



# **BILL 148, THE *FAIR WORKPLACES, BETTER JOBS ACT, 2017* TRANSITION TABLE**

**Richard J. Nixon**

Partner, Co-Chair of Canadian  
Employment and Labour Law Group  
+1 416 365 3521  
richard.nixon@dlapiper.com

**Michael S. Richards**

Managing Partner of Toronto Office  
+1 416 941 5395  
michael.richards@dlapiper.com

**Karen R. Bock**

Partner  
+1 416 365 3523  
karen.bock@dlapiper.com

**Ryan Campbell**

Associate  
+1 416 369 5288  
ryan.campbell@dlapiper.com

**Leslie Frattolin**

Associate  
+1 416 941 5391  
leslie.frattolin@dlapiper.com

**Alexis Radojcic**

Associate  
+1 416 862 3365  
alexis.radojcic@dlapiper.com

**Duncan Burns-Shillington**

Associate  
+1 416 369 5292  
duncan.burns-shillington@dlapiper.com



Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected	Coming Into Force
<b>s.2(2)</b> The Schedules in this Act come into force as provided in each Schedule.				
<b>Employment Standards Act, 2000 (Schedule 1)</b>				
<b>s. 72(1)</b> Subject to subsections (2) to (5), this Schedule comes into force on January 1, 2018.				
	1(1)	1(1)	Definitions of “assignment employee” and “client” [Added]	Amended
	1(3)	1(1)	Definition of “domestic or sexual violence leave pay”	Added
	1(4)	1(1)	Revised definition of “employee”	Amended
	1(5)	1(1)	Definition of “personal emergency leave pay”	Added
	1(6)	1(1)	Definition of “public holiday” now to include Family Day	Amended
	1(7)	1(1)	Definition of “regular wages”	Amended
	1(8)	1(1)	Definition of “stub period”	Amended
	1(9)	1(1)	Definitions of “temporary help agency”, “termination of assignment pay”, “tip or other gratuity”	Added
	1(10)	1(1)	Definition of “wages”	Amended
	1(11)	1(2)	Assignment to perform work includes training	Repealed & Replaced
	1(12)	1	Agreement in writing is satisfied if in electronic form [to be s. 1(3.1)]	Added
	2(1)	3(4)	Exception for Crown employees	Repealed

**January 1, 2018**



Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected	Coming Into Force
	2(2)	3(5)	Exceptions re: work performed under a private career college program [to be s. 3(5), 2.1]	Added
	3	—	ESA binds the Crown [to be s. 3.1]	Added
	4(1)	4(1)	Associated or related businesses treated as a single employer	Repealed & Replaced
	4(2)	4	Crown excepted re: associated or related businesses [to be subsection 4(4.1)]	Added
	6	11(2)	Method of paying employee's wages	Repealed & Replaced
	7	14.1	Definition of "tip or other gratuity"	Repealed
	8(1)	15(1)	Records kept with respect to each employee [to be subparagraphs 15(1), 3.1, 3.2]	Added
	8(3)	15(1), 5	Records kept with respect to each employee	Amended
	8(4)	15(3)	Exception to record requirement	Amended
	8(5)	15(5), 3	Retention of records	Amended
	8(8)	15(7)	Retain documents that relate to an employee taking leave	Amended
	9(1)	15.1(2)	Content of the record re: vacation time and vacation pay [to be subparagraph 15.1(2), 4.1]	Added
	9(2)(a)	15.1(3)	Additional record requirement re: alternative vacation entitlement year	Amended
	9(2)(b)	15.1(3)	Additional record requirement re: alternative vacation entitlement year [to be subparagraph 15.1(3), 3.1]	Added
	9(3)	15.1(5)	Retention of records re: vacation time and vacation pay	Amended

**January 1, 2018**

Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected		Coming Into Force
	9(4)	15.1(7)	Transition re: vacation time and vacation pay records		Repealed & Replaced
	10	18(2)	Hours of work and eating periods, hours free from work [amended the French version]		Amended
	13(1)	22(1)	Overtime pay, overtime threshold		Added
	13(2)	22	Overtime pay, overtime threshold, same, two or more regular rates [to be subsection 22(1.1)]		Added
	14	—	Minimum wage, change to minimum wage during pay period [to be s. 23.0.1]		Added
	15(1)	23.1(1)	Determination of minimum wage		Repealed & Replaced
	15(2)	23.1(2)	Exception to minimum wage		Amended
	15(3)	23.1(4)	Annual adjustment for minimum wage		Amended
	15(4)	23.1(7)	Publication of minimum wage		Amended
	15(5)	23.1(8)	Publication of minimum wage after change		Repealed
	15(6)	23.1(10)	Review of minimum wage		Amended
	16	24(1)	Public holidays, public holiday pay		Repealed & Replaced
	17	27	Agreement to work, substitute day of holiday [to be subsection (2.1)]		Added
	18	28	Requirement to work on a public holiday, substitute day of holiday [to be subsection 28(2.1)]		Added
	19	29	Public holiday not ordinarily a working day, substitute day of holiday [to be subsection 29(1.1)]		Added

**January 1, 2018**



Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected		Coming Into Force
	20	30	Agreement to work where not ordinarily a working day, substitute day of holiday [to be subsection 30(2.1)]	Added	<b>January 1, 2018</b>
	21	33	Right to vacation	Repealed & Replaced	
		34	Alternative vacation entitlement year, stub periods		
		35	Timing of vacation		
	22	35.1(1)	Timing of vacation, alternative vacation entitlement year	Repealed & Replaced	
	23	35.2	Vacation with pay, vacation pay	Repealed & Replaced	
	24	41.1(6)	Vacation statements, transition	Repealed	
	30	—	Leaves of Absence, definition of “legally qualified medical practitioner” [to be s. 46.1]	Added	
	31(1)	47(1)(b)(ii)	Leaves of Absence, end of pregnancy leave	Amended	
	31(2)	47	Leaves of Absence, pregnancy leave, transition [to be subsection 46(1.1)]	Added	
	34(1)	49.1(1)	Leaves of absence, family medical leave, definition of “qualified health practitioner”	Repealed & Replaced	
	34(2)	49.1(2), (3)	Leaves of absence, entitlement to family medical leave	Repealed & Replaced	
	34(3)	49.1(5), (6)	Family medical leave, latest date employee can remain on leave & two or more employees	Repealed & Replaced	
	34(4)	49.1(11), (12)	Family medical leave, further leave, entitlement is in addition to other leaves	Repealed & Replaced	

Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected	Coming Into Force
	35(1)	49.3	Family caregiver leave, leave deemed to be taken in entire weeks [to be subsection 49.3(7.1)]	Added
	35(2)	49.3(9)	Family caregiver leave, entitlement is in addition to other leaves	Amended
	37	—	Heading immediately before s. 49.5 is struck out and replaced with: “Child Death Leave”	Amended
	38	49.5	Crime-related Child Death or Disappearance Leave (Child Death Leave) [to be s. 49.5]	Repealed & Replaced
Crime-related Child Disappearance Leave [to be s. 49.6]			Repealed & Replaced	
Domestic or Sexual Violence Leave [to be s. 49.7]			Added	
	39(1)	50	Leaves of absence, personal emergency leave, definition of “qualified health practitioner” [to be subsection 50(0.1)]	Added
	39(2)	50(1)	Leaves of absence, personal emergency leave	Repealed & Replaced
	39(3)	50(5), (6), (7)	Personal emergency leave; limit; leave deemed to be taken in entire days; evidence	Repealed & Replaced
	40	73(3)	Retail business establishments, notice of refusal [amended French version]	Amended
	41	74(1)(a)	Reprisal, reprisal prohibited [to be subparagraphs 74(1)(a)(v.1) and (v.2)]	Added
	42	74.1	Temporary help agencies, work assignment	Repealed
	43	74.4.1(1)	Temporary help agencies, agency to keep records re: work for client, termination	Repealed & Replaced
	44	—	Temporary help agencies, termination of assignment [to be s. 74.10.1]	Added

**January 1, 2018**



Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected	Coming Into Force
	45	74.12(1)(a)	Temporary help agencies, reprisal by client [to be subparagraphs 74.12(1)(a)(v.1) and (v.2)]	Added
	46	74.12.1	Temporary help agencies, enforcement, steps required before complaint assigned	Repealed
	47	74.14(1)	Temporary help agencies, enforcement, order to recover fees [to be subparagraph 74.14(1)(a.1)]	Amended & Added
	48	74.16(2)	Temporary help agencies, enforcement, terms of orders for compensation	Repealed & Replaced
	49	74.17(2)	Temporary help agencies, enforcement, terms of orders re: client reprisal	Repealed & Replaced
	50	81(8)	Liability of directors, directors' liability for wages, interest	Repealed
	51	88(5)	Who enforces this act and what they can do, powers and duties of director, interest	Repealed & Replaced
	52	—	Who enforces this act and what they can do, powers and duties of director, recognition of employers [to be s. 88.2]	Added
		—	Who enforces this act and what they can do, powers and duties of director, delegation of powers under 88.2 [to be s. 88.3]	Added
	53	96.1	Complaints and enforcement, complaints, steps required before complaint assigned	Repealed
	54	103(1)	Complaints and enforcement, enforcement by employment standards officer, order to pay wages	Amended
	55	104(3)	Complaints and enforcement, enforcement by employment standards officer, orders for compensation or reinstatement	Repealed & Replaced
	56	105(1)	Complaints and enforcement, enforcement by employment standards officer, employee cannot be found	Repealed & Replaced

**January 1, 2018**

Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected	Coming Into Force
	57	108(4), 1, 2	Complaints and enforcement, enforcement by employment standards officer, compliance orders	Amended
	58(1)	112(6)	Complaints and enforcement, settlement, administrative costs	Repealed & Replaced
	58(2)	112(9)	Complaints and enforcement, settlement, application to Part XVIII.1 [Temporary Help Agencies]	Amended
	59(1)	113(1)	Complaints and enforcement, notice of contravention	Repealed & Replaced
	59(2)	113	Complaints and enforcement, publication re notice of contraventions [to be subsection 113(6.2)]	Added
Complaints and enforcement, internet publication [to be subsection 113(6.3)]				
Complaints and enforcement, disclosure [to be subsection 113(6.4)]				
	60	114(6), 1, 2	Complaints and enforcement, limitation period, application to Part XVIII.1 [Temporary Help Agencies]	Amended
	61	115(1.1), 1, 2	Reviews by the Board, limitation period, meaning of substantially the same, application to Part XVIII.1 (Temporary Help Agencies)	Amended
	62	115.1	Reviews by the Board, interpretation	Amended
	63	120(6)(b)	Reviews by the Board, review of orders, settlement through labour relations officer	Repealed & Replaced
	64	125(2)	Collection, client of temporary help agency	Amended
	65	—	Collection, security for amounts owing [to be s. 125.1]	Added

**January 1, 2018**





Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected	Coming Into Force	
		—	Collection, warrant [to be s. 125.2]	<b>January 1, 2018</b>	
		—	Collection, lien on real property [to be s. 125.3]		
	66(1)	127(2)	Collection, collectors, Director may authorize director		Amended
	66(2)	127	Collection, collectors, disclosure [to be subsections 127(6), (7)]		Added
	67	128	Collection, collector's powers [to be subsections 128 (5), (6)]		Added
	68	133(1)	Offences and prosecutions, offences, additional orders		Amended
	69(1)	141(1)	Regulations [to be subparagraph 141(1), 1.1]		Added
	69(2)	141(1), 2.0.1	Regulations		Amended
	69(4)	141(1)	Regulations [to be subparagraph 141(1), 16.1]		Added
	69(5)	141(2.0.3), (2.0.4)	Regulations, transition regulations re certain leaves, conflict with transitional regulations	Repealed & Replaced	
	69(6)	141(3.1)	Regulations re Part XXII [Complaints and Enforcement]	Repealed & Replaced	
<b>s. 72(2)</b> Section 5 and this section come into force on the day the <i>Fair Workplaces, Better Jobs Act, 2017</i> receives Royal Assent.	5	5.1	How this act applies, no treating as if not employee	Added	<b>November 27, 2017</b>
<b>s. 72(3)</b> Subsection 8 (7), sections 32, 33 and 36 come into force on the later of December 3, 2017 and the day the <i>Fair Workplaces, Better Jobs Act, 2017</i> receives Royal Assent.	8(7)	15(7)	Retain documents that relate to an employee taking leave	Amended	<b>December 3, 2017</b>
	32(1)	48(2)	Leaves of absence, parental leave	Amended	
	32(2)	48	Leaves of absence, parental leave, transition [to be subsection 48(2.1)]	Added	

Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected	Coming Into Force	
	33(1)	49(1)	Leaves of absence, end of parental leave	Amended	<b>December 3, 2017</b>
	33(2)	49	Leaves of absence, parental leave, transition [to be subsection 49(1.1)]	Added	
	36	49.4	Leaves of absence, critically ill child care leave [to be “Critical Illness Leave”]	Repealed & Replaced	
<b>s. 72(4)</b> Subsection 1 (2) and sections 25, 26, 27, 28, 29, 41 and 45 come into force on April 1, 2018.	1(2)	1(1)	Definition of “difference in employment status”	Added	<b>April 1, 2018</b>
	25	—	Equal pay for equal work, interpretation for “substantially the same” [to be s. 41.2]	Added	
	26(1)	42(2)(d)	Equal pay for equal work provision, add “or employment status” at the end	Amended	
	26(2)	42(4)	Equal pay, equal work, organizations [change to French version]	Amended	
	26(3)	42	Employee request review of rate of pay [to be subsection (6)]	Added	
	27	—	Equal pay for equal work, difference in employment status [to be s. 42.1]	Added	
	28	—	Equal pay for equal work, difference in assignment employee status [to be s. 42.2]	Added	
	29	—	Equal pay for equal work, Minister to review ss. 42.1 and 42.2 [to be s. 42.3]	Added	
	41	74(1)(a)	Reprisal, reprisal prohibited [to be subparagraphs 74(1)(a)(v.1) and (v.2)]	Added	
45	74.12(1)(a)	Reprisal, reprisal by client of a temporary help agency [to be subparagraphs 74.12(1)(a)(v.1) and (v.2)]	Added		
<b>s. 72(5)</b> Subsections 2 (3), 8 (2) and (6), sections 11 and 12 and subsection 69 (3) come into force on January 1, 2019.	2(3)	3(5), 6	How this act applies, other exceptions individual working toward rehabilitation	Repealed	<b>January 1, 2019</b>
	8(2)	15(1)	Records [to be subparagraphs 15(1), 3.3 and 3.4]	Added	
	8(6)	15(5), 3	Records, retention of records	Amended	



Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected		Coming Into Force
	11	21.2	Requests for changes to schedule or work location	Added	<b>January 1, 2019</b>
	12	21.3	Scheduling, 3 hour rule	Added	
		21.4	Scheduling, minimum pay for being on call		
	12	21.5	Scheduling, right to refuse	Added	
		21.6	Scheduling, cancellation		
		21.7	Scheduling, limit		
	69(3)	141(1), 2.0.2	Regulations, requiring employer to pay at least the amount prescribed where employees presents self at work and works fewer than 3 hours	Repealed	

Bill 148 — Coming into Force Provision	Bill 148 Section	Affected LRA Section	Description of LRA Section Affected	Coming Into Force
<b>Labour Relations Act, 1995 (Schedule 2)</b>				
s. 20 This Schedule comes into force on the later of January 1, 2018 and the day the <i>Fair Workplaces, Better Jobs Act, 2017</i> receives Royal Assent.				
	1	—	Establishment of bargaining rights by certification, application for employee list [to be s. 6.1]	Added
	2	11(2), (3), (4)	Establishment of bargaining rights by certification, remedy if contravention by employer	Repealed & Replaced
	3	—	Establishment of bargaining rights by certification, no discharge or discipline following certification [to be s. 12.1]	Added
	4	—	Establishment of bargaining rights by certification, review of structure of bargaining units — consolidation after certification [to be s. 15.1]	Added
		—	Establishment of bargaining rights by certification, application for certification without a vote, certain industries [to be s. 15.2]	
	5	—	Negotiation of collective agreements, educational support [to be s. 16.1]	Added
	6	43	Negotiation of collective agreements, first agreement arbitration [first collective agreement mediation]	Repealed & Replaced
			Negotiation of collective agreements, first collective agreement mediation-arbitration [to be s. 43.1]	Added
	7	—	Successor rights, building services [to be s. 69.1]	Added
		—	Successor rights, other service providers [to be s. 69.2]	
	8(1)	80(1)	Unfair practices, reinstatement of employee	Amended

**January 1, 2018**

Bill 148 — Coming into Force Provision	Bill 148 Section	Affected LRA Section	Description of LRA Section Affected	Coming Into Force
	8(2)	80	Unfair practices, reinstatement of employee, [to be subsections 80(3), (4), (5), (6), (7)]	Added
	9	—	Unfair practices, no discharge or discipline following strike or lock-out [to be s. 80.1]	Added
	10	98	Enforcement, Board power re: interim orders	Repealed & Replaced
	11(1)	104(1)(a)	Enforcement, offences	Amended
	11(2)	104(1)(b)	Enforcement, continued offences	Amended
	12(1)	111(2)	Administration, Powers and duties of Board, specific [to be subsections 111(2)(h.1), (h.2)]	Added
	12(2)	111(2)(i)	Administration, Powers and duties of Board, specific	Amended
	13(1)	125	Regulations [to be subsections 125(i.1), (i.2), (i.3), (i.4)]	Added
	13(2)	125(j)	Regulations	Repealed & Replaced
	13(3)	125	Regulations [to be subsection 125(j.1)]	Added
	13(4)	125	Regulations, transitional regulations & conflict with transitional regulations [to be subsections (2), (3)]	Added
	14	160(2)	Province-wide bargaining, certification after representation vote	Amended

**January 1, 2018**



Bill 148 — Coming into Force Provision	Bill 148 Section	Affected ESA Section	Description of ESA Section Affected	Coming Into Force
<i>Occupational Health and Safety Act (Schedule 3)</i>				
s. 2 This Schedule comes into force on the day the <i>Fair Workplaces, Better Jobs Act, 2017</i> receives Royal Assent.				
	1	—	Duties of employers and other persons, footwear [to be s. 25.1]	Added