

Changing Workplaces Review: Ontario Government Announces Significant Changes to Labour Relations Act

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As we previously wrote here, last week Ontario's Ministry of Labour released the final report in its Changing Workplaces Review (Report), which proposed a number of amendments to the *Employment Standards Act, 2000* (ESA) and the *Labour Relations Act, 1995* (LRA). Today, in response to the recommendations made in the Report, Ontario Premier Kathleen Wynne held a press conference to announce that her government would be introducing proposed legislation, *The Fair Workplaces, Better Jobs Act, 2017* (the Act), which will amend both the ESA and the LRA. While not providing detail on the specifics of the proposed amendments, the Ontario Government released a Backgrounder outlining its proposed legislative changes. [Click here](#) for our update on the proposed changes to the ESA.

The most significant changes being proposed to the LRA and outlined in the Backgrounder are as follows:

- A card-based union certification process would be introduced for workers in the temporary help agency industry, the building services sector, and the home care and community services industry.
- Amendments would be made to the current secret ballot certification process, including the following:
 - Certain conditions required for the Ontario Labour Relations Board (OLRB) to order remedial union certification where an employer is found to have engaged in misconduct would be eliminated, allowing unions to obtain certification more easily in such cases.
 - Access to first contract arbitration would be made easier, and an "intensive mediation component" would be added to the first contract arbitration process.
 - Unions would be provided with access to employee lists and certain employee contact information in cases where the union can demonstrate that it has garnered support from 20% of the employees involved.
 - The OLRB would be empowered to conduct votes outside of the workplace, including electronic and telephone voting.
- The successor rights provisions would be applied to the retendering of building services contracts. In addition, the legislation would enable the government to enact regulations applying the successor rights provisions to the retendering of other publicly-funded contracted services.
- The OLRB would be provided with the authority to: i) change bargaining unit structures within a single employer, where the existing bargaining units are no longer appropriate for collective bargaining; and ii) consolidate newly certified bargaining units with other existing bargaining units represented by the same bargaining agent, under a single employer.
- The six-month limitation on an employee's right to be reinstated at the conclusion of a legal strike or lock-out would be removed. An employee would have the right to reinstatement at the conclusion of

a legal strike or lock-out (subject to certain conditions), and the legislation would provide access to grievance arbitration with respect to that right.

- Employees would be protected from discharge or discipline without just cause during the period between certification and the conclusion of a first collective agreement, and between the date employees are in a legal strike or lock-out position and the new collective agreement.
- Maximum fines under the LRA would be increased from \$2,000 to \$5,000 for individuals, and from \$25,000 to \$100,000 for organizations.

While the Report recommended that the exclusions under the LRA be removed (thereby providing domestic workers, hunters and trappers, members of the architectural, dental, land surveying, legal or medical profession employed in a professional capacity and agricultural and horticultural employees access to collective bargaining under the LRA), at this stage the Ontario Government has indicated that it will work with affected ministries to consult with stakeholders to review that recommendation, taking into account ongoing litigation on the issue.

The Government has indicated that if the proposed legislation is passed, all labour relations proposals would be in effect six months after the *Act* comes into force. If enacted, the proposed legislative changes noted above could have a significant impact on labour relations in Ontario. It remains to be seen to what extent the above proposals will mirror certain recommendations made in the Report.

We will provide a full analysis of the proposed changes once the draft legislation is released.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.