

Human Resources Legislative Update

Bill 66 Passes, Amends ESA, LRA and PBA

Date: April 4, 2019

On April 3, 2019, [Bill 66, Restoring Ontario's Competitiveness Act, 2019](#), received Royal Assent. Bill 66 is omnibus legislation which amends various statutes, including the following employment-related statutes:

1. Employment Standards Act, 2000 (ESA)

The ESA has been amended to remove the need for employers to obtain the approval of the Director of Employment Standards in relation to two key agreements:

- **Excess Weekly Hours of Work:** Employers would still be obligated to obtain the written agreement of employees or their bargaining agent to work weekly hours in excess of 48 hours per week. Other rules relating to excess hours of work agreements continue to apply.
- **Overtime Averaging:** Employers are permitted to enter into written agreements with employees or their bargaining agent to average hours of work for the purposes of determining entitlement to overtime pay for periods of up to four weeks. To be valid, overtime averaging agreements would need to specify a start date and end date. Bill 66 also provides for the continuation of existing approved averaging agreements.

In addition, the employer's obligation to post the Minister of Labour's ESA poster in the workplace has been removed. Responsibility for the poster is transferred from the Minister to the Director of Employment Standards. Employers remain obligated to provide a copy of the poster to their employees.

The ESA amendments came into force upon Royal Assent, or April 3, 2019.

2. Labour Relations Act, 1995 (LRA)

Bill 66 amends the LRA by deeming a wide range of public sector organizations, including municipalities, school boards, public hospitals, colleges and universities, and various district social services administration boards, to be "non-construction employers" to whom the construction industry provisions of the LRA would not apply.

As amended by Committee, certain entities may "opt-out" of this rule by filing an election with the Minister within three months of Bill 66 receiving Royal Assent.

The "opt-out" provisions came into force upon Royal Assent. The deeming provision will come into force upon proclamation.

3. Pension Benefits Act (PBA)

Bill 66 repeals section 80.4(1) of the PBA. That section had set out the framework for mergers of existing single employer pension plans and jointly sponsored pension plans (JSPP), which are jointly governed and risk-shared plans. Through the repeal of that section, private sector employers no longer need to obtain a specific regulation naming their pension plan(s), eliminating a bureaucratic step in the merger process. It should be noted, however, that a similar change has not been proposed with respect to section 81.0.1(1) of the PBA, which relates to the conversion of single employer pension plans into JSPPs and such conversions continue to be available only to public sector pension plans or prescribed plans.

This change to the PBA came into effect upon Royal Assent.