Leave

Effective January 1, 2018, pregnancy leave for employees who suffer a still birth or miscarriage is increased to 12 weeks following the loss. Also with respect to pregnancy leave, a "legally qualified medical practitioner" who can provide a medical certificate now includes a qualified physician, midwife, nurse with an extended certificate of registration, or a prescribed class of medical practitioners.

Effective December 3, 2017, the parental leave provisions have been significantly increased. Parental leave is increased from 35 to 61 weeks for employees who took a pregnancy leave, and from 37 to 63 weeks for employees who did not.

The improved leaves in both categories are available only to those employees whose entitlement to the leave arose on or after the date that the new provisions came into effect.

Corresponding changes have been made to the Employment Insurance Act to allow employees to spread their EI benefits over the longer leave period should they choose to do so.

It is the position of OSSTF/FEESO that members are entitled to the increased leaves under this section.

Scheduling/On Call Rules

Several changes have been made with respect to the scheduling and cancellation of work, as well as employees who are "on call". The changes are effective January 1, 2019, or at the end of any collective agreement that remains in effect at that time and that contains provisions respecting scheduling. This means that they will not take effect until September 1, 2019 for OSSTF/FEESO members who are employees of school boards, and upon the expiry of other OSSTF/FEESO agreements that are still in effect on January 1, 2019.

First, employers will be required to pay an employee for 3 hours at their regular rate in certain circumstances where a shift is cancelled either within 48 hours prior to its start, or during the shift itself. The entitlement would exist where:

- i) The employee regularly works more than 3 hours a day, is required to present themselves at work, but works less than 3 hours;
- ii) The employee is on call to work but is not required to work or works less than 3 hours;
- iii) The employer cancels a scheduled work or on call shift within 48 hours prior to its commencement.

These particular provisions have the potential to have a significant impact on our casual members, and occasional teachers in particular. However, some exploration of exactly how it applies to casual members will be necessary, since the interpretation of the requirement that the employee "regularly works more than 3 hours a day" remains unclear.

The requirement to provide 3 hours' pay will not apply where the cancellation is due to fire, power failure, storms, or similar situations beyond the employer's control. In addition, the on call provisions do not apply where an employee is on call to ensure the continued delivery of essential services. Finally, in cases where work is weather-dependent, the 48-hour cancellation rule does not apply.

Next, employees may refuse work or an on-call shift where the request is made less than 96 hours prior to the beginning of the shift, as long as the work is not to deal with an emergency, or to remedy or reduce a threat to public safety, or for other prescribed reasons. These changes are likely to have some impact on plant support staff members, and possibly on some other job classes that are on call from time to time.

To be clear, the term "on call" does not refer to situations in which teachers/occasional teachers may be required to cover another teacher's class or assignment, but rather situations where an

employee is required to be prepared to report to work immediately upon being informed by the employer.

Finally, after 3 months' service, employees can request a schedule or location change without being subject to reprisal. Since OSSTF/FEESO collective agreements generally contain provisions dealing with scheduling and transfers, it is unlikely that these changes would create a greater right or benefit.

Critical Illness Leave

Bill 148 replaces what was formerly "Critically Ill Child Care Leave" with "Critical Illness Leave", and expands it to a larger list of family members effective December 3, 2017. The leave is available to employees who have been employed for greater than 6 consecutive months, and consists of 37 weeks of leave in the case of a minor child, and 17 weeks in the case of an adult. The employee must present a medical certificate stating that the individual requires care or support, and setting out the period of time that the care is needed. The leave is then limited to the period of time set out in the certificate. This leave will be available to Bargaining Unit members where the overall leave entitlements in the collective agreement do not provide a greater right or benefit than these provisions. In general, these leaves will be available to OSSTF/FEESO members.

Family Medical Leave

Effective January 1, 2018, family medical leave is being increased from 8 weeks to 28 weeks, and the list of family members that the leave can be taken for has been expanded. The leave is available where a qualified medical professional issues a certificate stating that the family member has a serious medical condition with a significant risk of death within 26 weeks. Again, this leave will be available to bargaining unit members where the overall leave entitlements in the collective agreement do not provide a greater right or benefit in respect of family medical leave than these provisions, so in general, these leaves will be available to OSSTF/FEESO members.

Equal Pay for Equal Work

Bill 148 introduces a prohibition on paying employees less than other employees for the same work due to a difference in employment status. This provision takes effect April 1, 2018, but any collective agreements in effect at that time that permit these differences in pay would continue to apply until the earlier of the expiry of the agreement or January 1, 2020. The prohibition applies where:

- i) Substantially the same work is performed in the same establishment;
- ii) The work requires substantially the same skill, effort and responsibility; and
- iii) The work is performed under similar conditions.

Employers may not reduce the pay of any employee in order to comply with the provision. The prohibition does **not** apply where the difference in pay is due to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or any other factor than sex or employment status.

Salary grids are systems based on seniority and qualification, which would make them permissible under the Bill. It is likely that employers will be able to establish that daily occasional teaching does not meet the criteria to require equal pay for equal work, as it does not involve preparation, assessment and evaluation to the same degree as that performed by permanent and long-term occasional teachers. However, other categories of casual workers may be more

likely to benefit from this change, as may other OSSTF/FEESO members who are part-time or temporary.

Personal Emergency Leave

Effective January 1, 2018, the Personal Emergency Leave provisions will apply to all employers rather than only those with 50 or more employees. Employees are entitled to 10 days of personal emergency leave. The first 2 of those 10 days are paid days. The leave can be taken for:

- i) A personal illness, injury, or medical emergency;
- ii) The death, illness or medical emergency of a member of the employee's immediate family;
- iii) An urgent matter that concerns the employee or a member of their immediate family.

Employers are not permitted to request medical documentation with respect to leave taken under this provision.

Since OSSTF/FEESO collective agreements, in general, contain a greater right or benefit than that provided by personal emergency leave, this change is unlikely to apply to OSSTF/FEESO members. In particular, all of our collective agreements contain sick leave provisions that are more generous than the Personal Emergency Leave provisions and therefore our collective agreements will continue to determine our members' access to sick leave, including the ability of an employer to request medical documentation.

Record Keeping

Employers must keep an expanded list of records regarding employees, and must keep those records for a longer period of time. Effective January 1, 2018, the prescribed information must be kept for 5 years. The new information to be kept generally pertains to dates and hours worked or on call, overtime worked, and vacation pay earned. This additional information may be useful to Bargaining Units when resolving issues related to some of the changes already discussed.

Enforcement

A number of changes were made to strengthen the enforcement mechanisms under the ESA with regard to reprisal, complaints and orders.