

MDM Insurance Services Inc.

2019 – Human Resources Year in Review

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Bill 66

Passed on April 3, 2019 Bill 66 amended the Employment Standards Act. The changes impacted organizations where employees typically work more than 48 hours weekly (ESA maximum). Prior to the new bill employers could average the number of hours an employee worked over a number of weeks to limit the employee's entitlement to overtime. Under bill 66 employers can only average hours over a maximum of 4 weeks and a written agreement, including a start and end time, between employer and employee is required. An approval from the Director of Employment Standards is no longer required. Under Bill 66 employers are no longer required to have in their workspace an ESA poster. However, they must provide a poster to every new hire. A written agreement between the employee or bargaining unit and the employer is still required to exceed the maximum weekly 48 hours.

Canada Labour Code

On September 17, 2019 changes to the Canada Labour Code came into effect for Federal Sector employers:

Employers are required to provide 96 hours written notice prior to start of an employee's first shift and 24 hour written notice of a shift change.

- Employees now have the option to use overtime hours (paid at time and a half) towards paid time off.
- Employees now have the right to refuse to work overtime in order to carry out family responsibilities.
- Employees are now entitled to 30 minutes unpaid break for every 5 consecutive hours worked and a rest period of at least 8 hours between shifts.
- Minimum length of service is no longer a requirement for holiday pay.
- After 6 months of continuous employment, employees have the right to request a change to their schedule, number of hours worked and location of work.
- Employees are no longer required to meet service requirements to apply for maternity and parental leave, leave related to critical illness, or leave related to death or disappearance.
- New vacation and holiday entitlement for federal employees; 3 weeks after 5 years of consecutive employment with the same employer and 4 weeks after 10 years.

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Harassment in the Workplace

Public awareness about workplace violence and sexual harassment in the workplace received more attention than ever in 2019. On April 26, 2019 the Federal Government announced that Bill C-65 will become effective in 2020. Bill C-65 will make significant changes to the way workplace violence and harassment are handled. Under the new Bill, employers will be required to assess and identify risks of harassment and violence in their workplace, implement preventative measures and prepare policies specific to violence and workplace harassment. The new Bill will also require that an employer has a designated representative to receive complaints of workplace violence and harassment. All employees will be required to attend mandatory prevention training. Employers will also be required to follow protocol to handle occurrences of workplace violence and harassment and provide support to those affected. Former employees who are still within 3 months of having ended their employment with the current employer are liable should an occurrence which involved them become known to the employer.

Drugs and Alcohol in the Workplace

One year after the legalization of cannabis employers still find it challenging to achieve the right balance between protecting an employee's human rights while ensuring a safe workplace. Cannabis in the workplace is no different from any other drug that has the potential to cause impairment. There is no duty to accommodate recreational cannabis use. However, there is a duty to accommodate a substance abuse disorder to the point of undue hardship. The important question is whether or not an employee (using legal or illegal drugs) is fit to do his or her duty. As the courts and Arbitrators continue to clarify the law, employers can protect themselves by implementing a drug and alcohol policy that clearly outlines workplace rules and standards, and is accessible to all employees. It is also important to stay on top of new legislation to ensure compliance.

Learn more

For a full review of Bill 66 please refer to the Ontario website.

<https://www.ontario.ca/laws/statute/s19004>

For a full review of changes to the Canada labour code please refer to the Canada labour code for more details.

<https://www.canada.ca/en/employment-social-development/programs/laws-regulations/labour/current-future-legislative.html>

For a full review of Bill C-65 please refer to the Parliament of Canada website.

<https://www.parl.ca/DocumentViewer/en/42-1/bill/C-65/royal-assent>

