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Bill 47, The *Making Ontario Open for Business Act, 2018*

What does it do to Labour & Employment Laws in Ontario?

BACKGROUND

In 2015, Ontario's Minister of Labour appointed C. Michael Mitchell and John C. Murray to conduct a comprehensive review of Ontario's labour and employment laws to ensure they reflected the changing nature of the modern workplace. Over the course of the next two years, the two Special Advisors commissioned numerous expert research reports and conducted extensive consultations. Their work culminated in the 419-page *Final Report of the Changing Workplaces Review*. The report made numerous recommendations to government, including urging a significant overhaul of Ontario's legislation.

In response, the government tabled Bill 148, the largest set of amendments to Ontario's labour and employment laws since the 1990s. In the months that followed, the Legislative Assembly engaged in lengthy debates and further consultations, including taking the extraordinary step of conducting committee hearings across the province after both first and second reading of the bill. Bill 148 passed into law in November 2017.

Bill 148 introduced important new protections for Ontario's working people, particularly those in precarious employment. The amendments included paid sick leave, equal pay for part-time and casual workers, rules designed to give workers more certainty in their work schedules, enhanced vacation rights for long-service workers, and greater protections for workers engaged in unionizing efforts or on strike. While Bill 148 left out significant improvements advocated by organized labour and workers' rights organizations, it remained a significant step forward for Ontario's working people.

Following the election of the Progressive Conservative government under Premier Doug Ford, it quickly became apparent that the new government was set on rolling back many of the advancements gained through Bill 148.

On October 23, 2018, the Ford government tabled Bill 47, the *Making Ontario Open for Business Act, 2018*, which would roll back almost all of Bill 148's reforms. As compared with the sustained, extensive consultations and expert research which preceded Bill 148, Bill 47 appears to be a hastily drafted piece of legislation that strips important protections from workers - particularly for the least well-off workers - for the benefit of wealthy business interests with close connections to the government.

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CHANGES TO ONTARIO'S EMPLOYMENT STANDARDS

The significant majority of Ontario's workers do not work in a unionized workplace. Their main source of protection is found in the *Employment Standards Act, 2000* ("*ESA*"). The *ESA* governs matters as diverse as leaves of absence, vacation, record keeping, sex discrimination, meal breaks, overtime pay, severance on termination, and the minimum wage.

Bill 148 introduce many important innovations to the *ESA* to protect all workers, whether or not unionized. Bill 47 repeals most of them.

Roll Back of $15/hour Minimum Wage

One of the most notable aspects of Bill 148 was its increases to Ontario's minimum wage. For most workers, the minimum wage increased to $14/hour on January 1, 2018, and was set to increase to $15/hour on January 1, 2019, with further increases indexed to inflation.

Bill 47 has substantially rolled back these important gains for low-wage workers.

If passed, Bill 47 will delay any increases to the minimum wage until October 1, 2020.[1] On that date, instead of increasing the minimum wage to $15/hour, it would adjust the $14/hour wage to changes to the consumer price index (i.e. inflation).[2]

In recent years, the CPI increased by between 1.1% and 1.6% year over year. Even using the high-end of this range, this would mean that the minimum wage would not hit $15/hour until 2025, six years behind what would have occurred under Bill 148.

Strangely, Bill 47 also repealed a requirement that the Minister of Labour review the method of adjusting the minimum wage every five years starting in 2024.[3]

Loss of Paid Emergency Leave

Another well-known aspect of Bill 148 was the introduction of two paid sick days for all workers in Ontario. In fact, the benefit was somewhat broader than the phrase "paid sick days" would suggest: as a result of Bill 148, the *ESA* provided workers with a benefit

[1] Schedule 1, Clause 6(1) and (2) [amending s. 23.1(1)(1) and repealing s. 23.1(1)(2) of the *ESA*].
[2] Schedule 1, Clause 6(3) and (6) [amending ss. 23.1(1)(3) and 23.1(4) of the *ESA*].
[3] Schedule 1, Clause 6(8) [repealing ss. 23.1(10) and (11) of the *ESA*].

called Personal Emergency Leave (PEL), which covered not only personal illness or injury, but also the illness, injury or death of a wide range of family members, as well as other "urgent" matters. Before Bill 148, workers were entitled to 10 unpaid PEL days; Bill 148 introduced the rule that the first two PEL days taken in a year were paid.

Bill 47 completely changes and reduces the benefits of PEL by breaking it down into three separate leaves, reducing the total number of leave days and removing any right to pay for workers.[4] Thus, employees are worse off than they were in terms of leave entitlement than they were before Bill 148 was enacted.

Under Bill 47, instead of 10 PEL days that can be used for personal *or* familial injury, illness, death or urgent matters, workers are now entitled to the following:

- Sick Leave**:** three unpaid days leave to deal with a worker's own personal illness, injury or medical emergency (s. 50).

- Family Responsibility Leave– three unpaid days to deal with illness, injury, medical emergency or urgent matters concerning the family members formerly covered by PEL (s. 50.0.1).

- Bereavement Leave– two unpaid days due to the death of a family member formerly covered by PEL (s. 50.0.2).

Bill 47 will therefore: (i) reduce the total amount of job-protected leave for these events (from 10 days under PEL to 8 days under the new leaves), (ii) remove any entitlement to pay, and (iii) reduce the flexibility of the entitlement.

On this last point, under PEL, employees were free to split their 10 days between any of these scenarios as their personal circumstances required. Now, workers who are fortunate not to experience a family death in a calendar year "lose" the benefit of the two leave days, and cannot use them if they require, for example, a fourth sick day.

Bill 47 also removes another important innovation contained in Bill 148: the prohibition against demanding medical notes. At the urging of medical and public health professionals, Bill 148 prohibited employers from requiring employees from obtaining medical notes to prove that they were sick. This rule is abolished by the new leave provisions introduced by Bill 47.

[4] Schedule 1, Clause 19 [repealing s. 50 of the *ESA* and replacing it with a new ss. 50, 50.0.1, and 50.0.2].

Authorizing Pay Discrimination Based on Employment Status & Weakening Protections Against Sex Discrimination

The *ESA* has long prohibited discrimination in pay on the basis of sex. Bill 148 built upon this framework by prohibiting discrimination in pay based on a workers "employment status". While problematic in several respects, these rules prohibited paying workers less solely because they were classified as "part-time", "casual" or "temporary" workers.

Bill 47 repeals these protections, in effect authorizing employers to pay their part-time workers less, even where their job duties are identical in every respect to their full-time colleagues, for no reason other than the fact that they work part-time.[5]

Bill 47 goes further, weakening protections against sex discrimination as well. Bill 148 gave workers who believed they were victims of sex discrimination in pay the right to ask their employer to correct discrepancies without risk of retaliation. Under these rules, employers were either required to provide a wage adjustment to correct a discriminatory practice, or provide the worker with a written response explaining why their rate of pay complied with sex discrimination rules. Bill 47 removes all of these rules.[6]

Loss of New Scheduling Rights

Modern workplaces are frequently characterized by part-time work where employees have little control over or even notice of their schedules. Frequent shift changes, cancellations and additions make it difficult for workers to obtain child care, go to school, or simply coordinate shifts with a second job in order to make ends meet.

Bill 148 introduced an assortment of new rights with respect to scheduling, including:

- The right to request changes in a work schedule without fear of reprisal;
- The right to a minimum of 3 hours of pay when shifts are shortened mid-workday, or cancelled in their entirety if less than 48 hours' notice is given to the worker;
- Mandatory pay when an employer requires workers to be 'on call', but they are not actually called in for work;

[5] Schedule 1, Clauses 1(1) 8(1), 9, 10, 11 and 22 [Repeating ss. 42.1, 42.2 and 43.3 of the *ESA*, as well as related definitions in s. 1(1) and corresponding references in ss. 42(2)(d) and 74.12]
[6] Schedule 1, Clause 8(2) [repealing s. 46(6) of the *ESA*].

- A right to refuse a shift without fear of reprisal when less than 96 hours' notice is given by the employer;

Bill 47 will remove the majority of these rights from workers.[7] The sole exception is that Bill 47 will retain the "three hour rule". This rule guarantees a minimum of 3-hours' pay where a worker normally works more than 3 hours in a shift, but has their shift reduced to less than 3 hours during the course of the work day.[8]

Making it Harder to Fight Misclassification of Workers as Independent Contractors

In the modern economy, an increasing number of employers have attempted to avoid their legal obligations under the *ESA* by pretending that their employees are really "independent contractors" to whom *ESA* protections do not apply. To combat this, Bill 148 prohibited misclassifying employees as contractors, and – critically – put the onus on an employer to demonstrate that a person is not an employee.

Bill 47 removes this reverse onus provision.[9] While employers must still classify their workers properly, it is now up to the worker to prove to a court, labour board or employment standards officer that they are an employee and not an independent contractor.

Reduced Oversight of Ontario Labour Relations Board Rules

The Ontario Labour Relations Board plays an important role under the *ESA*. It reviews the determinations made by front line employment standards offers concerning the enforcement of rights and obligations under the *ESA*.

The Board has broad power to determine its own rules and procedures. This includes the right to make rules that permit the Board to conduct reviews without a hearing, or to limit the extent to which a party may present evidence or make submissions. Since 2006, rules made by the Board that limited such procedural rights had to be reviewed and approved by the Provincial Cabinet before they came into effect. This oversight rule is repealed by Bill 47.[10]

[7] Schedule 1, Clause 27(4) and (5) [repealing Parts VII.1 and VII.2 of the *ESA*].
[8] Schedule 1, Clause 5 [adding new Part VII.1, s. 21.2 to the *ESA*].
[9] Schedule 1, Clause 3 [repealing s. 5.1(2) of the *ESA*)].
[10] Schedule 1, Clauses 23, 24 and 25 [repealing s. 118(3) of the *ESA* and making corresponding amendments to ss. 121(4) and 122(7)].

Coming into Force

The *ESA* amendments in Bill 47 will come into force on January 1, 2019, or when Bill 47 receives royal assent, whichever is later.[11] Bill 47 gives Cabinet the power to make transitional regulations to facilitate the legislation coming into force.[12]

What is Preserved?

While Bill 47 removes many important protections introduced by Bill 148, it does leave some intact. These include:

- Paid leave for victims of domestic & sexual violence;[13]
- An extra week of paid vacation for workers whose period of employment is 5 years or more;[14]
- Minimum 1 week notice or pay in lieu for temporary workers with assignments that were anticipated to last 3 or more months but are terminated early;[15]
- Changes to pregnancy,[16] parental,[17] critical illness[18] and family medical leave[19] that correspond to changes to federal benefits under the *Employment Insurance Act*;
- Increased leaves for parents of children who are abducted and subsequently found deceased;[20]
- Simplified rules for overtime pay for workers who have different rates of pay depending on the specific work being performed;[21]
- The elimination of the requirement to show an intent to defeat *ESA* rights when establishing two businesses constitute a single employer;[22]

[11] Schedule 1, Clause 29(1).
[12] Schedule 1, clause 26(2) [inserting s. 141(2.0.3.1) into the *ESA*].
[13] *ESA*, s. 49.7.
[14] *ESA*, s. 33(1)(b).
[15] *ESA*, s. 74.10.1
[16] *ESA*, ss. 46-47.
[17] *ESA*, ss. 48-49.
[18] *ESA*, s. 49.4.
[19] *ESA*, s. 49.1.
[20] *ESA*, ss. 49.5 and 49.6.
[21] *ESA*, s. 22(1.1).

- The designation of Family Day as a public holiday in the *ESA* (as opposed to in a regulation);[23]

- The removal of the problematic requirement to raise concerns with an employer before complaining to the Ministry of a violation of the *ESA*;[24]

- Various technical rules respecting how penalties, fines and assessments may be collected by the Ministry of Labour;[25] and

- Authorizing the Ministry to post information on the internet to "name and shame" employers who violate the *ESA*.[26]

CHANGES TO ONTARIO'S LABOUR LAWS

Bill 148 made a number of innovative amendments to the *Labour Relations Act, 1995* (*LRA*) designed to empower workers to exercise their constitutional right to freedom of association through unionizing and collectively bargaining with employers. These changes included new rules to facilitate the process of organizing workplaces, enable effective collective bargaining, and protect workers from reprisals during organizing campaigns and strikes.

Bill 47 will systematically dismantle many of these important protections, and erect serious barriers to both organizing and effective collective bargaining in Ontario.

Removal of Right to Obtain Employee Lists During Organizing Campaigns

Bill 148 advanced the ability of labour unions to engage in organizing campaigns by granting them the right to apply to the Ontario Labour Relations Board to obtain a list of names and contact information for employees in a workplace. A list would be disclosed upon proof that the union had 20% support of members of the proposed bargaining unit. This power had proven to be an important means by which unions could reach out to workers in modern workplaces in order to discuss the advantages and benefits of unionization.

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[22] *ESA* s. 4(1).
[23] *ESA*, s. 1(1).
[24] Repeal of former *ESA*, ss. 74.12.1 and 96.1.
[25] *ESA*, ss. 74.14(1)(a.1), 74.16(2)(b), 74.17(2)(b), 103(1)(a.1), 104(3)(b), 112,(6)(b), 120(6)(b)(ii), 125.1, 125.2, and 125.3.
[26] *ESA*, ss. 113(6.2)-(6.4).

Bill 47 not only removes the right of unions to apply for employee lists, but terminates all pending applications for employee lists before the Board, and requires any union who previously obtained a list under the provisions of Bill 148 to immediately destroy them.[27]

Removal of Card Check Certification for Specified Industries

It is well recognized that union certification occurs much more frequently under "card check" systems[28] than under regimes that require secret ballot votes of members of proposed bargaining units. Prior to Bill 148, only the construction sector in Ontario had access to card check certification. Bill 148 extended the card check system to three other industries: building services, home care and community services; and temporary help agencies.

Bill 47 removes the right to card check certification from all of these industries, and deems any certification application filed after October 23, 2018 (the date Bill 47 received first reading in the Legislative Assembly) but not yet determined by the Board when the Bill is enacted to be an application under the secret ballot rules applicable to other sectors in Ontario.[29]

Weakening Remedial Certification

Unfortunately, it is common during a union organizing campaign for an employer to act unlawfully in an attempt to persuade or intimidate workers into rejecting the union. Bill 148 provided a strong disincentive for such illegal conduct by imposing strong rules for remedial certification. Where an employer violated the *LRA* and, as a result, a union was unable to obtain sufficient support for a certification vote or – if such support was present – the vote was not likely to represent the true wishes of workers, the Board was required to certify the union.

Bill 47 returns the *LRA* to the pre-Bill 148 law, in which remedial certification is more difficult to obtain. Now the Board must consider whether to order remedial certification or, alternatively, to simply order a secret ballot vote.[30]

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[27] Schedule 2, clause 1 [amending s. 6.1 of the *LRA*].
[28] A card-check system is one in which a union is certified upon proof that a requisite percentage of members of a proposed bargaining unit are also members of the union (e.g. have signed union "cards").
[29] Schedule 2, clause 5 [repealing and replacing s. 15.2 of the *LRA*].
[30] Schedule 2, clause 2 [amending s. 11(2) of the *LRA*].

Bill 47 also includes a transitional rule: as long as the Board has not yet issued a remedial certification order by the date Bill 47 comes into force, the rules under Bill 47 will apply, even if the unfair labour practice occurred when Bill 148 applied.[31]

New (Old) Rules for First Contract Arbitration

In recognition of the unique difficulties involved in negotiating a first collective agreement following certification, Bill 148 introduced an extensive new process of intensive mediation and, where unsuccessful, arbitration to settle the agreement's terms. Bill 47 repeals this regime, and re-introduces the more limited arbitration regime that existed prior to the enactment of Bill 148.[32] Unless first contact mediation-arbitration under the provisions of Bill 148 has already been ordered by the Board on the date Bill 47 comes into force, the new provisions – set out below – will apply to any application made under Bill 148 for mediation-arbitration.[33]

Under this scheme, there is no right to first contact arbitration. Rather, as was the case prior to Bill 148, arbitration will only be ordered where the applying party (usually the union) can demonstrate that the failure to negotiate an agreement is due to:

- the employer's refusal to recognize the bargaining authority of the trade union
- the uncompromising nature of any bargaining position adopted by the respondent without reasonable justification;
- the failure of the respondent to make reasonable or expeditious efforts to conclude a collective agreement; or
- any other reason the Board considers relevant.[34]

When arbitration is ordered by the Board, strikes and lock outs are prohibited, and any ongoing strike or lockout must be terminated forthwith.[35] A statutory freeze to terms and conditions of employment applies, subject to alterations agreed to by both parties.[36]

Arbitration is to be conducted by the Board itself or by a tripartite board of arbitration, depending on the circumstances,[37] with hearings to commence within 21 days of

[31] Schedule 2, clause 3 [adding s. 11.2(3) to the *LRA*].
[32] Schedule 2, clause 8 [repealing ss. 43 and 43.1 and replacing them with new s. 43 of the *LRA*]. See also Schedule 2, clause 20 [corresponding amendment to the *Crown Employees Collective Bargaining Act*].
[33] New s. 43.1.
[34] New s. 43(2) of the *LRA*.
[35] New s. 43(14) of the *LRA*.
[36] New ss. 43(16)-(17).

appointment of the arbitrators, and a decision to be released within 45 days of the commencement of the hearing.[38] The resulting agreement shall be for a two year period from the date on which it is settled, and may operate retroactively up to the date on which notice to bargain was given.[39]

The *LRA* will continue to provide for protections against displacement or decertification applications while the arbitration process is ongoing. So long as an application for first contract arbitration has been filed, displacement or decertification applications will not be considered by the Board,[40] and if first contract arbitration is in fact ordered, any such pending application will automatically be dismissed.[41] If first contract arbitration is not ordered, the Board can go on to consider pending applications.[42] Otherwise, no displacement or decertification application can be filed or considered until the next open period.[43]

Removal of Access to Educational Support in Collective Bargaining

Collective bargaining is a complex process that many actors in newly certified workplaces are not familiar with. Bill 148 recognized this, and provided that when a first collective agreement was being negotiated, either the union or employer could request that the Ministry of Labour provide educational support in the practice of collective bargaining. Bill 47 strips this right to request assistance from the Ministry.[44]

Additional Requirement when Requesting Conciliation

Bill 47 introduces an obligation on any party who requests the appointment of a conciliation officer in connection with the negotiation of a collective agreement to file a copy of the most recent collective agreement (if any) and any other prescribed information along with the request.[45]

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[37] New ss. 43(3) of the *LRA*.
[38] New ss. 43(4) (Labour Board), 43(11)-(12) (board of arbitration) of the *LRA*.
[39] New s. 43(19).
[40] New s. 43(25).
[41] New s. 43(26).
[42] New s. 43(27).
[43] New ss. 43(28) and (29).
[44] Schedule 2, clause 6 [repeal of s. 16.1 of the *LRA*].
[45] Schedule 2, clause 7 [adding s. 18(2.1) to the *LRA*].

Changes to Review of Bargaining Unit Structure

Bill 148 introduced two new methods by which two or more bargaining units could be merged or restructured. First, where a union certified a new unit of workers, it could apply to merge that newly certified unit into an existing unit of workers of the same employer that the union already represented. This could be done without the consent of the employer, though there was a process for the Board to consider whether to in fact order a merger in any given case.

The second power permitted an employer and a union that represented multiple units of that employer to jointly apply to the Board to restructure the units within the workplace. While there was no need for any of the units to be newly certified, this power required the agreement of all parties to the application.

Bill 47 repeals both of these powers, and replaces them with a unified set of rules for reviewing the structure of bargaining units in a workplace.[46]

Under the new rules, employers or unions may apply to the Board to review the structure of bargaining units. The Board may review the structure of the units if it is satisfied that they are no longer appropriate for collective bargaining.[47] Such an application may be brought at the same time as applications under the common employer or sale of a business portions of the *LRA*.[48]

An application must be made on notice to all potentially affected parties, namely, the employer and all unions who represent members in bargaining units in the workplace.[49]

If the Board concludes that the structure of the existing units is no longer appropriate for collective bargaining, it must afford all parties an opportunity to come to an agreement respecting restructuring the units.[50]

If the parties cannot reach an agreement within a reasonable time, or the Board does not believe that an agreement reached by the parties would lead to units that are appropriate for collective bargaining, the Board has broad powers to make orders restructuring the units in the workplace. These powers include consolidating, restructuring or otherwise reconfiguring any of the units; determining what union will represent members of the bargaining units; and amending any provision of an applicable collective agreement.[51]

[46] Schedule 2, clause 4 [repealing and replacing s. 15.1 of the *LRA*].
[47] New s. 15.1(1) of the *LRA*.
[48] Sections 1(4)/69 of the *LRA*.
[49] New s. 15.1(2) of the *LRA*..
[50] New s. 15.1(3) of the *LRA*.
[51] New s. 15.1(4)-(5) of the *LRA*.

Before making any such order, the Board may (but is not required to) hold any representation votes as it considers appropriate.[52]

Any consolidation or review applications that were before the Board under the old Bill 148 rules will, on passage of Bill 47, be subject to these new rules.[53] An application for a review under this section may only be brought once per year.[54]

There is significant concern that employers will attempt to use these consolidation procedures to rid themselves of unions they do not like, and that unions themselves will use the provisions to effectively raid other unions in the same workplace, creating divisions within the labour movement.

Restricting the Expansion of Successor Right Protections

Prior to the enactment of Bill 148, the issue of "contract flipping" was a major problem in a number of industries. Contract flipping occurs when a unionized service provider's contract for services expires, and the customer hires a legally distinct, non-unionized entity as a new service provider, who in turn re-hires all of the employees of the former service provider to do the work. While the workers, workplace and work remain unchanged, bargaining rights are defeated due to the fact that there is technically a "new" service provider.

To combat this, Bill 148 introduced new rules for the sector that was most vulnerable to contract flipping: building services (e.g. cleaning, food, security). Under Bill 148, when one service provider ceases providing services to a building, and a new provider provides substantially similar services, there is a deemed sale of a business from the former service provider to the latter, thus preserving any bargaining rights that existed before the contract flip.

Bill 148 also created a regulation-making power that would permit these deemed sale of business rules to apply to other sectors and industries.

Bill 47 preserves the protections introduced by Bill 148 for the building services sector. However, it repeals the authority to extend these protections to other sectors through regulations.[55]

[52] New s. 15.1(7) of the *LRA*.
[53] New s. 15.1(10) of the *LRA*.
[54] New s. 15.1(8) of the *LRA*.
[55] Schedule 2, clause 9 [Repeal of s. 69.2 of the *LRA*].

Weakening Right to Return to Work Following Strike/Lockout

Bill 148 provided a robust set of protections to ensure that striking workers were entitled to return to work following the conclusion of a strike or lockout, no matter how long its duration.

Bill 47 repeals these protections, and returns to the pre-Bill 148 rule in which workers are only legally entitled to return to work if they make an unqualified request to return within 6 months of the commencement of the strike or lockout.[56] Other protections, such as the right to displace replacement workers, and access to the grievance procedure to enforce the right to return to work will be repealed.[57]

Reduction of Penalties for Violating the LRA

To induce compliance, Bill 148 increased the maximum penalty for violations of the *LRA* significantly. Bill 47 reduces the maximum penalties for individual and corporate/union violations of the *LRA* back to their pre-Bill 148 levels.[58]

Reduced Oversight of Ontario Labour Relations Board Rules

The Board has broad power to determine its own rules and procedures. This includes the specific right to make rules that permit the Board to deal with various types of hearings in an expedited manner. Historically, rules passed by the Board that related to expedited hearings had to be reviewed and approved by the Provincial Cabinet before they came into effect. Bill 47 will repeal this requirement.[59]

Publication of Collective Agreements

All collective agreements in Ontario must be filed with the Minister of Labour. Bill 47 imposes a duty on the Minister to publish all such agreements, which may be done by way of a Government of Ontario website.[60]

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[56] Schedule 2, clause 11(1) [Amending s. 80(1) of the *LRA*].
[57] Schedule 2, clause 11(2) [Repeal of ss. 80(3)-(7) of the *LRA*].
[58] Schedule 2, clause 14 [amending s. 104(1) of the *LRA*].
[59] Schedule 2, Clause 15 [repealing s. 110(19) of the *LRA*].
[60] Schedule 2, clause 12 [new s. 90 of the *LRA*].

Modernizing Methods of Communicating Notices, Requests and other Materials

Previously the *LRA* only dealt specifically with the giving of notice of various decisions by mail, and provided rules about when notice of such communications was deemed to be received. Bill 47 replaces these provisions, and specifically authorizes communication any notice or communication to be provided through various means, including fax or email. Further, it deems various communications to be "released" on the day that they are sent.[61] This is relevant for various other provisions of the *LRA* that define timelines by reference to when particular notices or documents are released, such as the timelines for being in a legal strike/lockout position. Consequential amendments are also made to certain timelines to reflect changes to when notices are deemed released.[62]

Other amendments address what happens when a document that is deemed to be released or delivered to a party is not, in fact, received, as well as the means by which notices to bargain may be communicated, reflecting a move away from requiring the use of mail in favour of additional methods of communication. [63]

A variety of methods of filing materials with the Minister are also provided, including through electronic means. Deeming rules for when materials are received via these new methods are set out.[64]

Coming into Force

These amendments come into force on the day Bill 47 receives royal assent. Bill 47 gives Cabinet the power to make transitional regulations to facilitate the legislation coming into force.[65]

What is Preserved?

While Bill 47 removes many important protections introduced by Bill 148, it does leave three reforms intact, in addition to those discussed above:

- Statutory just cause protection against discharge or discipline during the period following certification but before the conclusion of a first collective agreement;[66]

[61] Schedule 2, clause 16(1) [Repealing and replacing ss. 122(1) and (2) of the *LRA*].
[62] Schedule 2, clause 10 [Repeal and replacement of s. 79(2) of the *LRA*].
[63] Schedule 2, clause 16(2), (3) and 17 [Amending ss. 122(3) and (4) of the *LRA*].
[64] Schedule 2, clause 17 [new s. 122.1 of the *LRA*].
[65] Schedule 2, clause 18(5) [new s. 125(2.1) of the *LRA*].

- Statutory just cause protection against discharge or discipline during the period between the start of a lawful strike/lockout position and the conclusion of a new collective agreement;[67] and

- The power of the Board to grant substantive relief on an interim basis.[68]

[66] *LRA* s. 12.1.
[67] *LRA*, s. 80.1.
[68] *LRA*, s. 98.