

## Minimum Standards Monitor

# Ontario Proposes Increase to Hours for Unionized Employees Under ESA Overtime Averaging Agreements

**Date:** June 20, 2019

On June 19, 2019, the government published two regulatory proposals which relate to the *Employment Standards Act, 2000* (ESA) and for which the government is inviting feedback by August 5, 2019.

## 1. Overtime Averaging Agreements – Unionized Employees

Under amendments to the ESA enacted by Bill 66, the *Restoring Ontario's Competitiveness Act, 2019*, employers are now 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. The approval of the Director is no longer required.

The government is seeking feedback on a proposal which would give unionized parties the ability to negotiate agreements where a higher cap, or no cap, could be imposed. Non-unionized parties would remain subject to the four week cap.

Specifically, the government is inviting feedback on the following questions:

- Do you support changing the four-week cap as it applies to unionized workplaces? Why or why not?
- What do you think would be the best approach to take if the government proposed changes to the cap? For example, do you think that there should be no cap or that a higher cap should be imposed instead?

[Comments are due by August 5, 2019.](#)

## 2. Regulation 291/01 – Terms and Conditions of Employment in Defined Industries – Women's Coat and Suit Industry and Women's Dress and Sportswear Industry

Regulation 291/01 sets out rules and terms of employment that apply to the women's coat and suit industry and the women's dress and sportswear industry (as defined).

The government states that this regulation is a “holdover from rules that were established under the former *Industrial Standards Act*.” That Act was repealed in 2001.

The regulation applies to a limited number of employers and employees and the government is considering revoking it. As a result, the parties currently subject to the regulation would fall under the general rules found in the ESA. The government is seeking feedback on the following questions:

- Would this change affect you? If so, how?
- Do you support the proposed change? Why or why not?

[Comments are due by August 5, 2019.](#)

Should you have any questions regarding these proposals, or require assistance in preparing feedback, please contact [Amanda Hunter](#) at 416.864.7265 or [your regular Hicks Morley lawyer](#).