

Highlights as of June 2017

ALBERTA:

Bill 17

Royal Assent Bill 17: *The Fair and Family-friendly Workplaces Act*, was introduced in the Alberta Legislature on May 24, 2017 and received Royal Assent on June 7th, 2017. The Bill is part of the Government of Alberta's efforts to ensure that "Alberta has fair, modern and family-friendly workplaces that support a growing economy." The bill proposes the following changes to existing law:

Employment Standards Code changes

Leave eligibility

- Employees are eligible for current and new leaves after 90 days, rather than 1 year.

Compassionate care leave

- Job protection is extended to 27 weeks, from the current 8 weeks, to better align with federal Employment Insurance benefits.
- Leave is available for multiple weekly installments within the period outlined in the medical certificate, rather than the current limit of 2 installments.
- Notice to return to work is reduced to 48 hours from the current 2 weeks.

Maternity/parental leave

- The proposed changes align the allowable leave with federal Employment Insurance guidelines.
- Job protection for maternity leave would be extended from 15 to 16 weeks to account for the one-week waiting time for federal Employment Insurance benefits.
- Legislation for the following would be modified such that:
 - an employee may be terminated during the notice/entitlement period ONLY for situations where the business is closed or suspended
 - leave would not apply if pregnancy terminates more than 16 weeks before due date
 - an employee whose pregnancy terminates within 16 weeks of the due date would still be eligible for maternity leave; leave would end either 16 weeks after the leave began or 6 weeks after the pregnancy is terminated

Rest periods

- Employees would require a minimum of a 30-minute break (paid or unpaid) for every 5 hours of consecutive employment. If agreed to by the employer and employees, breaks could be taken in two, 15-minute installments.

Compressed work weeks

- This type of work arrangement would be renamed as “Averaging Agreements.” All such agreements would require support of the majority of affected employees, or be contained within a union collective agreement.
- Employers and employees would be allowed to agree to average work hours over a period of 1 to 12 weeks for the purpose of determining overtime eligibility. Employers that require longer cycles may apply for a permit.

Minimum Age and wage

- Repeal the ability for employers to pay employees with disabilities less than minimum wage (no permits have been issued for more than 10 years).
- Allow children 12 years of age or younger to be employed only in an artistic endeavour and only if authorized by a permit
- Allow children ages 13 to 15 to be employed only in an artistic endeavour, light work, or other employment authorized by a permit so long as it is not hazardous work
- Allow children ages 16 and 17 to be employed in any employment but requiring that hazardous work meet certain requirements

Overtime

- Overtime agreements would allow time to be banked for 6 months rather than 3.
- Overtime banking would be calculated at 1.5x for all hours worked, rather than hour-for-hour.

General holiday and general holiday pay

- All employees would be eligible for general holiday pay.
- Regular and non-regular day of work distinction would be eliminated.
- General Holiday Pay would be calculated simply as 5% of wages from the previous 4 weeks worked.

Vacations and vacation pay

- The Code would be clarified to indicate that employees must be paid 4% or 2 weeks of their total wages as vacation pay until they have been employed for 5 years, after which they must receive at least 6%.
- Half-day vacation increments would be allowed, up from a minimum of 1 day.

Termination and temporary layoffs

- Introduce a requirement that an employer provide employees with notice in the event of a temporary layoff, including 1 week of notice for an employee employed less than 2 years and 2 weeks of notice for an employee employed more than 2 years
- Deem termination after 60 total days of layoff within a 120-day period, as opposed to after 60 consecutive days of layoff

Proposed additions to existing laws

Leaves

- **Long-Term Illness and Injury Leave** – A new unpaid leave would provide up to 16 weeks of job protection per year for long-term personal sickness or injury. Medical certificate and reasonable notice would be required. This would align with the federal Employment Insurance program.
- **Personal and Family Responsibility Leave** – A new unpaid leave would provide up to 5 days of job protection per year for personal sickness or short-term care of an immediate family member. Includes attending to personal emergencies and caregiving responsibilities related to education of a child.
- **Bereavement Leave** – A new unpaid leave would provide up to 3 days of job protection per year for bereavement of an immediate family member.
- **Domestic Violence Leave** – A new unpaid leave would provide up to 10 days of job protection per year for employees addressing a situation of domestic violence.
- **Citizenship Ceremony Leave** – A new unpaid leave would provide up to a half-day of job protection for employees attending a citizenship ceremony.
- **Critical Illness of a Child** – A new unpaid leave would provide up to 36 weeks of job protection for parents of critically ill or injured children. This would align with the federal Employment Insurance program.
- **Death or disappearance of a Child** – A new unpaid leave would provide up to 52 weeks of job protection for employees whose child disappeared as a result of a crime, or up to 104 weeks if a child died as a result of a crime. This would align with the federal Employment Insurance program.

Enforcement and Administration

- Extend the limitation period for filing a complaint to two years
- Substitute a newly created appeal body to hear any appeals under the legislation, as opposed to being heard by an umpire
- Introduce "administrative penalties" which may be levied against an employer in the event of non-compliance with the legislation

Labour Relations Code changes

- **Onus ULP:** In unfair labour practice complaints involving discipline, dismissal or other alleged intimidation of an employee, the employer would be required to prove the action it took does not constitute an unfair labour practice, rather than requiring the employee to try to prove that it does. In these situations, the employer is the only party that really knows and can explain why the action was taken.
- **Contractors:** The definition of employee would be changed to include dependent contractors who only work for one employer. This change would allow contractors to unionize and bargain collectively.
- **Dues:** The current provision of the Code that suspends the collection and remittance of union dues during an illegal strike would be removed.

- **Certification:** The process for certifying a new trade union would be changed. If between 40% and 65% of employees sign cards in favour of a union, a board conducted vote would be required. If over 65% sign cards, no board conducted vote would be required. In all cases, the Labour Relations Board would retain the ability to conduct a vote should there be doubt as to the authenticity of the support, or in any other situation the Board feels a vote is necessary. To revoke a union's certification, a minimum of 40% support of employees would be required in order to hold a secret ballot. If a majority of members support decertification in the secret ballot, the union's certification would be revoked.
 - The restriction requiring employees in the construction industry to have worked for an employer for 30 days to participate in a union certification vote would be removed. In addition, employees would not have up to 90 days to reconsider their decision.
 - In cases where employers have engaged in unfair practices, the Labour Relations Board would be able to grant certification of a union without the need for a vote. Similarly, the board would be able to revoke a union's certificate if the union has engaged in unfair practices without the need for a vote.
 - The current 90-day ban on labour making the same or a similar application for union certification to the Labour Relations Board would be clarified and imposed.
- **CA:** All collective agreements must be filed with the Director of Mediation Services.
- **Closing Loopholes:** A loophole that allowed international parent unions of an Alberta building trade union to avoid the existing registration bargaining system and bargain with employers directly would be eliminated.
- **Preamble:** The preamble to the *Labour Relations Code* would have four major themes:
 - good employer/employee relationships foster prosperity
 - employers, employees and unions benefit from clear labour laws
 - the rights of freedom of association and free collective bargaining for workers who choose a union to represent them aid economic and social wellbeing
 - the *Labour Relations Code* provides fair mechanisms to choose unions, fair bargaining structures and an equitable arbitration process to resolve disputes.

Proposed Addition to Current Laws

- First Contract Arbitration would be put in place to end difficult negotiations between an employer and a newly-certified union.
- All continuing care facilities, including those operated by the non-profit sector and those that are privately owned, would be included within essential services provisions of the Labour Relations Code. Strikes would continue to be allowed, however essential service agreements must be in place to continue operation of the facility during labour disruptions.

- Health care laboratories and blood supply services would be included within essential services provisions. Strikes would be continued to be allowed, however essential agreements must be in place to continue operation of the facility during labour disruptions.
- The Code would be updated to allow the Board to facilitate a union's ability to communicate with employees working in remote or inaccessible places.
- When requested by a union, a collective agreement will have to provide for Rand Formula union dues checkoff for all employees in the bargaining unit. Religious exemptions will continue to apply. This automatic 'dues check off' is already in place in most collective agreements. Exemptions would exist for those with religious objections that sees the equivalent of dues directed towards a mutually agreed upon registered charity.
- The Labour Relations Board will have specific authority to refer disputes where there have been egregious unfair labour practices to arbitration. This would align Alberta with the 1996 Supreme Court of Canada decision on the Royal Oak Mine case.
- If a union had a review process approved by the Labour Relations Board, an employee would need to use that approved review process for complaints that the union did not fairly represent them, prior to taking such a complaint to the Labour Relations Board.
- The Labour Relations Board would be given new powers, including the ability to:
 - decide how and whether to publish any of its decisions, to improve privacy protection for parties
 - require a party to produce all documents related to a matter coming before the Board. It would also have the ability to restrict disclosure of certain sensitive commercial or labour relations information it received; review arbitration awards, rather than the courts
 - manage proceedings that come before it, including the ability to defer a case where some other remedy may be available
 - proceed with an application after the death or incapacity of a Chair or Vice-chair
 - prohibit parties from making the same, or similar, applications by simply adjourning the matter indefinitely
 - manage the matters that come before it, including the ability to defer a case where some other remedy may be available
- Unions and employers would be allowed to ask for a supervised strike or lockout vote prior to the expiry of a collective agreement to be conducted after.
- Arbitrators would be able to extend the time available in a grievance matter even after the expiration of the time frame set in a collective agreement. They would also be able to make interim orders, expedite proceedings, set dates, work with the parties to resolve differences and apply solutions in accordance with other employment legislation.
- Electronic hearings and submissions would be allowed in grievance arbitration hearings.

BRITISH COLUMBIA

NO UPDATE The Legislative Assembly will resume on Thursday, June 22 at 10:00 am.

NEW BRUNSWICK

NO UPDATE The Third Session of the 58th Legislative Assembly stands adjourned until Tuesday, October 24, 2017.

NEWFOUNDLAND

Bill 7

3rd Reading This Bill would amend the Public Service Pensions Act, 1991 to:

- reflect the quarterly payment amount required to amortize the promissory note;
- allow the name of the corporation to be changed by a resolution of the board made by an affirmative vote of all the directors; and
- amend the objects of the corporation.

Bill 13

1st Reading This Bill would amend the Schedule to the Highway Traffic Act to increase the fines for the following offences:

- Failure to produce vehicle licence;
- Identification plates not securely fastened in proper position;
- Failure to keep identification plates clean;
- Invalid or no driver's licence;
- Failure to notify registrar of lost driver's licence;
- Failure to comply with vehicle inspection requirements

NOVA SCOTIA

NO UPDATE ADJOURNED APRIL 30th, 2017

NORTHWEST TERRITORIES

Bill 18-18(2)

Royal Assent This Bill amends the *Health and Social Services Professions Act*. This Bill:

- imposes a requirement on registered members to comply with continuing competency recording requirements, and authorizes inspection of those records;
- clarifies the nature of the registers maintained respectively by the Registrar and the Complaints Officer, including the scope of public access to those registers and the protection of personal health information included in them;
- authorizes the Minister to approve various items such as educational facilities, programs and standards of practice;
- makes consequential amendments to a number of other Statutes; and
- makes non-substantive amendments

MANITOBA

Bill 3

Royal Assent The Pooled Registered Pension Plans Act (Canada) provides a legal framework for the registration, administration and regulatory supervision of a type of pension plan that:

- is similar to a defined contribution plan, except that employer contributions are not mandatory;
- is open to employees and self-employed persons engaged in work that falls within the legislative authority of Canada; and
- pools the funds in members' accounts to achieve lower costs in relation to investment management and plan administration.

This Bill provides the legal framework for such a plan to be open to employees and self-employed persons in Manitoba who are engaged in work that falls within the legislative authority of the Legislative Assembly of Manitoba.

This Bill makes related amendments to The Garnishment Act and several other Acts.

Bill 25

Royal Assent The federal government has announced that it will introduce legislation that would legalize the non-medical use of cannabis (marijuana). At this time, it is unclear exactly when legalization will occur. This Bill amends several Acts to address health or safety concerns that will arise when cannabis consumption is no longer illegal, and it closes any legislative gaps that might be created when cannabis is no longer considered to be an illegal drug.

The Drivers and Vehicles Act

This Act is amended to require the registrar of motor vehicles to make a determination whether to suspend the licence of a novice driver or a person with a class or subclass of driver's licence prescribed in the regulations if the person receives a 24-hour roadside suspension under the new addition to The Highway Traffic Act for being under the influence of a drug.

The Highway Traffic Act

This Act is amended to create restrictions on the transportation of cannabis in motorized vehicles; prohibit the consumption of cannabis in motorized vehicles on a highway; create a 24-hour roadside suspension when an officer believes on reasonable grounds that as a result of being under the influence of a drug, a person is unable to safely operate a motor vehicle, vessel, aircraft or railway equipment; and mirror the obligation on the registrar of motor vehicles added to The Drivers and Vehicles Act under similar provisions of The Highway Traffic Act.

Bill 28

Royal Assent This Bill establishes a four-year sustainability period during which the compensation for public sector employees, and the fee payments to physicians and other health professionals, may not be increased except by the percentages permitted by the Bill.

Bill 29

Royal Assent Bill 29 drastically restructures health care bargaining units, reducing the number of health care collective agreements, forcing union representation votes, and imposes a commissioner with sweeping powers over health care bargaining.

Bill 33

Royal Assent Currently, the minimum wage is set out in a regulation under The Employment Standards Code. This Bill amends the Act to provide that the minimum wage is adjusted on October 1 of each year to reflect changes in the Manitoba Consumer Price Index.

Bill 217

First Reading This Bill amends the preamble of The Labour Relations Act to reflect the government's recognition that section 2 of the Canadian Charter of Rights and Freedoms guarantees a meaningful collective bargaining process and to set out components of that guarantee.

ONTARIO

Bill 65

Royal Assent The Bill amends the Highway Traffic Act. It addresses the ability of municipalities to set speed limits within their borders and the use of automated speed enforcement systems and red light camera systems.

Bill 134

Royal Assent Schedule 2 of the bill amends the Taxation Act 2007 to implement an Ontario seniors' public transit credit. The Ontario seniors' public transit tax credit maximum is \$225 for the 2017 tax year and \$450 for subsequent years.

Bill 148

First Reading Bill 148, the Fair Workplaces, Better Jobs Act, 2017, legislation will make significant amendments to the Employment Standards Act, 2000 (ESA) and the Labour Relations Act, 1995 (LRA). Some of the highlights of the bill include:

- Raising Ontario's general minimum wage to \$14 per hour on January 1, 2018, and then to \$15 on January 1, 2019, followed by annual increases at the rate of inflation
- Bringing Ontario's vacation time into line with the national average by ensuring at least three weeks' vacation after five years with a company
- Personal emergency leave would no longer only apply to workers at companies with 50 or more employees. All workers will get 10 days per year, two of them paid. Domestic or sexual violence will be included as a reason for personal emergency leave.
- Employers will not be allowed to request a sick note from an employee taking personal emergency leave.
- Give unpaid leave of up to 104 weeks to parents whose children die. It is currently only offered to parents when a child's death is related to a crime.
- Employers must pay three hours of wages if they cancel a shift with fewer than 48 hours' notice.
- Employees can refuse shifts without repercussion if the employer gives them less than four days' notice.
- Employees on call must be paid three hours at their regular pay rate.
- Employees will have the right to request changes to their schedule after working somewhere for three months.
- Temp agency workers must get at least one week's notice when a job that was supposed to last longer than three months will end early. If that notice is not given, the employee must be paid the difference.
- Companies that misclassify workers as "independent contractors" instead of employees in order to skirt labour law obligations would be subject to fines.

- The maximum fine for employers who violate employment standards laws will be increased from \$250, \$500 and \$1,000 for various violations to \$350, \$700 and \$1,500. The government will publish the names of those who are fined.
- The maximum fines under the Labour Relations Act would increase from \$2,000 for individuals and \$25,000 for organizations to \$5,000 and \$100,000.
- Trainees will be afforded the same rights as all employees, but people on a co-op or internship program through school would not be.
- Make it easier for home care and community services workers, people in the building services sector, and those who work through temp agencies to unionize.
- Allow unions to access employee lists and certain contact information if the union can demonstrate it has the support of 20 per cent of employees.

PRINCE EDWARD ISLAND

NO UPDATE

QUEBEC

Bill 142

Royal Assent

The purpose of this bill is to end the current strikes in the construction industry in order to ensure that construction work is resumed.

The bill provides for the resumption of the work interrupted by the strikes and imposes obligations and prohibitions on the employees, representative associations, employers and employers' associations with regard to the resumption and continued performance of work.

The bill also provides for the maintenance of the conditions of employment in force on 30 April 2017 contained in the respective collective agreements for the institutional and commercial sector, the industrial sector, the residential sector and the civil engineering and roads sector until new collective agreements replacing them take effect and for a 1.8% wage rate increase as of the date on which work resumes.

To ensure the renewal of the collective agreement for each sector, the bill provides for a mediation period which is to be followed by arbitration if mediation fails.

Lastly, the bill prescribes civil and penal sanctions for any failure to comply with the obligations or contravention of the prohibitions it imposes.

Bill 796
First Reading

The purpose of this bill is to allow an employee to be absent from work to provide care or support to a close relation, whether a relative or not (informal caregiving).

The Act respecting labour standards is amended to allow an employee to be absent from work, without pay, 10 days a year, to provide such care or support as is currently permitted to fulfil his or her parental obligations or due to the state of a family member's health.

The 10 days an employee may be absent for family or parental matters or to provide care or support to a close relation may be divided into hours or otherwise, with the employer's consent. Furthermore, the number of weeks an employee may be absent from work over a 12-month period is increased from 12 to 17 if the employee must stay with his or her child, spouse, spouse's child, father, mother, father's or mother's spouse, brother, sister or grandparent due to an illness or a serious injury. In the same circumstances, the employee may be absent for the same length of time when required to stay with a close relation, whether a relative or not.

Lastly, an employee may be absent from work no more than 28 weeks over a 12-month period if the illness or injury involves a significant risk of death. However, if the employee's minor child needs care or support due to an illness or injury involving a significant risk of death, attested by a medical certificate, the employee remains entitled to an extension of the absence. The absence ends at the latest 104 weeks after beginning.

NUNAVUT

Bill 48
Second Reading

This Bill makes various amendments to the Access to Information and Protection of Privacy Act. In particular, it provides for the application of the Act to municipalities, the anonymity of applicants and the making of regulations respecting the disclosure of the remuneration of a member of a public body.

SASKATCHEWAN

NO UPDATE

YUKON

Bill 2

Royal Assent This enactment establishes National Aboriginal Day as a general holiday to take place on June 21 in every year. A “‘general holiday’ means New Year’s Day, Good Friday, Victoria Day, National Aboriginal Day, Canada Day, Discovery Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day and includes any day substituted for any such general holiday pursuant to subsection 29(2) or 35(1)

Bill 5

Committee

This enactment amends the Human Rights Act to add gender expression and gender identity as prohibited grounds of discrimination.

This enactment amends the Vital Statistics Act and Vital Statistics Regulations to:

- permit a change of sex on a person’s registration of birth, whether or not the person has had sex reassignment surgery; and
- allow for a person’s sex to be recorded as something other than male or female.

PARLIAMENT OF CANADA

C-16

Third Reading

This enactment amends the Canadian Human Rights Act to add gender identity and gender expression to the list of prohibited grounds of discrimination.

The enactment also amends the Criminal Code to extend the protection against hate propaganda set out in that Act to any section of the public that is distinguished by gender identity or expression and to clearly set out that evidence that an offence was motivated by bias, prejudice or hate based on gender identity or expression constitutes an aggravating circumstance that a court must take into consideration when it imposes a sentence.

C-7

*Concurrence in House
of Commons Amendments*

This enactment amends the Public Service Labour Relations Act to provide for a labour relations regime for members of the Royal Canadian Mounted Police and reservists. It provides a process for an employee organization to acquire collective bargaining rights for members and reservists and includes provisions that regulate collective bargaining, arbitration, unfair labour practices and grievances. It also amends the Royal Canadian Mounted Police Act to bar grievances related to the interpretation and application of a collective agreement or arbitral award, which are to be filed in accordance with the Public Service Labour Relations Act. It changes the title of the Public Service Labour Relations Act and the Public Service Labour Relations and Employment Board Act and the name of the Public Service Labour Relations and Employment Board. It also amends that latter Act to increase the maximum number of full-time members of the Board and to require the Chairperson, when making recommendations for appointment, to take into account the need for two members with knowledge of police organizations.