Blaney McMurtry LLP

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Employment Update: Ontario Introduces Bill 79, The Working For Workers Act, 2023

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Christopher McClelland, Sarah Mills

On March 20, 2023, the Ontario Government announced Bill 79, the *Working for Workers Act, 2023* ("Bill 79") expanding on various employee protections provided in the *Working for Workers Acts*, 2021 and 2022. If passed, the Bill would bring more changes to Ontario workplace legislation, including the *Employment Standards Act, 2000* ("*ESA*"), the *Occupational Health and Safety Act* ("*OHSA*") and the *Employment Protection for Foreign Nationals Act,* 2009 ("*EPFNA*"). We have highlighted some of the main amendments being proposed below.

Amendments to the *ESA*

Mass Terminations

Section 58 of the *ESA* provides for special rules where 50 or more employees are terminated within the same four-week period at an employer's "establishment." If passed, Bill 79 would expand the definition of "establishment" to include the homes of remote workers. This amendment would only apply to employees who perform work in their private residence and not at any other location where the employer carries on business. As a result, employees who work from home would be eligible for the same enhanced notice provided to on-site employees in the event of a mass termination under the *ESA*.

Expansion of Reservist Leave

Bill 79 also proposes to expand the entitlement of reservist leave to employees who are in treatment, recovery, or rehabilitation in respect of a physical or mental health illness, injury, or medical emergency that resulted from their involvement in a Canadian Forces operation or activity. In addition, the period of employment to qualify for reservist leave would be reduced from 3 months of consecutive service to 2 months.

Amendments to the *EPFNA*

Protections for Foreign Nationals and Increased Fines

The *EPFNA* currently prohibits employers of foreign nationals from taking possession of or retaining a foreign national's passport or work permit. Bill 79 proposes significantly higher maximum fines for individuals and corporations convicted of this offence. Individual offenders would be liable for a fine of up to $500,000 and/or imprisonment of up to 12 months. Convicted corporations would be liable for a fine of up to $1 million. These new fines would be in addition to the current per-passport/work permit penalties that exist under the *EPFNA*. Bill 79 would also allow the Ontario Labour Relations Board to reduce penalties for the offence of withholding passports/work permits where such penalties are excessive or punitive.

Amendments to the *OHSA*

Increased Fines

Bill 79 would also amend the *OHSA* to increase the maximum fine that can be imposed against a corporation convicted of an offence from $1.5 million to $2 million. If passed, Ontario would have the highest maximum corporate fine under workplace health and safety legislation in Canada.

Further Updates

If passed, the amendments to the *ESA* pertaining to mass termination will come into force on the later of July 1, 2023, or the date that Bill 79 receives Royal Assent. Most of the other amendments, including to the *EPFNA* and *OHSA* come into effect on the day that Bill 79 receives Royal Assent. We will continue to monitor the status of Bill 79 as it makes its way through the legislative process and report on any significant updates. If you have questions about Bill 79, or how it might impact your workplace, please reach out to a member of Blaney's Labour and Employment Group.

The information contained in this article is intended to provide information and comment, in a general fashion, about recent developments in the law and related practice points of interest. The information and views expressed are not intended to provide legal advice. For specific legal advice, please contact us.