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Employment Standards Changes Regarding Proposed Bill 148

Employment Standards changes that were proposed by Ontario Government in Bill 148, the Fair Workplaces, Better Jobs Act, 2017, were introduced on June 1, 2017 and are currently before the Standing Committee of Finance and Economic Affairs. Employers and other stakeholders that wish to provide feedback have been advised to make arrangements to present to the Committee at public hearings being held across the province in July and August 2017. Publications discussing this proposed legislation anticipate that the Ontario government will address this legislation as soon as it returns from summer recess on September 8, 2017.

Bill 148 proposes a wide range of changes to the Employment Standards Act, 2000 (ESA), including the following:

- Increasing the minimum wage to $14/hour on January 1, 2018 and to $15/hour on January 1, 2019, with annual inflation adjustments going forward;
- Providing the same pay for part-time employees who perform the same jobs/functions as full-time employees;
- Making personal emergency leave available to all employees (not just employers with 50 or more employees), with two of the 10 days of leave as paid leave;

- Increasing the maximum unpaid family medical leave from eight weeks in a 26-week period to 27 weeks in a 52-week period;
- Introducing up to 104 weeks of unpaid leave for the death or crime-related disappearance of a child; and,
- Increasing the minimum paid vacation entitlement for employees with five or more years of service from two to three weeks.

WSIB Changes To Include Coverage For Chronic Mental Stress In The Workplace

The Workplace Safety and Insurance Act has been amended to make Workplace Safety and Insurance Board (WSIB) Benefits available to employees with chronic mental stress arising from the workplace. The changes will come into effect on January 1, 2018.

Previously WSIB mental stress coverage was only available to employees with mental health injuries due to "an acute reaction to a sudden and unexpected traumatic event". Bill 127, Stronger, Healthier Ontario Act, 2017 adds a provision to allow benefit entitlement for chronic mental stress arising out of and during the worker's employment. Note that it does not apply to mental stress caused by an employer's decisions or actions relating to the worker's employment. Also note the amendments are not retroactive: benefits will be available to employees who seek medical attention or are diagnosed with a work-related chronic mental stress disorder after January 1, 2018.

The Workplace Safety and Insurance Board has issued a draft consultation document which indicates that work-related mental stress would generally be considered substantial if it is "excessive in intensity and/or duration compared with the normal pressures and tensions experienced by workers in similar circumstances."

It also outlines that "chronic work-related mental stress" can result from bullying and/or harassment.

Alberta's Employment Standards Code Changes

Significant changes were made to Alberta's Employment Standards Code (Code) when Bill 17, the Fair and Family-friendly Workplaces Act received Royal Assent on June 7, 2017 with an effective date of January 1, 2018.

The changes affect all provincially regulated employers, and deal with a range of issues, including leaves of absence, terminations and temporary layoffs. It also makes changes to other Code provisions, including those governing statutory holiday pay, overtime and youth employment including the following:

- Decreasing the eligibility for employment leave to 90 days of employment (previously one year).;
- Increasing maternity leave from 15 to 16 weeks;
- Increasing compassionate care leave from 8 to 27 weeks;
- Including a personal and family responsibility leave up to five days per year;
- Adding a long-term illness and injury leave for up to 16 weeks per year;
- Introducing a critical illness of a child leave of up to 36 weeks;
- Providing for a death or disappearance of a child of up to 52 weeks for disappearance and 104 weeks for death when the disappearance/ death is the result of a crime;
- Adding a domestic violence leave of up to 10 days per year and a bereavement leave of up to three days per year; and
- Introducing a citizenship ceremony leaving allowing up to a half-day to attend the ceremony.

The Fair and Family-friendly Workplaces Act also makes noteworthy changes to the group termination notice requirements. Prior to January 1, 2018 the rules require employers to give four weeks' advance notice to the Minister of Labour if they intend to terminate more than 50 employees at one location within a four week period. As of January 1, 2018, the advance written notice required will depend on the number of employees being terminated, as follows:

- 50 to 99 employees: 8 weeks' notice
- 100 to 299 employees: 12 weeks' notice
- 300 or more employees: 16 weeks' notice

In addition the new regulations will require that temporary layoffs totalling more than 60 days in a 120-day period will constitute termination of employment, unless the employer and employee agree otherwise. Please note that employers will not be able to force employees to use vacation or banked overtime during the notice period, unless both the employer and employee agree.

Manion Claims Corner

Prescription Drug Update

Following the pan-Canadian Pharmaceutical Alliance (pCPA) agreements on multiple Hep C drugs leading to most Canadian provinces (currently 8 out of 10, including all provinces who are first-payers) updating their formularies, our pharmacy benefit manager – Express Scripts Canada (ESC) - has updated its Prior Authorization (PA) criteria to include coverage for only the most cost-effective options of treatment for its patients, aligning with provincial formulary drugs.

As of May 26th, 2017, the following drugs have been listed on Express Scripts Canada (ESC) Prior Authorization (PA) list for the treatment of Hep C:

- **Epclusa (sofosbuvir/velpatasvir**) for all genotypes
- **Zepatier (elbasvir/grazoprevir)** for genotypes 1 and 4
- **Harvoni (ledipasvir/sofosbuvir)** for genotype 1 (only for candidates using for 8-week course)
- **Holkira Pak (ombitasvir/paritaprevir/ritonavir and dasabuvir)** for genotype 1
- **Ibavyr (ribavirin)** - when required with Epclusa and Zepatier

The following list of drugs will be removed from the PA list:

- **Daklinza**
- **Galexos**
- **Sovaldi**
- **Technivie**
- **Sunvepra**

Express Scripts Canada (ESC) will proceed with updating its website Prior Authorization (PA) drug list and related documents accordingly.

Relief For Plan Sponsors Through Ontario Drug Plan

According to the provincial budget released earlier this year, Plan Sponsors in Ontario may get some relief beginning January 1, 2018, when the province plans to begin covering the full cost of many drugs for Ontarians under the age of 25. Manion expects those employers with traditional plans (no excluded drugs, no maximum on covered drugs) to save approximately 10% of their annual drug plan costs. However, since only medications available under the Ontario Drug Benefit (ODB) formulary or the Province's Exceptional Access Program (EAP) are expected to be covered, savings may vary from plan to plan. For example, if a plan does not cover high cost drugs, or if a plan has a low annual maximum on drugs, then it is more likely the proposed provincial coverage will pick up a relatively larger share of drugs under that plan. Such plans could see correspondingly greater savings, perhaps as high as 15%. On the other hand, high cost biologic or specialty drugs are typically not included under ODB or

EAP, so employers that are currently saddled with use of such drugs by insured claimants under age 25 will remain exposed to those costs and their savings will be relatively less than most plans.

British Columbia To Reduce Medical Services Plan (MSP) Premiums

Premiums for British Columbia's Medical Services Plan (MSP) are about to become more affordable next year. According to its 2017 budget, BC says beginning January 1, 2018, MSP premiums will be cut in half for annual family net incomes not exceeding $120,000. The specific decreases will vary based on annual household net income, but couples and families can expect to save up to $900 annually if they are currently paying full premiums, while individuals can expect to save up to $450 annually.

In addition, the minimum income threshold below which households are fully exempt from MSP premiums will be increased by $2,000. Employers that pay all or a portion of the MSP premium on behalf of employees and/or retirees, stand to benefit from the reduction in the MSP premium, and are encouraged to review their obligations in all plan documents, as well as consider potential implications should the government replace MSP premiums with a new charge, tax, or levy.

Quebec's New RAMQ Rates Effective July 1, 2017

The Régie de l'assurance maladie du Québec (RAMQ) has announced updated public plan rates for July 1, 2017 to June 30, 2018. Private plans in Quebec that provide drug coverage must offer coverage that's at least equivalent to the public plan. For drugs listed on the RAMQ formulary, insurers' systems will generally adjudicate those claims in accordance with RAMQ rules.

The table below summarizes the current and new rates:

	Monthly Deductible		Coinsurance		Maximum Monthly Contribution		Maximum Premium	
	Old	**New**	Old	**New**	Old	**New**	Old	**New**
Under age 18	$0	**$0**	$0	**$0**	$0	**$0**	$0	**$0**
Eligible full-time students ages 18 to 25 (*1)	$0	**$0**	$0	**$0**	$0	**$0**	$0	**$0**
Ages 18 to 64	$18.85	**$19.45**	34.5%	**34.8%**	$87.16	**$88.83**	$660	**$667**
Ages 65 and older:								
Not receiving GIS	$18.85	**$19.45**	34.5%	**34.8%**	$87.16	**$88.83**	$660	**$667**
Receiving 1% to 93% of GIS maximum	$18.85	**$19.45**	34.5%	**34.8%**	$52.16	**$52.65**	$660	**$667**
Receiving 94% to 100% of GIS maximum	$0	**$0**	$0	**$0**	$0	**$0**	$0	**$0**
Holders of claim slips (*2)	$0	**$0**	$0	**$0**	$0	**$0**	$0	**$0**

(*1) Without spouses and living with parents

(*2) Issued by the Ministère de l'Emploi et de la Solidarité sociale

Manion Pension Corner

Strengthening and Modernizing Workplace Pensions

On May 19, 2017 the Ontario government announced that the government will be:

- Increasing the monthly guarantee provided by the Pension Benefits Guarantee Fund (PBGF) for a plan member's pension by 50 per cent, to $1,500 from $1,000. The PBGF applies to privately sponsored single-employer defined benefit pension plans in the event of plan sponsor insolvency.
- Moving forward with a review of the rules governing the wind-up of defined benefit pension plans and studying a proposal to establish an agency to administer pension benefits of wound-up plans on an ongoing basis.
- Looking at creating a registry of information about missing members and their benefit entitlements. FSCO is to develop guidance for pension plan administrators in respect of options regarding un-locatable members. The superintendent would have power to waive the requirement for plan administrators to send periodic statements to beneficiaries if the pension plan administrators can prove they're missing.

CAPSA already has a committee reviewing the practices of various national and international jurisdictions with regards to missing members. Missing members create ongoing costs in maintaining pension entitlements and in windup situations the plan cannot be fully wound up until the pension entitlements have been fully distributed to its members. Currently only British Columbia, Alberta and Quebec have unclaimed property legislation regarding pension benefits.

Solvency Relief – Recent Changes

<u>Ontario</u>

On May 19, 2017 the Ministry of Finance announced the government is implementing a new framework for defined benefit (DB) pension plans. New funding rules is expected to come into effect in 2018 that will only apply to single-employer DB plans, and to multi-employer pension plans that do not currently qualify as a specified Ontario multi-employer pension plan (SOMEPP). The rules that apply to SOMEPPs will be replaced by target benefit multi-employer pension plan (TBMEPPs).

Ontario Regulation 225/17 came into force July 1, 2017 setting out interim relief measures for plan sponsors filing actuarial reports in 2017. Employers will not have their contributions increased because of solvency funding requirements reported in 2017 and plans may elect to defer the start of new solvency special payments for one year beyond the date on which they are normally required to start.

The new funding framework for defined benefit plans that is expected to come into effect in 2018 includes:

- Changes to the going concern funding rules to adjust the amortization period from 15 years to 10 years for funding a shortfall in the plan and consolidating special payment requirements into a single schedule.
- Requirements to fund a reserve within the plan to help manage future risk and ensure benefits are secure (Provision for Adverse Deviation or PfAD).
- A requirement to fund on a solvency basis in the event that a plan's funded status falls below 85 per cent.
- A discharge of liabilities when annuities are purchased for retirees or deferred plan members.

- Increasing transparency by requiring plans to develop funding and governance policies.
- Increased disclosure to plan beneficiaries on the status of their plan.

In addition, the new funding framework expected for TBMEPP plans in 2018 includes:

- A permanent exemption from solvency funding.
- An obligation for plans to satisfy going concern funding requirements with any deficiencies amortized over 15 years, rather than the current 12 years.
- A new basis for calculating benefits paid when a member terminates participation in a plan or when a plan is wound up.
- Rules to ensure that plan benefits are appropriately reduced when funding requirements are not met.
- Opportunities for retirees to participate in plan governance.

To allow time for the development of the necessary legislative and regulatory amendments, the government is extending the temporary exemption from solvency funding requirements currently in place for SOMEPPs from August 2017 to August 2018.

Newfoundland

Regulation 23/17 was recently passed extending the solvency funding exemption for multi-employer pension actuarial valuations covering funding up to December 31, 2010. The exemption was originally introduced in 2008, when Newfoundland and Labrador passed Regulation 30/08 Solvency Funding Relief under the Pension Benefits Act, 1997. Plans that are classified as SMEPs will be allowed to fund their plans based on going concern liabilities only. For a multi-employer pension plans, the maximum period for liquidating a going concern unfunded liability is within 12 years of the review dates for actuarial reports (prepared with review dates between December 31, 2015 and December 31, 2020 inclusive). Regulation 23/17 is considered to have come into force on December 31, 2015.

There is no guarantee that solvency funding relief will be extended once this 5-year period has expired. Solvency funding relief has been granted over the short term but Boards of Trustees should proceed with caution over this period, especially if a solvency deficiency is identified when an actuarial valuation is performed during this period. If the funding relief is not extended beyond this 5-year period, SMEPs which have solvency deficiencies will have to adjust their funding, once again, to recognize the special payments required to liquidate the solvency deficiencies.

British Columbia

On October 24, 2016, the British Columbia government amended its regulations to implement two new solvency funding relief measures for pension plans with a defined benefit component:

- extension of the regular solvency amortization period from 5 to 10 years, and
- consolidate all existing solvency deficiencies.

The amendment to the Regulation permits an Administrator, on submission of written election to the Superintendent, to consolidate all existing solvency deficiencies into one new solvency deficiency at the review date (Fresh Start). The Administrator may make an election under the new subsection only once in respect of a defined benefit component of the plan with a specified review date between December 31, 2015 and December 31, 2017, inclusive.

This amendment does not change the period required by the Regulation to amortize unfunded liabilities.

What's Going On at Manion!

Update On Our Renovations

As mentioned in our April edition of the Manion Magazine, we are making some improvements to our facilities at 21 Four Seasons Place. Renovations have been completed on the 6^{th} floor and we are now beginning the renovations on the 5^{th} floor office space. Renovations to our Reception area will begin August 14. However it will continue to be fully operational during this time and there will be no disruption of our walk in service.