



THE EMPLOYERS'Edge BULLETIN

Employment Standards Update

The provincial government has taken steps to introduce amendments to the *Employment Standards Act, 2000* to provide greater protection to temporary workers and those employees who donate vital organs.

Changes to Protect Temporary Workers

In December 2008 the government introduced legislation to help provide greater protection to temporary or "assignment workers" as part of a larger "poverty reduction" initiative to assist low income workers. It is estimated that more than 700,000 people in Ontario work as a temporary or assignment employees which means that this legislation, if passed, will impact a huge segment of Ontario's workforce. Bill 139, which received Second Reading on March 2, 2009, sets out a number of amendments to assist temporary or assignment employees and includes the following changes: the elimination of the exemption from termination and severance pay for "elect to work employees"; a prohibition against finder fees charged by temporary staffing agencies when a temporary worker is hired on a permanent basis by the client after the assignment employee has provided services for more than six months; and, a new "deemed termination" provision where a temporary employee's services are deemed to have been terminated (thus entitling the employee to termination and severance pay, where applicable) where the temporary employee has not been assigned to provide client work for a period of thirty-five (35) weeks or more. These controversial amendments are expected to pass in the legislature and will come into effect six months after they receive Royal Assent. We note that Regulation 443/08, which came into effect on January 2, 2009, granted elect-to-work employees (which would include many temporary assignment workers) the same rights to public holidays as other employees. Previously, this segment of the workforce was exempt from public holiday entitlement. All of the changes will have far reaching implications for employers who use temporary workers and agencies who engage these people to provide services.

Organ Donor Leave

The liberal government has also introduced legislation (Bill 154 which received First Reading on March 2, 2009) which, if passed, could grant up to twenty-six (26) weeks of unpaid, protected leave to employees who donate all or a part of their kidney, liver, lung, pancreas or small bowel. This leave will be available regardless of the size of the employer's workforce to anyone with thirteen (13) weeks of continuous service with his/her employer. This leave will be protected in the same manner as pregnancy/parental/emergency/compassionate and reservist leaves currently are under the legislation.

Crawford Chondon & Partners LLP will continue to keep you updated on the status of these proposed amendments.

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