



# What's New in HR Law

## Ontario's Bill 57 Through the Lens of a Labour and Employment Lawyer

December 17, 2018

### **BOTTOM LINE**

A new bill containing a number of legislative changes that will directly impact workplaces in Ontario received Royal Assent on December 6, 2018. Bill 57, the *Restoring Trust, Transparency and Accountability Act, 2018*, amends various statutes including the *Fire Protection and Prevention Act, 1997*, the *Municipal Act, 2001*, the *City of Toronto Act, 2006*, the *Pay Transparency Act, 2018*, and the *Pension Benefits Act*.

### **Amendments to the *Fire Protection and Prevention Act, 1997***

Bill 57's amendments to the *Fire Protection and Prevention Act, 1997* (the "FPPA") came into effect on December 6, 2018 and make changes to the collective bargaining and interest arbitration process in the fire sector. The amendments also provide enhanced protections for volunteer firefighters. For a detailed overview of these amendments, please read our article:

[Bill 57 Seeks to Change Fire Sector Interest Arbitration Procedure and Protect Volunteer Firefighters.](#)

Filion Wakely Thorup Angeletti LLP [www.filion.on.ca](http://www.filion.on.ca)

#### Toronto

Bay Adelaide Centre  
333 Bay Street, Suite 2500, PO Box 44  
Toronto, Ontario M5H 1P8

#### London

620A Richmond Street, 2nd Floor  
London, Ontario N6A 5J9

#### Hamilton

1 King Street West, Suite 1201, Box 57030  
Hamilton, Ontario L8P 4W9

## **Amendments to the *Municipal Act, 2001* and *City of Toronto Act, 2006***

Effective December 6, 2018, municipalities now have the same power to pass bylaws regulating cannabis smoking in public places and workplaces as they have to regulate tobacco smoking. “Smoking” cannabis includes both holding lighted cannabis and consuming cannabis using an electronic cigarette. “Workplaces” includes both public transportation vehicles and taxicabs.

### ***Municipal Act, 2001***

Through the use of a bylaw, a municipality other than the City of Toronto may:

- define what constitutes a “public place” where smoking cannabis will be regulated;
- require a person who owns, occupies or operates a place that is subject to the bylaw to post signage;
- establish the form and content of the signage, and the place and manner in which it must be posted;
- permit a person who owns, occupies or operates a place that is subject to the bylaw to set aside an area in which cannabis can be smoked, and establish requirements for such an area to qualify (e.g. ventilation); and/or
- require the owner or occupier of a public place, the employer of a workplace (other than a public transportation vehicle and a taxicab), or the owner or operator of a public transportation vehicle or a taxicab to ensure compliance with the bylaw.

Where there is conflict between bylaws passed by an “upper-tier” municipality and a “lower-tier municipality” as defined in the *Municipal Act, 2001*, or there is conflict between a bylaw passed by a municipality and a provision of any Act or regulation, the law that places more restrictions on smoking cannabis will prevail.

## ***City of Toronto Act, 2006***

Through the use of a bylaw, the City of Toronto may:

- define what constitutes a “public place” where smoking cannabis will be regulated; and
- require the owner or occupier of a public place, the employer of a workplace (other than a public transportation vehicle and a taxicab), or the owner or operator of a public transportation vehicle or a taxicab to ensure compliance with the bylaw.

Where there is conflict between a bylaw passed by the City of Toronto and a provision of any Act or regulation, the law that places more restrictions on smoking cannabis will prevail.

## ***Amendments to the Pay Transparency Act, 2018***

The *Pay Transparency Act, 2018* (the “PTA”) would have required employers to disclose compensation information to current and potential employees and to file annual pay transparency reports with the government, which the government would then have made public.

Bill 57 has indefinitely delayed the implementation of the *PTA*, so it is unclear when, or if, the *PTA* will come into effect.

For a more detailed discussion of the *PTA*, please read our article: [Ontario Targets Wage Gap between Men and Women with New Pay Transparency Act, 2018](#).

## ***Amendments to the Pension Benefits Act***

### **Electronic Beneficiary Designations**

Effective December 6, 2018, pension plan administrators can now accept beneficiary designations electronically.

### **Variable Benefits**

In 2015, the Ontario government amended the *Pension Benefits Act* (the “PBA”) to allow defined benefit pension plans to offer variable benefit accounts. This would permit retired members to receive benefits directly from the plan. These provisions are currently not in force, and the government has not yet set a date on which they will come into force.

Bill 57 modifies these un-proclaimed provisions by allowing a retired member to apply, within 60 days of opening a variable benefit account, to either: (i) withdraw up to 50% of the amount that they transferred to the variable benefit account at the time it was established, or (ii) transfer said amount to a registered retirement savings arrangement.

Bill 57 also restricts the definition of “specified beneficiary” under these provisions to the spouse of a retired member of the pension plan.

However, there is still no date on which these variable benefit provisions will come into force.

### **Unlocking for Non-Residents**

Effective December 6, 2018, non-residents of Canada who are former members of a deferred pension plan may now apply to receive the commuted value of their pension. To do so, the former member’s spouse (if applicable) will have to waive any rights that he or she has in relation to the pension under both the *PBA* and the terms of the pension plan.

### **Mergers with Jointly Sponsored Pension Plans**

Effective December 6, 2018, where a single-employer pension plan that provides both defined benefit and defined contribution benefits merges with a jointly sponsored pension plan, the transfer of the direct contribution benefits must comply with certain requirements to be prescribed by regulation.

### **Discharging the Liability of Pension Plan Administrators**

Beginning on a date to be proclaimed by the Lieutenant Governor, the liability of the administrator of a single-employer pension plan may be statutorily discharged in certain circumstances where a pension benefit is bought out through the purchase of an annuity for former members, retired members or their survivors. For the statutory discharge of liability to apply, the annuity purchase will be required to satisfy certain requirements which will be prescribed by regulation.

## CHECK THE BOX

Bill 57 has now received Royal Assent. The amendments to the *FPPA*, *Municipal Act, 2001*, *City of Toronto Act, 2006*, and *PTA* are now in effect, while the amendments to the *PBA* come into effect on various dates as outlined above. Employers should familiarize themselves with these amendments so they are prepared to adapt to the changing legal landscape in Ontario.

### Need more information?

For more information, please contact James Jennings at 416-408-5503, or speak to your regular lawyer at the firm.



**Toronto**  
Bay Adelaide Centre  
333 Bay Street, Suite 2500,  
PO Box 44  
Toronto, Ontario M5H 2R2  
tel: 416.408.3221  
fax: 416.408.4814  
toronto@filion.on.ca

**London**  
620A Richmond Street, 2<sup>nd</sup> Floor  
London, Ontario N6A 5J9  
tel: 519.433.7270  
fax: 519.433.4453  
london@filion.on.ca

**Hamilton**  
1 King Street West, Suite 1201  
Box 57030  
Hamilton, Ontario L8P 4W9  
tel: 905.526.8904  
fax: 905.577.0805  
hamilton@filion.on.ca