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# British Columbia: Royal Assent for Bill 8 Results in Changes to the Employment Standards Act

## **Legislative Update | Canada | June 2019**

On May 30, 2019, British Columbia's Bill 8, Employment Standards Amendment Act, 2019, received Royal Assent and significantly amended the Employment Standards Act (ESA). Below are some of the amendments that may have an immediate effect on employers' workplaces.

### **ESA's Application to Unionized Workplaces**

Prior to Bill 8, unionized workplaces were not affected by the ESA. Bill 8 extends the ESA's application to these workplaces and collective agreement provisions that deal with traditional ESA subject matters, such as overtime, hours of work, statutory holidays, treatment of gratuities, vacation time/pay, seniority retention, entitlements upon termination of employment and temporary/permanent layoff.

Collective agreements that are entered into on or after May 30<sup>th</sup> will have to either meet or exceed the ESA standards for these provisions. If such agreements fail to do so, the ESA's standard provisions will be deemed to be incorporated into the agreement.

As an employer, if you have any upcoming collective bargaining, it would be prudent to ensure that these ESA provisions are negotiated. Employers that are unfamiliar with the ESA provisions should contact their Gallagher consultant so that we can provide a summary to assist with future agreement design and bargaining.

### **Temporary Help Agencies**

Similar to the provision above, Bill 8 extends the ESA to temporary help agencies by requiring them to be licensed under the ESA. In the event that an employer engages services from an unlicensed agency, Bill 8 requires that the employer be identified as the employer of each employee that performs work on their behalf for all purposes under the ESA.

It is important to note that this provision comes into effect when the Lieutenant Governor in Council provides regulation. However, in anticipation of this event, now would be a great time for employers to review their existing arrangements with temporary help agencies, specifically to determine whether the agency is licensed per ESA requirements. If not, the employer may need to weigh the decision as to whether to continue the arrangement if the agency is willing to adopt additional compliance requirements for the agency's employees or to enter into a contract with a licensed entity.

### **Critical Illness/Injury Leave and Domestic Violence Leave**

Bill 8 introduces two new job protected, unpaid leaves for employees. The first is critical illness or injury leave that allows employees to take unpaid leave to provide care and support to certain family members whose lives are believed to be at risk of death. If the family member at risk is a minor, the employee is allowed up to 36 weeks. If the family member is an adult, the employee is limited to 16 weeks.

The second unpaid leave is for leave respecting domestic violence. Per this provision, employees are allowed up to 10 days of leave for certain victims of domestic violence in order to seek various forms of assistance for the domestic violence. If the employee themselves is the victim of domestic violence, they are eligible for an additional 15 weeks of unpaid leave.

Employers should review their existing, written leave policies to ensure that these two new job protected, unpaid leaves are included in the policy. Any additional administrative or procedural requirements (e.g. technology updates in payroll, etc.) should also be reviewed. Lastly, employers should communicate to the employees how these two new leaves will integrate with their existing leave policies.

Bill 8 also includes other provisions such as:

- The Director of Employment Standards' powers concerning workplace investigations and extensions of filing time limits,
- An increase to 12 months from six months for the amount of time that an employee is entitled to recover wages due prior to their cessation of employment or the date a complaint is filed,
- Employer's obligation to provide employees with information on their rights under the ESA,
- Enlargement to four years, instead of the prior two years, an employer's record retention requirements, and
- Specific prohibitions on the employment and working conditions of minors ages 14 and 15.



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The Bill's text is available here: [https://www.leg.bc.ca/Pages/BCLASS-Legacy.aspx#%2Fcontent%2Fdata%2520-%2520ldp%2Fpages%2F41st4th%2F1st\\_read%2Fgov08-1.htm](https://www.leg.bc.ca/Pages/BCLASS-Legacy.aspx#%2Fcontent%2Fdata%2520-%2520ldp%2Fpages%2F41st4th%2F1st_read%2Fgov08-1.htm).

Gallagher will continue to monitor this situation and provide any additional information as it becomes available. In the interim, please do not hesitate to contact your consultant if you have any questions.

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