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Bill 17: Navigating Alberta's new workplace legislation

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Bill Armstrong, Senior Partner QC

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Speakers



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Ms. Jones practices employment and business immigration law. She assists corporate clients with strategic advice in relation to workplace issues, drafting of employment agreements, workplace policies, restrictive covenants and non-disclosure agreements, human rights issues and investigations, disability management, drug and alcohol testing policies and practices, employment standards compliance, privacy compliance, including the drafting of policies and practices, and counsel to employers in relation to employment issues in the context of corporate transactions and restructurings.



Bill Armstrong, Q.C.

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Mr. Armstrong practices in employment and labour law. During his many years representing corporate clients and major public employers, he has played an active role in shaping Alberta labour relations law. His intimate knowledge of the issues facing unionized employers has been honed as counsel before countless rights and interest arbitrators and labour relations boards, as an advisor during collective bargaining and as an employer nominee on arbitration panels. He is a seasoned employer advocate in human rights and WCB proceedings and employment-related litigation before provincial and federal courts and the Supreme Court of Canada.

Bill 17: *The Fair and Family-friendly Workplaces Act*



Employment Standards Code:

- The Bill amends Alberta's existing *Employment Standards Code (ESC)* and *Labour Relations Code (LRC)*
- The Bill is meant to reflect Alberta's modernized workforce, including growth in part-time jobs, shift work and flexible schedules

Important dates

Employment Standards Code:

- Most changes occurred on January 1, 2018

Labour Relations Code:

- Most changes occurred on June 7, 2017

Effect on current collective agreements:

- *ESC* and *LRC* changes that relate to current collective agreements will not apply until the earlier of (i) the date a new collective agreement is entered into, or (ii) January 1, 2019
- Employers should keep the new minimum standards found in the amended *ESC* in mind when entering into bargaining

Overview of the amendments to *The Employment Standards Code*

Increases to maternity and parental leave

Increases to compassionate care leave

New forms of unpaid leave

Banked overtime

Compressed work weeks

Rest periods

Vacation and holiday pay

Youth and disability employment

Terminations and temporary layoffs

Increases to maternity and parental leave



Maternity leave:

- Leave period increased from 15 to 16 weeks
- Extended to mothers whose pregnancy ends 16 weeks before the estimated due date
- Protects employees who are entitled to, but not yet started, maternity leave from termination

Parental leave:

- Leave period increased from 37 to 62 weeks

Reduced qualifying period:

- Eligibility for these leaves reduced from 1 year to 90 days

Increases to compassionate care leave



Increased leave period:

- Maximum leave period increased from 8 weeks to 27 weeks

Reduced return notice period:

- Employee notice period reduced from 2 weeks to 48 hours

Reduced qualifying period:

- Eligibility reduced from 1 year to 90 days

New forms of unpaid leave



- Long term disability and injury leave
- Death or disappearance of a child leave
- Critical illness of child leave
- Personal and family responsibility leave
- Bereavement leave
- Domestic violence leave
- Citizenship ceremony leave




Banked overtime



- Increased calculation rate of 1:1.5, rather than 1:1
- Increased 'banking' time of 6 months, rather than 3 months

Compressed work weeks

- Renamed 'averaging agreements'
- Agreements set out average hours for a period of 1 - 12 weeks
- Agreements cannot last for more than 2 years

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	12 hours 	10 hours 	12 hours 			

Rest periods



- 30 minute break entitled for every 5 hours of consecutive work, rather than once per shift
- 30 minute break may be taken in two 15 minute installments

Vacation and holiday pay



Holiday pay:

- No 30 day eligibility requirement
- No 'regular work day' requirement

Vacation pay:

- Half-day vacation increments allowed

Youth and disability employment

Employees with disabilities:

- Employers cannot pay employees with disabilities less than minimum wage

Youth employment:

- Minimum age for employment is now 13 years old
- New restrictions on work that can be done by employees under 18 years old

Terminations and temporary layoffs



Terminations:

- Employers are prohibited from requiring employees to use entitlements during a termination notice period, unless otherwise agreed

Group termination:

- Employers must give 8 - 16 weeks' notice to employees, unions, and the Minister

Temporary layoffs:

- Employers must give 1 - 2 weeks written notice
- Layoffs exceeding 60 days in a 120 day period are deemed termination

Bill 30: *An Act to Protect the Health and Well-being of Working Albertans*

The basics:

- The Bill amends Alberta's existing *Occupational Health and Safety Act (OHSA)*
- The Bill is meant to reflect Alberta's modernized workforce and increase worker protection

Important date:

- Most changes occur on June 1, 2018

Three basic rights

Bill 30 focuses on three fundamentals:

1. The right to **refuse** dangerous work;
2. The right to **know**; and
3. The right to **participate**.



Updates to worksite responsibilities

Contractors:

- Must ensure work under their control does not endanger health and safety

Supervisors:

- Must take all precautions to protect the health and safety of every worker under their supervision

Service providers:

- Must ensure the services they provide comply with the laws, are provided by a competent person, and do not create a hazard

Temporary staffing agencies:

- Must comply with OHS laws and ensure worker health and safety

Increased employer responsibilities

- Ensuring the health, safety and welfare of workers and the public
- Providing competent supervisors, training workers, and preventing violence and harassment
- Cooperating with the joint worksite health and safety committee



Reporting serious injuries, incidents and fatalities

- Employers must notify the government when a serious injury, incident or fatality occurs
- Threshold for reporting a serious injury is no longer two days in the hospital
- Employers required to report 'near misses'

Other OHS changes

Health and safety programs:

- Written health and safety program mandated for every employer with 20 or more workers

Government duties:

- The *OHS*A must be reviewed every 5 years

OHS Advisory Council:

- New, specialized council to provide advice to the government

Overview of the amendments to *The Labour Relations Code*

Certification process

Unfair labour practices

Judicial reviews

Powers of arbitrators

Marshalling

Certification process



- Secret ballot votes no longer required where there is 65% support for certification
- Votes required where there is 40% - 65% support for certification
- Expiry period for union cards increased from 90 days to 6 months
- Mandatory timelines are now reduced

Unfair labour practice complaints



- Employers now bear the onus in cases where an employee has alleged an unfair labour practice based on discipline or discharge based on union affiliation

Judicial reviews



- Decisions of an arbitrator, arbitration board or other body are now reviewable to the Alberta Labour Relations Board (and not The Court of Queen's Bench)

Powers of an arbitrator



- Extend time limitations in grievance arbitrations
- Mediate and expedite hearings
- Make interim or preliminary orders
- Order particulars before a hearing
- Order pre-hearing production
- Apply solutions in accordance with other employment legislation
- Receive and accept evidence in videoconference or electronic form

Marshalling



- New power of Alberta Labour Relations Board to make marshalling orders
- Related applications brought in a variety of forums will be combined into one proceeding and managed by the Board
- Intention is to reduce the number of related proceedings taking place regarding a single issue or set of facts



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