FTR Now

Working for Workers Four Act, 2023 Receives Royal Assent

Date: March 21, 2024

On March 21, 2024, Ontario's Bill 149, *Working for Workers Four Act, 2023* (Bill 149) received Royal Assent. Bill 149 amends several statutes including the *Employment Standards Act, 2000* (*ESA*), *Workplace Safety and Insurance Act, 1997* (*WSIA*), *Digital Platform Workers' Rights Act, 2022* (*DPWRA*), and *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* (*FARPCTA*).

This *FTR Now* provides an overview of when the key amendments of importance to employers will take effect. For a more comprehensive overview of the changes introduced by Bill 149, see our *FTR Now* of November 15, 2023.

Amendments to the *ESA*

Changes introduced by Bill 149 that **are now in force**:

- The definition of "employee" is amended to confirm that work performed in a "trial period" is considered "training" and, as such, any person performing work in a trial period is to be considered an employee for the purpose of the *ESA*.

- Currently, an employer cannot make a deduction from wages because an employee had a cash shortage or loss of property and another person had access to the cash or property. As a result of Bill 149, this now expressly includes where a customer of a restaurant, gas station or other establishment leaves the establishment without paying for the goods or services taken from, consumed, or received at the establishment.

Changes introduced by Bill 149 that take effect on **June 21, 2024**:

- An employer must pay any tip or gratuity by cash, cheque payable to the employee, direct deposit or any other prescribed method. If paid by direct deposit, the account in which the pay is deposited must meet the requirements of the *ESA*.
- If an employer has a tip policy where the employer or a director or shareholder of the employer shares in a "tip pool," the policy must be in writing and posted in the workplace and retained for three years after it ceases to be in effect.
- Clarifying amendments made to the vacation pay provisions to confirm that any permissible alternate pay arrangement agreed to between an employer and employee must be in writing.
- A clarifying amendment made to the direct deposit provisions to confirm that, if payment is made by direct deposit, in addition to being in the employee's name and being accessible only to the employee or a person authorized by the employee, the account must be one selected by the employee.

Changes introduced by Bill 149 that are not currently in force and will take effect in the future **on proclamation**:

- An employer must include information about the expected compensation for a position, or range of expected compensation, in any publicly available job posting.
- An employer cannot include any requirement related to Canadian experience in a publicly available job posting or associated job application form.
- An employer must disclose in any publicly available job posting if it uses artificial intelligence to screen, assess or select applicants.
- An employer must retain copies of every publicly advertised job posting and associated application form for three

years after public access to the posting is removed.

Amendments to the *WSIA*

Changes introduced by Bill 149 that are not currently in force and will take effect in the future **on proclamation**:

- Amendments to permit the Ontario government to “super index” increases to Workplace Safety and Insurance Board (WSIB) benefits above the annual rate of inflation through regulation.
- Firefighters and fire investigators diagnosed with primary-site esophageal cancer will be presumptively entitled to WSIB benefits after 15 years of employment (decreased from 25 years).

Other Legislative Amendments

Bill 149 amends the *DPWRA* to allow limits to be imposed on the length of a recurring pay period and the time between a pay day and the end of a pay period by regulation. It also provides for regulations to be enacted to prescribe rules to determine compliance with minimum wage requirements under the *DPWRA*. Both amendments will take effect in the future when the minimum wage provisions of the *DPWRA* come into force.

Bill 149 amends the *FARPCTA* to allow the government to prescribe requirements that must be met to determine whether a regulated profession assesses qualifications in a way that is transparent, objective, impartial and fair. These requirements would also apply to a third party who makes the assessments. These amendments take effect in the future on proclamation.

We will continue to monitor Bill 149 and provide an update when key legislative amendments are proclaimed in force. If you have any questions about Bill 149 or how it might impact your workplace, please contact your regular Hicks Morley lawyer.