



*BROWNLEE BREAKFAST SEMINAR 2017*  
Aligning to the *Fair and Family-Friendly Workplaces Act*




---

---

---

---

---

---

---

---

Presented by:



Kirsten M. L. Hayne  
Brownlee LLP, Edmonton  
Direct: (780) 497-4807  
Email: khayne@brownleelaw.com



Colin R. Fetter  
Brownlee LLP, Edmonton  
Direct: (780) 497-4867  
Email: cfetter@brownleelaw.com



www.brownleelaw.com

---

---

---

---

---

---

---

---


Bill 17 is the *Fair and Family-Friendly Workplaces Act*.

ESC changes primarily take effect on **January 1, 2018**.

Today's goals:

1. Understand changes to existing provisions;
2. Overview of new provisions; and
3. Discussion about impact on the workplace.

**OVERVIEW**



www.brownleelaw.com

---

---

---

---

---

---

---

---

### Overview of Changes to the Employment Standards Code

<b>Changes to Existing Laws</b> <ul style="list-style-type: none"><li>• Compassionate Care</li><li>• Maternity/Parental Leave</li><li>• Rest Periods</li><li>• Compressed Work Weeks</li><li>• Deductions</li><li>• Minimum Wage for Persons with Disabilities</li><li>• Overtime</li><li>• General Holidays and Pay</li><li>• Vacations and Pay</li><li>• Terminations</li><li>• Layoffs</li><li>• Youth Employment</li></ul>	<b>New Requirements</b> <ul style="list-style-type: none"><li>• Long-term Illness and Injury Leave</li><li>• Personal &amp; Family Responsibility Leave</li><li>• Bereavement Leave</li><li>• Domestic Violence Leave</li><li>• Citizenship Ceremony Leave</li><li>• Critical Illness of a Child Leave</li><li>• Death/Disappearance of a Child</li><li>• Enforcement &amp; Administration of the Code</li></ul>
--	--

[www.brownleelaw.com](http://www.brownleelaw.com) 

---

---

---

---

---

---

---


---

---

---

### Rest Periods

- ✓ Existing Rule – Employees are entitled to a minimum 30-minute break within every 5 hours of consecutive work.
- ✓ New Rule: Employer and employee can agree to take break in two 15-minute breaks.

[www.brownleelaw.com](http://www.brownleelaw.com) 

---

---

---

---

---

---

---


---

---

---

### Deductions, Minimum Wage and Overtime

- ✓ Additions to prohibited deductions: damage caused by the employee, failure to collect full purchase price;
- ✓ Employers can no longer pay employees with disabilities less than minimum wage (repeals Part 2, Division 10);
- ✓ Overtime Agreements will allow OT to be banked up to 6 months rather than 3 months;
- ✓ Time in lieu of OT will be paid at 1.5x rather than 1:1.

[www.brownleelaw.com](http://www.brownleelaw.com) 

---

---

---

---

---

---

---


---

---

---

### Compressed Work Week Agreements (AKA "Averaging Agreements")

- ✓ Identify start and end date of term. Cannot be more than 2 years.
- ✓ Average the work hours over 1-12 weeks.
- ✓ Describe the schedule.
- ✓ Cannot work more than 12 hours per day.
- ✓ Cannot work more than 44 hours per week *on average*.
- ✓ Grandfathering may apply if you have existing Compressed Work Week Agreements.

www.brownleelaw.com 

---

---

---

---

---


---

---

---

### General Holidays & Pay

- ✓ Intent is to make it easier for employees to determine their eligibility;
- ✓ Removed requirement to have worked for 30 days in the 12 months prior to the holiday;
- ✓ Eliminated distinction between regular and non-regular day of work;
- ✓ GH Pay = flat rate of 5% of wages from the previous 4 weeks worked.

www.brownleelaw.com 

---

---

---

---

---


---

---

---

### Vacations & Pay

- ✓ Employees must be paid 4% or 2 weeks of their total wages up to 5 years' employment
- ✓ +5 years employment = at least 6% of wages;
- ✓ Half-day vacation increments are now expressly allowed.
- ✓ Counting a break in employment has changed from 3 months to 90 days.
- ✓ Can now take in ½ day increments instead of 1-day increments.

www.brownleelaw.com 

---

---

---

---

---


---

---

---

### Leave Eligibility – General

- ✓ Employees will be eligible for current and new leaves of absence after 90 days of employment (ex. Maternity leave).
- ✓ The previous requirement was 52 weeks of employment.
- ✓ Obligation on employers to provide unpaid leave and job protection during leave.
- ✓ Obligation on employers to provide job protection during leave and because of leave.

www.brownleelaw.com 

---

---

---

---

---

---

---

---

### Compassionate Care Leave

- ✓ Job protection extended to 27 weeks.
- ✓ No longer required to be the “primary” caregiver.
- ✓ Employee must provide medical certificate. Very specific criteria.
- ✓ 2 weeks’ advanced notice of leave (no change) but employers must accommodate absence “as soon as reasonable”.
- ✓ Leave ends when family member passes or 27 weeks expires, whichever is first.

www.brownleelaw.com 

---

---

---

---

---


---

---

---

### Maternity Leave

- ✓ Maternity leave entitlement after 90 days rather than 52 weeks;
- ✓ Align ESC provisions to the new federal EI changes;
- ✓ Maternity leave is extended to 16 weeks (currently 15 weeks) to allow for the 1-week wait period for EI benefits;
- ✓ If pregnancy “terminates” +16 weeks before due date, mother cannot take maternity leave;
- ✓ If pregnancy “terminates” <16 weeks before due date, mother is eligible for maternity leave (either 16 weeks after leave began or 6 weeks after “termination”)

www.brownleelaw.com 

---

---

---

---

---


---

---

---

### Parental Leave

- ✓ For the parent taking maternity leave, parental leave still commences upon expiration of the maternity leave;
- ✓ For the other parent, eligible after 90 days of employment;
- ✓ Length of parental leave may be increased by future ESC amendments to align to EI changes;
- ✓ Parental leave must be taken within 53 weeks of the child's birth. (Previously 52 weeks.)

www.brownleelaw.com 

---

---

---

---

---

---

---

---

### New Leaves of Absence

Long-Term Illness & Injury Leave:

- ✓ Unpaid leave up to 16 weeks per calendar year;
- ✓ Medical certificate and reasonable notice required.

Personal & Family Responsibility Leave (i.e. Personal Days):

- ✓ Unpaid leave up to 5 days per calendar year;
- ✓ Used for employee's health or to meet "family responsibilities in relation to a family member"

www.brownleelaw.com 

---

---

---

---

---

---

---

---

### New Leaves of Absence Cont.

Bereavement Leave:

- ✓ Unpaid leave up to 3 days calendar per year (not per death);
- ✓ Death of immediate family member.

Domestic Violence Leave:

- ✓ Broad definition of domestic violence;
- ✓ Unpaid leave up to 10 days per calendar year for specific purposes.

Citizenship Ceremony Leave:

- ✓ Unpaid leave up to ½ day for employees attending their own ceremony.

www.brownleelaw.com 

---

---

---

---

---

---

---

---

### New Leaves of Absence Cont.

**Critical Illness of a Child Leave:**

- ✓ Unpaid leave up to 36 weeks for parents of critically ill or injured children.

**Death or Disappearance of a Child Leave:**

- ✓ Unpaid leave up to 52 weeks for employees whose child probably disappeared as a result of a crime.
- ✓ Unpaid leave up to 104 weeks for employees whose child died probably as a result of a crime.

www.brownleelaw.com 

---

---

---

---

---


---

---

---

### Resignations by Employees

- ✓ If the employee gives less resignation notice than required, expedite by paying wages for the notice period given.
  - ✓ Ex. Supposed to give 2 weeks but only gave 3 days = pay out 3 days.
- ✓ If the employee gives more resignation notice than required, expedite by paying out the notice period that would have been required.
  - ✓ Ex. Supposed to give 2 weeks but gave 3 weeks = pay out 2 weeks.
- ✓ Beware of the common law rules!

www.brownleelaw.com 

---

---

---

---

---

---

---


---

### Mass Terminations

Notice to Minister of Labour if terminating groups of employees:

- ✓ 50-100 employees: 8 weeks' notice
- ✓ 101-300 employees: 12 weeks' notice
- ✓ 301+ employees: 16 weeks' notice

Unless employer and employee agree, cannot require employee to use accrued but unused entitlements (vacation, overtime, etc.) during termination notice period.

www.brownleelaw.com 

---

---

---

---

---

---

---

---



**BROWNLEE LLP**  
*Barristers & Solicitors*

**QUESTIONS?**

<p>Kirsten M. L. Hayne Brownlee LLP, Edmonton Direct: (780) 497-4807 Email: <a href="mailto:khayne@brownleelaw.com">khayne@brownleelaw.com</a></p>	<p>Colin R. Fetter Brownlee LLP, Edmonton Direct: (780) 497-4867 Email: <a href="mailto:cfetter@brownleelaw.com">cfetter@brownleelaw.com</a></p>
--	--

[www.brownleelaw.com](http://www.brownleelaw.com)

---

---

---

---

---

---

---

---