



Human Resources  
Professionals  
Association  
Durham Chapter

WINTER 2018

# Resource

Shaping Organizational Excellence



## MANAGING WORKPLACE CHANGE

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## About This Issue

*Gladys Saenz, Editor*

The past year was a memorable one, with highlights like Canada's 150<sup>th</sup> birthday, celebrated with festivals and events from coast to coast, and Prince Harry kicking off the Invictus Games in Toronto in September. I hope everyone ended it with a lovely holiday season! I would like to send very hearty New Year's wishes from all of us here at HRP Durham Chapter.

I am Gladys Saenz, Communications Director, Durham Chapter, and I am honoured to be the new editor of *Resource Magazine*. In this issue, I am thrilled to share with you information on the impact of the ESA changes brought by Bill 148, which received Royal Assent on November 27, 2017.

A new year means a new beginning, a new set of challenges and opportunities, and certainly a clean slate for the year ahead as we face the task of implementing Bill 148 rather quickly.

HR professionals need to be ready for the sweeping changes. Bill 148 has a lengthy list of amendments that impact the *Employment Standards Act, 2000* (ESA), the *Labour Relations Act* (LRA) and the *Occupational Health and Safety Act* (OHSA). Albeit some of the changes are staggered, there are amendments that came into force immediately December 3, 2017, and then January 1, 2018. Others will come into effect April 1, 2018, and January 1, 2019.

It is critical both employers and employees understand all the changes currently in place and others that will be implemented shortly. HR professionals play a key role in developing the strategies to ensure their organizations meet legislative compliance. To help, we spoke to leaders across different industries to gather their views on the impact of Bill 148 and their opinions on Durham employers' readiness to implement.

We also have Ernest Ogunleye, Chapter President, sharing information on global economic growth, productivity gains and unemployment decreases, as predicted by Goldman Sachs. He notes the challenges that will be faced in 2018 with the upcoming municipal and provincial elections, and the implementation of Bill 148. He also mentions important historical events, recognizes volunteers' exceptional contributions across the region and touches on the creation of a new volunteer award at the Chapter.

Our legal article provides information that will assist you understand how critical it is for both employers and employees to comprehend the extensive number of changes resulting from the amendments announced by Bill 148. HR professionals must have a strategy that includes a communication component to ensure these changes are clearly and consistently applied throughout their organizations.

Finally, our student article provides us with their perspective on the changes and their concerns about how these changes may be seen by employers.

My advice to HR professionals is to understand the Bill and be strategic about how you'll help your organization implement it and be in compliance. □



From the President's Desk:

## Take Control of Your Future

Ernest Ogunleye, Chartered MCIPD

My fellow Regional Durhamites,

On a global front for 2018, Goldman Sachs is predicting the world economy will grow 4%, productivity should continue to gain strength and unemployment should drop in all the economies they monitor. According to Goldman Sachs, it's "as good as it gets!"<sup>1</sup> That is potentially great news for Durham Region, Ontario and the rest of Canada.

The Goldman Sachs' macroeconomic predictions lead me nicely to the following quotation:

***Humanity with all its fears, with all the hopes of future years, is hanging breathless on thy fate!***

— Henry Wadsworth Longfellow

(American Poet & University Professor, 1807–1882)

This is going to be a challenging year in more ways than one. We have the privilege of participating in Ontario's municipal and provincial elections in 2018. I encourage you to listen to the candidates, read the manifestos and cast your vote to direct the future of our communities.

In addition, as of January 1, 2018, many provisions of Bill 148 are now in force. How are you and your organization coping with the changes? Personally, I have been involved in some compliance audits. You can find more information in the articles in this issue.

2018 is also notable for several historic events, such as the 100<sup>th</sup> anniversary of the end of the World War I. U.S. President Woodrow Wilson famously called it "a war to end all wars." Alas, this proved not to be the case.

On a lighter note, the Whitby Chamber of Commerce celebrates its 90<sup>th</sup> anniversary this year, and HRPAs are enjoying its 83<sup>rd</sup> anniversary. If you follow the lineage, volunteers arranged the first HR meetings in 1935 and HRPAs were built on this heritage.

HRPA continues to be a volunteer organization, catapulted forward by its membership.<sup>2</sup> At the Chapter level and in the wider Durham Region community, HR professionals in voluntary capacities are leaving a tangible and positive legacy. In recognition of this success, the Board has

<sup>1</sup> [www.goldmansachs.com/our-thinking/pages/macro-economic-insights-folder/2018-global-economic-outlook-as-good-as-it-gets/report.pdf](http://www.goldmansachs.com/our-thinking/pages/macro-economic-insights-folder/2018-global-economic-outlook-as-good-as-it-gets/report.pdf)

<sup>2</sup> [www.hrpa.ca/about-hrpa/volunteer-organization](http://www.hrpa.ca/about-hrpa/volunteer-organization)

endorsed the creation of a new award for Durham Chapter members. More details will follow shortly on this exciting project from the Membership Committee.

Acknowledging and valuing the many aspects of our varied lives is one of several approaches to sustaining a practical work-life balance. In this increasingly interconnected world, constantly fuelled by advances in technology, it's good to focus on physical human social interaction occasionally. This forms the basis of humanity and the essence of who we are, and validates the claim that Artificial Intelligence is not yet on par with Emotional Intelligence.

On the technology front, we should be on guard regarding Net Neutrality. Net/Network Neutrality is the principle that Internet service providers should enable access to all content and applications regardless of the source, and without favouring or blocking particular products or websites. On December 14, 2017, the U.S. Federal Communications Commission (FCC) voted to end net neutrality. Why is this important? The open, free market competition that created Facebook and Netflix could be unfairly denied to future start-ups entering the marketplace; businesses with larger and better funded competitors could also be subject to this access imbalance.<sup>3</sup> This may lead to exclusion of market competition and political opinion, and the erosion of legal rights. Never have Voltaire's words seemed more relevant: "I disapprove of what you say, but I will defend to the death your right to say it." We must all be aware and take a stance. It's either equal access for all or tiered access defined by an organization's ability to pay!

The choice is ours on the future of democracy, volunteering, net neutrality and inclusion. I look forward to meeting many more of you and discussing our future at upcoming HRPAs Durham events. □

<sup>3</sup> [www.bbc.com/news/video\\_and\\_audio/must-see/42341736/what-is-net-neutrality-and-how-could-it-affect-you](http://www.bbc.com/news/video_and_audio/must-see/42341736/what-is-net-neutrality-and-how-could-it-affect-you)



# Bill 148 and the ESA: Preparing for Change at Community Care Durham



Laura Ricketts is the Executive Director of Community Care Durham (CCD). CCD's mission is "Supporting People, Strengthening Community." It is a community-based agency with offices located throughout Durham Region, dedicated to supporting more than 12,000 adult clients and their

caregivers, with needs relating to aging, physical and/or mental health. CCD provides a broad range of services that support its clients' independence, health and quality of life.

*Resource Magazine* spoke with her about Bill 148 and the ESA, and how her organization is handling the changes.

**RM:** How do you feel the ESA changes will impact CCD's mission?

**LR:** Our mission is the heart of who we are and what we do. We are a complex not-for-profit organization that provides nearly 30 different types of services to our clients. We have 13 offices throughout Durham Region. It is really difficult to assess how broad the impact to CCD will be. I understand the legislation and may even agree with the philosophy; yet, it does pose a challenge for our organization. We are doing our best to provide support to people in the community.

Clients choose to live at home rather than in long-term care and some of the changes in Bill 148 will impact our clients. We do our work because we love what we do. We currently have 300 staff and 2,000 volunteers, and without our volunteers supplementing the services our staff are providing we would not be able to provide services.

The ESA changes will pose challenges as we continue to meet our goal to provide services to those who need it the most in our community.

**RM:** The key issues to consider are as follows.

- **STAFF:**

- » Will CCD be able to maintain current staffing levels?

**LR:** We don't know the full impact of the new calculation of the statutory holiday and scheduling provisions, but we know it will have a significant impact, as some clients only want 15-30 minutes of service. CCD doesn't operate the same as some other organizations. If we are required to pay a full three-hour shift for our employees who are providing 15-30 minutes of service to a client, this may prevent us from offering future services to our clients.

Scheduling has always been a challenge but now with the ESA changes, it will be even more complex. I hope that everyone will step up and focus on the best interest of the end-user—our clients. We need to put our clients' needs first while we continue to meet certain levels of service provision based on the funding formula.

- » Will CCD need to modify hours of work, schedules or service delivery models?

**LR:** We don't want to change but once we have a better knowledge of the impact, we may modify some of the services we provide—a little scary and heart-breaking for us and our staff. How do you tell people, "No, we cannot offer you this service in this manner"?

- **COMPETITIVENESS:**

- » How will you keep competitive as ESA changes impact salary and benefits?

**LR:** As a not-for-profit organization we cannot compete with salary and benefits but CCD has been offering incentives for years that have been over and above the minimum ESA standards, including three weeks' vacation to start plus two additional float days. These were our hooks and incentives for attracting, recruiting and retaining staff. Now we need to look again at other ways to recruit and keep our staff engaged.

Salary and benefits are important, as we want to maintain a certain lifestyle. The leadership staff at CCD tend to be idealistic: we want to help people and want to work with others who also want to help people.

The front-line staff will be impacted the most, as they are more dependent on salary and benefits.

We know without question that we need more volunteers to continue providing our services. However, due to environmental and demographic changes, we are living in a sandwich generation where we are the caregivers to our own parents and children with limited time to volunteer. We need to create a new platform to recruit volunteers and modify the opportunities for them, providing more flexibility. There are so many different ways people can help us. We must find new ways to bring younger people to our organization—even if that means a couple of hours every two weeks, we will take them.

We are intending to make changes to the procedures to attract more volunteers, although this may take time. We need to invest more in our resources for recruitment, retention and engagement, as well as identify more volunteer opportunities, with open arms and grateful hearts. We are open to individuals who are willing to volunteer in the community in a non-traditional role. We are grateful for all who are willing to give us their time to volunteer. Volunteers can help us support our clients through marketing strategies, social media platforms and volunteer recruitment plans.

You can find information about volunteering with us here: [communitycaredurham.on.ca/volunteer](http://communitycaredurham.on.ca/volunteer)

- **TAXATION:**

- » How will you manage the increases in payroll taxes; contributions to EI, CPP and EHT; and other benefits?

**LR:** We recognize the additional payroll costs associated with the increase in minimum wage and the financial impact, but we are uncertain what the financial impact will be on the scheduling changes and public holiday pay calculation.

Furthermore, we purchase services from organizations that traditionally employ staff making minimum wage. Their costs will increase due to the legislative changes and some of this increase will be passed onto us. We are not able to control these increased costs or put a dollar value to them at this time. For example, we purchase the food from local providers for our Meals on Wheels program, but they may increase their prices, transferring additional costs to CCD and to our clients.

*Continued on [next page...](#)*



who interact with other people. Our elderly clients need emotional support and our services are physiological and holistic. If you look at research, isolation is not good for seniors. For example, when a volunteer delivers a meal to a client, it is not just about the food; it is about the interaction the clients get from the volunteer—they have a chat, they get to know each other. It is about a check-in. It is simply impossible to automate the human touch.

If we automated our IT infrastructure, it would certainly be very costly, as we would not be well funded for IT expenses and we would need more staff to support these systems.

**RM:** As the Executive Director and leader of CCD, what do you feel you can do to mitigate the impact of all the changes imposed under Bill 148?

**LR:** As the ED of CCD, I can help mitigate changes by providing leadership to the organization that encourages creativity—different ideas (from all staff) on alternative options to provide services. I can encourage and support others in the organization to not become frustrated or cynical, and to stay true to the people and the organization we are. I can encourage front-line staff to come forward with ideas, and encourage and support growth and positive change. We could come out even better than we were before if we all work together to find new ways to perform our jobs. We will ensure changes are mitigated and not opposed; staff will need to understand how the changes impact the organization as whole and our clients.

**RM:** We recognize that CCD is a not-for-profit organization and receives funding from the LHINs as well as donations from other community partners and sponsors. Do you feel the overall funding formula may need to be modified to support the changes from Bill 148?

**LR:** There is no question that we would like to have the formula changed to reflect the impact of this legislation. However, there is no indication at this point that the funding formula will be changed. Some people call me naïve but I am hopeful that the funding model will change.

I am idealistic, so I hope the funding can (and will continue to) support us as we maintain our services to our clients. The Ontario Community Support Association (OCSA) and other bodies are advocating for the change. The following link is for the OCSA, advocating for not-for-profit community services:  
[www.ocsa.on.ca/news](http://www.ocsa.on.ca/news)

**RM:** How do you feel CCD's corporate strategy might change in response to Bill 148?

**LR:** We are 100% dedicated to our mission, vision and values, and it is our job to stay true to our corporate strategy. We may change the methods through which we provide services and do business as an organization but we will continue to support our clients.

**RM:** A recent study conducted by the Canadian Centre for Economic Analysis confirms that sectors like retail trade, manufacturing, accommodations, food service and private sector health care and social services are going to be among some of the hardest hit, and as a result will face the greatest chances for significant job losses. Many employers feel that Bill 148 is forcing them to automate as much as possible. Is this an option for CCD?

**LR:** In some areas we may be able to automate but we are about people services. We are focused on people

**RM:** What do you feel is the role of HR professionals within non-for-profit and other organizations in response to the changes imposed by Bill 148?

**LR:** HR's role at CCD is to keep the Director's team informed of the changes and the impact to the organization, and to communicate in plain language every step of the way, looking at the changes from different angles.

We rely on HR to guide us and to maintain strong lines of communication with our finance team so that there is a better understanding of the impact in implementing these changes. HR and Finance come together in a very unique way: they work collaboratively, reviewing individual viewpoints, with the common goal of smooth and clear implementation of the changes.

**RM:** Recognizing that CCD provides community services and supports throughout Durham Region, what do you feel will be the primary impact to the community and the people you provide services to with regards to the imposed changes under Bill 148?

**LR:** The most visible and immediate impact to clients within Durham Region is the short duration of in-home support. Other challenges will include the recruitment, attraction and retention strategies; service provision; increased costs to CCD for services; and additional challenges in providing client-driven care based on the client's preferences. Our services may be modified but we will not refuse services to our clients.

**RM:** What approach will you be taking to implement and communicate these changes to your organization?

**LR:** We have an HR professional leading the communication. I rely of my HR department to guide us through this. I firmly believe that we need to have the right people for these things to work. Our HR manager has been instrumental in our communication platform. The entire senior team gets the information from her and she provides guidance on every communication that needs to be sent out—what and when it should be done. Our HR is updating policies and they will be educating our staff on these changes.

**RM:** What do you anticipate may be the fallout of Bill 148 over the years to come and how do you feel that CCD can be best prepared?

**LR:** We know that these changes will be implemented but it is impossible to estimate the full impact. We do know that these changes will impact our recruitment strategy, will pose challenges to our service provision and may increase the costs associated with a number of services we provide.

We may need to modify the services we provide, but we will continue to provide services. It is challenging to see the full impact today; however, we will need to be very responsive when the level of challenges become clear.

I know this will not be easy and I know it will impact our organization, but I hope that everyone will step up and do the right thing. The organization should always be secondary and the clients first. This has always been my message to staff, volunteers, clients and the public. □



Community Care Durham (CCD) is a multi-service charitable organization providing support for adults and caregivers with needs related to aging, physical and/or mental health. Our success depends on the commitment and contribution of volunteers to maintain our clients' independence, dignity and quality of life. Employers and staff find it rewarding to make connections with clients through Corporate Responsibilities and Community Involvement. When your corporate team delivers Meals on Wheels and makes that connection with a client, you feel great about donating your time!

***CCD makes it easy to add value through CORPORATE VOLUNTEERISM!***

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- ▶ Enriches self-esteem, confidence and satisfaction from making a difference in someone's life.

*"A weekly Meals on Wheels route is certainly a commitment but it is in no way taxing on Lear to have our employees involved, and in fact helps provide employee satisfaction!" - Lear Corporation*

**Please call 905-837-0017 x237 OR visit [www.communitycauredurham.on.ca](http://www.communitycauredurham.on.ca)**



# The Impact of Bill 148: The DWA & the Upcoming Changes



Heather McMillan is the Executive Director of the Durham Workforce Authority (DWA). The DWA is a non-profit body that facilitates community labour market development. The key activities of its mandate are to work to improve the availability of labour market information; establish a planning framework for training and adjustment programs and services; provide analysis, advice and recommendations regarding these programs and services; encourage and promote the value of lifelong learning; and promote equity in and access to local training and adjustment programs.

*Resource Magazine* spoke with her about Bill 148 and her organization's perspective on the changes.

**RM:** As per DWA reports, 95% of businesses in Durham Region employ fewer than 50 staff. How do you feel business leaders across the Region are reacting and preparing to ensure they are compliant with the ESA changes, such as personal emergency leave days?

**HM:** These are huge changes that will impact small businesses within the community now that the provisions impact all employer groups, regardless of the number of people working in the organization. Over the next several months we will be spending time to ensure that employers are fully aware of these changes.

We engage a lot of employers through our HR Alliance. We know that this will be a topic of the planning committee, etc. Also most Chambers of Commerce and Boards of Trade are holding information events for their members. I will be attending a session in Ajax late January, as I want to hear what they are saying so we are all on the same page and everyone is aware.

A lot of employers with fewer than 50 employees will need to adapt to the change. It will be a shock for some of us smaller employers in respect to the personal emergency leave. I expect many of us will have a bit of a learning curve over the next several months. I also think that there will be a need for educational opportunities for employers and employees so that both understand the changes and their rights under the law.

Regrettably, there is no one central point of contact for the Chambers of Commerce or Boards of Trade in Durham Region, but I suspect this is an evolutionary tool. I believe most have had information sessions for their members by now. As mentioned, Ajax is coming up; Kristine Ashton, labour and employment lawyer, and Sean Moore, author of *Leading Change*, are speaking at that session.

Although some ESA changes are in effect now, there are many unknown facts, since no administrative guideline has been provided for employers. In many instances, case law will provide these tools.

**RM:** The largest industry sectors in Durham Region include real estate, professional services, and construction. What do you feel are the major changes for them?

**HM:** As these are not low-wage service jobs, I don't think minimum wage is going to shock these areas like other sectors. However, they may feel pressured to up their lower wages to higher rates.

Personal emergency leave will have a significant change and impact on all industries. Pregnancy and parental leave extensions are also a big change. It is inevitable that there will be some growing

pains in the system, as some parts have significantly changed. We are hearing employers say that a gradual approach would have been much better.

**RM:** The largest labour force by occupation includes sales and service, business and finance, trades and transport, education, law and government, and management. What do you feel the impact will be to these organizations with regards to maintaining their staffing levels?

**HM:** I believe there may be some reductions in staffing levels or not staffing up to the previous or anticipated levels. I also think that the impact of automation was already going to happen and perhaps the automation piece will now be accelerated.

When you read David Foot's comments when he spoke at a Durham Chapter event several years ago about the changing of jobs<sup>1</sup>—he referred to a great report from Dr. Rick Miner, "People Without Job, Jobs Without People: Ontario's Labour Market Future"<sup>2</sup>—he talks about that lower-level/lower-wage work and what will change, and the same holds true for people who don't have the skills to maintain a labour market attachment. If you combine this with the desire for an increased technology world, then low-wage jobs may not always be there.

I suspect that there will probably not be as many people hired due to automation being accelerated. One of my counterparts in Ottawa

<sup>1</sup> [www.durhamregion.com/news-story/3503471-hire-young-people-durham-employers-told/](http://www.durhamregion.com/news-story/3503471-hire-young-people-durham-employers-told/)

<sup>2</sup> [www.collegesontario.org/research/research\\_reports/people-without-jobs-jobs-without-people-final.pdf](http://www.collegesontario.org/research/research_reports/people-without-jobs-jobs-without-people-final.pdf)

is researching the impact of automation on employment. It is really interesting. Then if you add some sort of early data on the minimum wage increase, it would be fascinating to see the results.

Another interesting factor is the notion about productivity. The Institute of Competitiveness and Prosperity has spoken a lot about productivity. There could be an opportunity to engage with employers to rethink how they manage their workforce and how they manage the productivity of that workforce. Maybe you don't need 25 people, and maybe the impact of Bill 148 means you only get 20 people, but it will suffice. This is where HR comes in, to see how they are working and what are they doing so you can realign and build efficiencies. The report, "A push for growth: The time is now,"<sup>3</sup> from the Institute is worth reading. Canada ranks the lowest in the top 15 countries in terms of productivity.

**RM:** Do you have a sense of whether Durham Region employers understand the difference in the working relationship of employees versus independent contractors? What is the approximate percentage of the workforce identified to be employees versus contractors? In what primary industries within Durham Region do contractors provide services?

**HM:** The short answer is I have no idea—but employers should certainly know. The law is very clear as to who is an independent contractor, and employers can get in a lot of trouble for misclassifying

<sup>3</sup> [www.competeprosper.ca/work/annual-reports/a-push-for-growth-the-time-is-now](http://www.competeprosper.ca/work/annual-reports/a-push-for-growth-the-time-is-now)

workers. It is a worthwhile conversation to have with employers.

We have employment contracts here tied into projects and funding, but these are well defined as employment contracts, not independent contractors. If I establish their work hours and supply them with the tools to complete the work, then they are under an employment contract with us.

Data collected by our organization is in reference to employees, so if we use the term “contract,” we are referencing the employment contract. There is no data to confirm the number of independent contractors in the Region. Statistics Canada does not have this data either.

I can appreciate the job of HR professionals dealing with different types of owners, directors, presidents, etc. HR’s role can be challenging at times—and more so now with the massive changes in the ESA.

**RM:** *The average unemployment rate across Durham Region for 2016 was 7.25%. Do you anticipate the rate will increase due to the changes and their overall financial impact to Durham Region employers?*

**HM:** In 2016, the yearly average for Durham Region was 7.25%. This rate has rapidly gone down, and in December 2017, we were at 5.7%. This means that we are at almost full employment, which creates a number of questions and concerns. This is great news, but it leaves a strain in the labour force.

There are always changes in the labour market; when the number is 7%, there is usually 3% of the population who are always looking for work. So we have started to turn our sights to the “not in the

labour force” number, since it has significantly gone down, as people are not looking for work. We need to know why they are not looking for employment: do they not have the skills and competencies to maintain an attachment to the labour force?

**RM:** *Which business and industry sectors do you feel will be most impacted by the changes to the Labour Relations Act (which assist union organization of employees)?*

**HM:** Predominantly retail trade in the initial phase, and then I suspect largely any service industry—some manufacturing facilities that are at minimum wage in the Region, for example.

All employers will feel the pinch, and I suspect that there may be an increased competition for government programs like Canada Summer Jobs to cover some of the additional cost over the busy months. We know anecdotally that community-based organizations are accessing this type of funding. We also know that many employers do not take advantages of these opportunities, so these programs are underutilized by employers but well used by community groups. We need to be talking to employers about these great opportunities.

Combine that with the desire from the province to increase experiential learning for young people. I personally believe that if you have someone in your office doing experiential learning, they should be paid, and if you cannot afford to pay then, there should be funding available to make this happen. Career Focus is a great opportunity that can be used for this purpose. It would be nice to have more for-

profit businesses take advantage of programs like these.

The Employment Ontario Service Providers provide funding for the first three months of hiring staff, and in most cases, the Employment Ontario Service Provider will work with you to navigate through the red tape. This is important to them for their outcomes; employers can access any of the 14 providers in Durham Region.<sup>4</sup>

**RM:** *We approached a few smaller businesses in the Region to talk to them about the ESA changes. While they were willing to speak to us, their general response was that they did not want to make a statement. What is your take on this?*

**HM:** We have a lot of connections through the HR Alliance, but I believe people want to remain off the record for now. It is difficult for us to create a short survey and distribute it to these small operations, as people are concerned about being identified.

However, we know that businesses are reviewing student hiring practices, and some are limiting these numbers. We will need to look at a trend over a period of time; a youth (20 to 24) unemployment survey goes out January/February every year. We will need to look at the results in six months to see if the impact is similar to 2012 numbers (23%). If so, we have a problem. In 2012, we could not identify the reason for the high youth unemployment, but if it happens in 2018, we will know that the drastic increase in minimum wage will definitely have had an impact.

I also suspect compression will have an impact on the cost for

<sup>4</sup> [durhamworkforceauthority.ca/wp-content/uploads/2017/10/Durham-Service-Providers-August-2017.pdf](https://durhamworkforceauthority.ca/wp-content/uploads/2017/10/Durham-Service-Providers-August-2017.pdf)



some businesses that were already paying their staff \$14/hour. There may be an expectation of an increase, but we should look at the employee performance to grant this increase (above the \$14/hour mark)—a merit increase. Other issues may include revisiting the pay equity plans and other soft costs not directly associated with the minimum wage increase.

Again, I appreciate so much what the government has tried to do for employees with the increase in minimum wage. I personally believe in the increase of minimum wage based on my own research. However, it is a hard implementation.

**RM:** How can HR professionals assist in managing this major change?

**HM:** I am pleased to have a relationship with the HRPDA Durham Chapter, and I feel this is a great opportunity and will be pleased to help with the continuum. I also encourage your Chapter and HR professionals to have a closer relationship with the local Chambers of Commerce. As previously mentioned, the Chambers hold a number of information sessions throughout Durham Region, and these sessions could be more fulsome if the HRPDA Durham Chapter was involved.

If HRPDA Durham Chapter is engaging with employers through partnerships with the Chambers of Commerce, contact with employers can remain seamless. I would like to see employer engagement, establishing links and collaboration between our working groups. The Chambers have quarterly joint meet-

ing. In the next meeting, I will ask them to invite the Chapter to attend.

At times, depending on who your members are, we may receive a request to present with one day's notice. If we have a partnership, we can rely on each other to provide the information required (expanding resources). My goal is to grow and expand Durham Region, and reduce the number of people on the highway and trains every single day. The only way we can do this is by having a joint partnership, spending the money wisely.

The Tamarack Institute looks at community development through a collective impact lens. Ultimately, there should be one community goal, whatever it is, where we are all aligned and bring a piece of the puzzle to the table. □

# Bill 148

## What It Means for Ontario's Small Businesses & Non-Profit Employers

Matthew Badrov



There are many components to Bill 148 that will, or have the potential to, significantly impact small businesses and non-profit organizations in Ontario.

The purpose of this article is to highlight the five amendments to Ontario's *Employment Standards Act, 2000* (ESA) with the greatest potential to impact how small businesses and non-profit organizations operate.

### **1. Increase to Minimum Wage** —in force January 1, 2018

A key component of Bill 148 is an increase to the general minimum wage. Effective January 1, 2018, minimum wage increased from \$11.60 to \$14.00 per hour, with a further increase to \$15.00 per hour effective January 1, 2019. Thereafter, minimum wage adjusts annually for inflation in October of each calendar year.

Bill 148 also increases the minimum wage for specific classifications of employees (students under 18, hunting and fishing guides, homeworkers, liquor servers), proportionate to the increase in the general minimum wage. For instance, the minimum wage for students under 18

increased to \$13.15 per hour effective January 1, 2018, and will increase to \$14.10 per hour effective January 1, 2019.

### **Commentary**

The increase to the general minimum wage is particularly troubling for employers given the direct impact this will have on labour costs and competitiveness. It is also very likely to curb the willingness of the Ontario small business community to hire students—necessary for a healthy and growing economy.

### **2. Scheduling** —in force January 1, 2019

Bill 148 introduces a number of provisions to regulate the scheduling of work and minimum pay required where a shift is cancelled or cut short. Specifically:

- If an employee attends work but works fewer than three hours, despite being available to work longer, the employee is entitled to three hours of pay at his or her regular rate, or the amount the employee earned for the time worked plus the wages equal to his or her regular

rate for the remainder of the time (whichever is greater).

- If an employee's scheduled day of work is cancelled within 48 hours of its intended start, the employee is entitled to three hours of pay at his or her regular rate.
- If an employee is "on call" and not called in to work, or is called in for work for fewer than three hours despite being available to work longer, the employee will be entitled to three hours of pay at his or her regular rate of pay, or the amount the employee earned for the time worked plus the wages equal to his or her regular rate for the remainder of the time (whichever is greater). This only applies to the first "on-call" shift in any 24-hour period.
- An employee is entitled to refuse a request to work or be "on call" without repercussion where the request is made fewer than 96 hours (i.e., four days) before the "on-call" period commences.

Certain exemptions apply to these scheduling provisions and are of particular note for small businesses and non-profit organizations:

- An employer is exempt from the three-hour rule where the inability to provide work is due to extraordinary circumstances outside of the employer's control (fire, power failure, etc.).
- An employee is exempt from the entitlement to pay for the cancellation of a scheduled day of work or "on-call" period if the cancellation was due to extraordinary circumstances outside of the employer's control (fire, power failure, etc.) or the nature of the work is weather dependent and the employer cannot provide the work for weather-related reasons.

Bill 148 temporarily "grandfathers" scheduling provisions contained in any collective agreement in effect as of January 1, 2019, up to the earlier of January 1, 2020, or the expiry of the collective agreement. Any new collective agreement made or renewed after January 1, 2019, must comply with the scheduling requirements.

### Commentary

For a small business or non-profit organization with unpredictable workforce requirements, these amendments are not realistic. A small business or non-profit employer may need to look at scheduling fewer employees in order to control labour costs.

### 3. Holiday Pay

—in force January 1, 2018

The ESA provides for nine public holidays for which most employees in Ontario are entitled to public holiday pay.

Bill 148 introduces a new formula for calculating holiday pay, which is particularly important for any business open on holidays that has historically relied on casual and part-time employees to staff those holidays.

Under Bill 148, public holiday pay is calculated by taking the total amount of regular wages earned by the

employee in the pay period immediately preceding the public holiday and dividing it by the number of days worked by the employee in that period.

As well, an employer wishing to grant an employee a substitute holiday in lieu of a public holiday will now need to provide the employee a written statement outlining the date being substituted for the public holiday.

### Commentary

The implication of the new method of calculating public holiday pay is significant, particularly for an employer with casual employees. An employee who works a single eight-hour day in the pay period preceding the public holiday, and nothing more, will be entitled to the same amount of public holiday pay as an employee who works five days per week at eight hours a day.

A small business or non-profit employer with a number of casual employees may want to reduce the number of part-time and casual employees it staffs in the pay period preceding a public holiday in order to minimize its public holiday pay exposure.

### 4. Equal Pay

—in force April 1, 2018

At present, the ESA does not require an employer to compensate a part-time, temporary, casual or limited term contract employee ("non-permanent employee") in the same manner as a full-time employee doing the same work.

Bill 148 provides no employer shall pay an employee at a rate of pay less than the rate paid to another employee of the employer because of a difference in employment status when:

- They perform substantially the same (but not necessarily identical) kind of work in the same establishment,
- Their performance requires substan-

tially the same (but not necessarily identical) skill, effort and responsibility; and

- Their work is performed under similar working conditions.

A difference in the rate of pay is permitted if based on a seniority or merit system, a system that measures earnings by quantity or quality of production or any other factor other than sex or employment status. The term "difference in employment status" is defined in Bill 148 as "a difference in the number of hours regularly worked by employees; or a difference in their term of employment, including a difference in permanent, temporary, seasonal or casual status." An employer that hires a college or university student who is 18 or older to work during the summer must therefore pay the student the same rate of pay paid to a regular, full-time permanent employee unless the summer student comes within one or more of the permitted exceptions to the equal pay requirement outlined above.

Recent regulations enacted have expressly included an exemption to the equal pay requirements for a student under 18 who works not more than 28 hours a week or who works during a school holiday.

Bill 148 temporarily "grandfathers" wage rates contained in any collective agreement in effect as of April 1, 2018, up to the earlier of January 1, 2020, or the expiry of the collective agreement. Any new collective agreement made or renewed after April 1, 2018, must comply with the equal pay requirement.

Bill 148 also guarantees an employee the right to a review of his or her wages if the employee does not believe wage parity has been achieved; and the

*Continued on page 15...*



# Student Perspective: Bill 148 Opinion

Sabrina Shapas and Rushita Patel

As students with part-time jobs, we believe Bill 148 has brought to light some wonderful changes, which will positively impact many other students like ourselves who work part-time. Most students usually get hired as part-time, casual or seasonal employees, and with this comes a lot of conflict in terms of equal pay, employee rights and benefits. The fact that Bill 148 will be implementing equal pay for all employees who do the same work (effective April 1, 2018) is great news for students and other part-time and casual staff.

In terms of family and health, the increase of Family Medical Leave from up to 8 weeks of leave in a 26-week period to up to 28 weeks of leave in a 52-week period (effective January 1, 2018) benefits a lot of employees who need time off to take care of their loved

ones. The Bill also takes into consideration how important it is to take care of family members who are ill and need help through changes to Critical Illness Leave. Now employees are entitled to take up to 37 weeks of leave to provide care and support to their critically ill child, and up to 17 weeks of leave in a 52-week period to provide care and support to a critically ill adult family member (effective immediately).

It is important for everyone in the HR field to pay attention to and understand the new workplace changes introduced through Bill 148 in order to handle any concerns. For instance, the change to equal pay for equal work mentioned above will impact workers in positive and negative ways. While part-time, temporary and casual workers will benefit from the change, as they will earn the same pay for the

same work as full-time workers, those full-time workers with more experience, who put in more hours, may have some issues with it. Further, some companies may restrain from hiring part-time workers, as it can be quite an expense with different positions earning the same pay. However, this may be balanced by the growing demand for students looking for experience, though they can only work part-time.

Indeed, as these new changes will impact people's jobs, there will be many questions raised by employees. HR can help by establishing a communication plan and a strategy for implementing all the changes. □

*Sabrina Shapas and Rushita Patel are both students at the University of Ontario Institute of Technology.*



Volunteering at HRPA Durham Chapter is a rewarding membership experience! Our volunteers are critical to the Association's continued success.

With the expertise and involvement of members like you, we create awareness of workplace issues, promote excellence in HR management practices, and provide services that support the HR community, knowledge sharing and continuous professional development.

Opportunities exist for episodic, short-term and longer-term volunteer roles. You can volunteer at events, contribute on task teams, be part of our mentorship program, join a sub-committee or standing committee, or become a member of the Board.

Are you looking for a great experience that is both rewarding and fun? Then, using your current HRPA username and password, log into HRPA's newly launched volunteer management website: [ivolunteer.hrupa.ca](http://ivolunteer.hrupa.ca). Once logged in, you can explore the opportunities currently available.

Want even more great news? Designated members who volunteer with HRPA are eligible to use their participation toward continuing professional development hours!

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employer must either provide a wage adjustment or a written explanation why there will be no adjustment.

Finally, Bill 148 provides protection against reprisal where an employee seeks to enforce the right to information about wage rates or a review of his or her wage rate.

### Commentary

These amendments fail to recognize that many employers pay a non-permanent employee at a different rate primarily because the non-permanent employee has less experience performing the work than the full-time counterpart. To address this issue, small business and non-profit employers may elect to move to an hours-based seniority system to defend an experience-based pay differential within the workplace, or take other steps to establish a basis for coming within one or more of the exemptions.

### 5. Personal Emergency Leave —in force January 1, 2018

Some of the most significant amendments in Bill 148 for small business are with respect to Personal Emergency Leave (PEL).

Bill 148 removes the “50 employee” qualifying threshold previously in place for PEL, meaning each employee in Ontario will be entitled to 10 PEL days per year, with the first two days being paid. An employee is entitled to those two days of paid leave after one week of employment.

Although Bill 148 permits an employer to require that an employee who takes a PEL provide evidence to verify eligibility for the leave, it expressly prohibits an employer from requiring the employee provide a medical note to substantiate the need for a PEL.

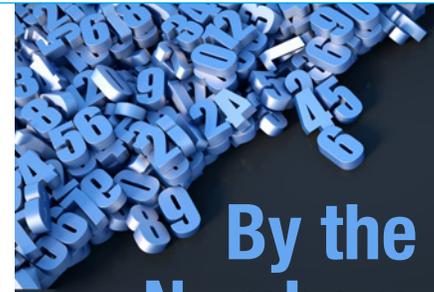
### Commentary

In addition to the significant impact of providing all employees with two paid days of PEL per year, these amendments may also impact a small business or non-profit employer’s existing workplace policies. Many employers have their own policies that provide for a variety of leaves, both paid and unpaid. If the workplace policies collectively provide a “greater right or benefit” than the legislated PEL provisions, an employee will not have an entitlement to PEL in addition to the policy entitlements. A small business or non-profit employer may wish to evaluate and, if necessary, amend any existing workplace policies to minimize the potential of having to provide for paid leave under policy in addition to paid PEL. □

*To further discuss the impact of Bill 148, and for assistance in preparing your workplace, contact the employment and labour law experts at Sherrard Kuzz LLP.*

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## By the Numbers

# 8,332

Number of Durham Region businesses employing 10 or fewer workers, which provide 33,263 jobs.

# 2,716

Number of Durham Region businesses employing 11-100 workers, which provide 77,043 jobs.

# 12,220

Number of Durham businesses employing more than 100 workers, which provide 83,324 jobs.

[www.durham.ca/en/doing-business/resources/Documents/EconomicDevelopment/2016-Business-Count-Highlights.pdf](http://www.durham.ca/en/doing-business/resources/Documents/EconomicDevelopment/2016-Business-Count-Highlights.pdf)

# 5.7%

Unemployment rate in December 2017, down from 5.9% the previous month.

(Job Bank, Government of Canada)

# 2.3%

Rise in employment in 2017, making it the fastest growth rate in 15 years.

(Job Bank, Government of Canada)

# 7,040

Number of people working as HR managers in the Toronto region.

(Job Market Report – Human Resources Managers: [www.jobbank.gc.ca/report-eng.do?area=9219&lang=eng&noc=0112&action=final&ln=&s=2](http://www.jobbank.gc.ca/report-eng.do?area=9219&lang=eng&noc=0112&action=final&ln=&s=2))



# 2018 Chapter Awards: Are You Getting the Recognition You Deserve?

HRPA Durham Chapter's Awards & Recognition Program shines a light on member excellence; confers prestige on the recipients; and recognizes contributions to the profession, the Association and the elevation of the practice of HR management.

Have you demonstrated excellence through your dedication to your craft during the past year? Are you a volunteer or a seasoned business leader in HR? Have you helped to promote the HR profession within your community? We want to recognize our members for all their hard work!

We are asking for your help in identifying and nominating individuals

for these prestigious awards. Self-nominations as well as third-party nominations are encouraged.

## **OUTSTANDING CHRL AWARD**

This prestigious award will be presented to a CHRL member who has made a significant contribution in the following areas:

- Is a CHRL in good standing with a minimum of five (5) years membership with HRPA, and:

1. Received recognition/award from their place of employment or private practice (introduction of a new program in the workplace that promotes a healthy work environment, organizational initiative, employee engagement);

2. Demonstrated an ongoing commitment and professional development (attending HR programs, events, workshops; teaching in related HR programs; active member of the HR board or a committee; mentoring initiative or program); and

3. Demonstrated active involvement in the Durham Chapter (volunteer on a community committee, board of directors, with at least one (1) year current volunteer involvement).

*\*To verify requirements or to ask a question, email [info@hrpadurham.ca](mailto:info@hrpadurham.ca).*

## **Submission Requirements**

Nominations must include a submission outlining how the nominee has met the above criteria (with specific

examples for each criterion), along with a current resume OR completed application form (from the website), and any additional detailed submission requirements.

*Self-nomination is encouraged.*

### **Award Presentation and Entitlements**

- Award presented by a member of the Membership Committee at the Annual Recognition/Awards event
- \$200 certificate toward any HRP Durham Chapter funded professional development events for the coming program year. (Program year runs from June 1 to May 31.)
- Recipient's name to be forwarded to the HRP Awards Committee for consideration for an HRP Award.
- Inclusion in any media coverage on awards.

### **LIFETIME ACHIEVEMENT AWARD**

This prestigious award will be presented to a Durham Chapter member

who has demonstrated outstanding achievements in the following areas:

- Is a CHRL in good standing with a minimum of ten (10) years' membership with HRP; and:

1. Advocated excellence in the leadership of HR.
2. Provided opportunities of professional development and advancement of others in the HR profession.
3. Demonstrated significant contribution to the advancement of the Durham Chapter.
4. Served as a committee and/or board member in good standing with a minimum of five (5) years' commitment to the HRP Durham Chapter.
5. Demonstrated influence or achievement in the workplace or private practice.
6. Demonstrated a positive influence in the HRP at Chapter or provincial level.

7. Demonstrated a contribution to the community at large.

8. Demonstrates personal integrity.

*\*To verify requirements or to ask a question, email [info@hrpadurham.ca](mailto:info@hrpadurham.ca).*

### **Submission Requirements**

Nominations must include a submission outlining how the nominee has met the above criteria (with specific examples for each criterion), along with a current resume OR completed application form (from the website), along with additional detailed submission requirements.

*Self-nomination is encouraged.*

### **Award Presentation and Entitlements**

- Award presented by Board Chair and a Durham Chapter member of the Membership Committee at the Annual Recognition/Awards event.
- One (1) complimentary pass to any HRP Durham Chapter funded professional development events for the coming program year. (Program year runs June 1 to May 31.)
- Recipient's name to be forwarded to the HRP Awards Committee for consideration for an HRP Award.
- Inclusion in any media coverage on awards.

**Nominations for the awards are now open. Submissions must be received on or before April 1, 2018, at 11:59 p.m.**



## **New Addition to the Awards Program**

HRP Durham Chapter's Awards & Recognition Program shows volunteers they are an essential resource and their efforts are appreciated. We spotlight those members who demonstrate excellence through their dedication to volunteering: academics who have gone above and beyond to make exceptional contributions to the HR profession; volunteers who constantly propel the Association forward; and individuals who help to promote the HR profession in their communities.

For 2018, the Board has endorsed the creation of a **new award** for Durham Chapter members. More information about this new award will be communicated soon, so stay tuned!

# Upcoming Events

The HRPA Durham Chapter offers events to help you make connections and expand your network while you learn something new. Your participation in certain events also earns you continuing professional development hours to maintain your CHRP, CHRL or CHRE designation. We look forward to seeing you at an event soon!

**Feb 28**

**MENTAL STRESS IN THE WORKPLACE**

Breakfast Meeting, 7:15 a.m. – 10:15 a.m., Deer Creek Golf Club

**Mar 28**

**WSIB PROPOSED RATE FRAMEWORK**

Breakfast Meeting, 7:15 a.m. – 10:15 a.m., Deer Creek Golf Club

## Stay Tuned for More Events

**Feb**

- Webinar — Bill 148 Update, Part 1

**Apr**

- Dinner Meeting — Sexual Harassment

**May**

- ABM / Recognition and Awards — Oshawa Gold Club

**Jun**

- Law Conference, Hicks Morley — Ajax Convention Centre
- Webinar — Bill 148 Update, Part 2

**Sept**

- Employee Engagement Expert Jill Christensen



Human Resources  
Professionals  
Association  
Durham Chapter