

COMPLIANCE BULLETIN

HIGHLIGHTS

- In 2017, the Fair and Family-friendly Workplaces Act (Bill 17) received royal assent. Bill 17 makes significant amendments to the Alberta Employment Standards Code.
- The changes will affect all provincially regulated employers in Alberta.
- Most of the changes to the Employment Standards Code will come into force on Jan. 1, 2018.

Employment Standards Code Changes in Alberta Come into Effect Jan. 1

OVERVIEW

In 2017, the Fair and Family-friendly Workplaces Act (Bill 17) received royal assent. Bill 17 makes significant amendments to the Alberta Employment Standards Code. The changes will affect all provincially regulated employers in Alberta. Most of the changes to the Employment Standards Code will come into force on Jan. 1, 2018.

Prior to Bill 17, Alberta had some of the oldest workplace legislation in Canada, and both the Employment Standards and Labour Relations Codes had not been significantly updated in almost 30 years. Alberta's government has indicated that the purpose of Bill 17 is to modernize Alberta's labour laws and bring them more in line with the rules found in other provinces.

This Compliance Bulletin provides a general summary of the major items to note regarding the upcoming changes.

CHANGES TO EXISTING LAWS

As part of Bill 17, the following are just some of the changes that will come into effect Jan. 1, 2018:

- **Leave eligibility**—Employees will be eligible for current and new leaves after 90 days, rather than one year. This provision excludes reservist leave.

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- **Compassionate care leave**—Unpaid job protection will be extended to 27 weeks (previously eight weeks) to better align with federal employment insurance benefits. Leave will be available for multiple, weekly instalments within the period outlined in the medical certificate.
- **Maternity/parental leave**—Unpaid job protection for maternity leave will be extended from 15 to 16 weeks. This provision is to account for the one-week waiting time for federal employment insurance benefits. In addition, unpaid job protection for parental leave will be extended to 62 weeks.
- **Rest periods**—Employees will be entitled to a minimum of a 30-minute break (paid or unpaid) within every five hours of consecutive employment. If agreed to by the employer and employees, breaks can be taken in two, 15-minute instalments.
- **Compressed workweeks**—To determine overtime eligibility, employers and employees can agree to average work hours over a period of up to 12 weeks. Workweeks may also be compressed as part of these agreements.
- **Deductions**—The Employment Standards Code will clarify which deductions will be allowed from wages. It will also explicitly prohibit deductions for faulty work and cash shortages.
- **Minimum wage**—Employers will no longer be allowed to pay employees with disabilities less than the minimum wage. In addition, permits that previously allowed employers to pay employees with disabilities less than the minimum wage are no longer available.
- **Overtime**—Overtime agreements will allow time to be banked for six months rather than three. Overtime banking will be calculated at 1.5 times for all overtime hours worked rather than hour-for-hour.
- **General holiday and general holiday pay**—The new code eliminates a previous requirement where employees had to work for 30 days in the 12 months before the holiday. The distinction between regular and non-regular days of work will also be eliminated. General holiday pay will be calculated as 5 per cent of wages, general holiday pay and vacation pay earned in the four weeks immediately preceding the holiday.
- **Vacations and vacation pay**—Changes to the Employment Standards Code clarify that employees must be paid 4 per cent or two weeks of their total wages as vacation pay through their first five years of employment. After five years, employees must receive at least 6 per cent. In addition, half-day vacation increments will be allowed.
- **Termination and temporary layoffs**—Employers will be prohibited from forcing employees to use entitlements, such as vacation or overtime during a termination notice period, unless agreed to by both parties. The possibility of an indefinite temporary layoff will be eliminated by requiring layoffs be limited to 60 days within a 120-day period. Requirements for providing termination notices to large groups of employees, unions and the Minister of Labour will be increased and scaled as follows:
 - For 50 to 100 employees: Eight weeks
 - For 101 to 300 employees: 12 weeks
 - For 301-plus employees: 16 weeks

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- **Youth employment**—With the exception of artistic endeavours, youth under the age of 13 will not be allowed to work as employees. Youth between the ages of 13 and 15 will only be allowed to work in jobs indicated on the “light work” list.

ADDITIONS TO EXISTING LAWS

In addition to changing certain requirements of the Employment Standards Code, Bill 17 makes a number of additions to pre-existing laws. Specifically, the following are just a few amendments that will be added to the Employment Standards Code:

- **Leaves**—The following unpaid leaves will be added to the Employment Standards Code:
 - Eligibility
 - Personal and family responsibility leave
 - Long-term illness and injury leave
 - Bereavement leave
 - Domestic violence leave
 - Citizenship ceremony leave
 - Critical illness of an adult family member
 - Critical illness of a child
 - Death or disappearance of a child
- **Enforcement and administration**—A new administrative penalty system will be implemented for employers that violate the Employment Standards Code.
- **Farms and ranches**—The new Employment Standards Code will make a number of changes that will impact farms and ranches. The following are just some of the changes to be aware of:
 - Family members will be exempt from all Employment Standards Code provisions.
 - Children 12 and under are prohibited from employment, except for artistic endeavours approved by a permit. Youth between the ages of 13 and 15 will only be allowed to do light work (no hazardous jobs). Youth aged 16 to 17 will be allowed to do hazardous work with a permit, proper training and supervision.

Changes and additions to the Employment Standards Code are complex, and the above items provide a general overview of the new requirements. To read an in-depth summary of the upcoming changes to the Employment Standards Code and gain access to a variety of educational resources, click [here](#).

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NEXT STEPS FOR EMPLOYERS

Because changes to the Employment Standards Code come into force Jan. 1, 2018, employers must educate themselves. In order to prepare, employers should do the following:

1. **Review all of your human resources policies.** Ensure that these policies comply with any new provisions found in the Employment Standards Code. Specifically, pay close attention to your policies and procedures regarding the following:
 - a. Overtime and overtime agreements
 - b. Unpaid leaves
 - c. Temporary layoffs
 - d. Hours of work
 - e. General holidays
 - f. Deductions from earnings
2. **Review your employment agreements.** It's critical to note that any provision in your employment agreements that provides your employees with less than the minimums prescribed by the Employment Standards Code will no longer be valid. Ensure you make no reference to outdated provisions in your employment agreements.
3. **Review standard practices.** Employers likely have standard practices that aren't typically included in their policies or employment agreements. To comply with the new Employment Standards Code, employers should review their standard practices, particularly for rules around breaks, rest periods and terminations.
4. **Inform and train your managers, supervisors and HR personnel.** These professionals need to understand the new rules and how they impact the workplace.

Employers should immediately review and revise all handbooks, policies and practices that are impacted by the new legislation. For more information on the changes to the Employment Standards Code, click [here](#).