



Frequently Asked Questions

Bill 148, Employment Standards
Act, All employees

April 13, 2018

HR Services

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General

Q1. What is Bill 148?

The Fair Workplaces, Better Jobs Act, 2017 was passed on November 27, 2017 and the legislation resulted in a number of changes to the Employment Standards Act, 2000 (ESA). Many of the provisions came into effect on January 1, 2018 and April 1, 2018 or will take effect January 1, 2019.

Q2. Is the amended ESA applicable to all employees?

The Employment Standards Act (ESA) provides the minimum employment standards for all employees in Ontario. At Humber College, full-time employees have terms and conditions that generally exceed basic ESA requirements. The changes to the ESA mostly impact non full-time employees. For more details contact either your Human Resource Business Partner (HRBP) or Compensation & Benefit Specialist in HR.

Humber College is a Crown employer and, as such, was exempt from many sections of the previous legislation. Bill 148 amendments confirm that the Crown and Crown Corporations are now bound by the ESA in its entirety.

Any changes to the language in collective agreements as a result of the Act will be negotiated between the unions and the College Employer Council.

Q3. How will collective agreements be impacted by ESA changes?

The legislation provides for a series of new entitlements, representing minimum employment standards. Some of the amendments have already come into force while others will come into force on January 1, 2019 regardless of collective agreement provisions.

Some changes contain transition provisions which allow an employer to rely on collective agreement provisions until the expiry of the collective agreement or, January 1, 2020, whichever occurs first.

For Humber Employees.

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Minimum Wage

Q1. What is minimum wage? How does it affect Humber College and its employees?

Effective January 1, 2018, the minimum wage was amended to \$14.00 per hour and is the lowest wage rate an employer can pay to an employee. Humber employees paid at this rate have been receiving the increased minimum wage since the beginning of 2018.

Hours of work/eating periods

Q1. What are the requirements for hours of work and eating periods under the ESA?

Effective January 1, 2018, Hours of Work/Eating Periods limits weekly work hours, time between shifts, weekends etc. Some of the new provisions are:

- a. An employee can work a maximum of 48 hours per week, eight hours per day (or as negotiated).
- b. Overtime provisions apply after 44 hours of work in a week.
- c. There must be 11 consecutive hours off between shifts
- d. An employee can work a maximum of six days per week (24 hours off per one week period) or 12 days of work in two weeks (48 hours off per two-week period).
- e. As per the eating period requirement, each employee must have a half-hour unpaid eating period after five consecutive hours of work.

Leave – Personal Emergency Leave (PEL)

Q1. What is Personal Emergency Leave? Is it a paid leave?

Effective January 1, 2018 each employee is eligible to request up to 10 days of PEL in a calendar year, with the first two days paid. An employee is entitled to PEL based on any of the following:

1. A personal illness, injury or medical emergency,
2. The death, illness, injury or medical emergency of an individual as prescribed by the legislation,
3. An urgent matter that concerns an individual as prescribed by the legislation.

Q2. Will full time employees be covered under collective agreements for PEL?

For most Personal Emergency Leave requests, there are already provisions for paid leave within collective agreements (for unionized staff) or the Terms and Conditions of Employment for Administrative staff. In those instances, there are no additional PEL days provided to employees. However, if there is no provision for a paid leave, PEL days may be requested.

Q3. How do I request a Personal Emergency Leave?

PEL is requested by the employee through their immediate supervisor. The supervisor may request additional information to approve the PEL day(s) and then record it.

Leave - Benefits

Q1. What is the impact to benefits and pension during any ESA Leave?

Effective January 1, 2018, employees on an ESA leave who have benefits and pension have the option to continue their benefits and pension and are responsible to pay only the employee portion. ESA leaves are detailed below.

Leave - Domestic/Sexual Violence

Q1. What is the Domestic/Sexual Violence Leave?

This is a new leave of absence under the ESA effective January 1, 2018. This is a confidential leave to be used for seeking assistance with domestic or sexual violence (for the employee or the employee's child/children). This could include counselling, legal counsel, moving or a variety of activities that employees may need to complete when dealing with these serious situations. Annually, employees may request Domestic or Sexual Violence leave up to 10 days sporadically and/or up to 15 weeks. The first five days are paid leave.

Q2. What is the process to apply for Domestic/Sexual Violence?

An employee can request this leave from either their Manager or HR. The need for such leave and the recording of the leave will be treated as confidential.

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Leave - Maternity/Parental

Q1. What are the lengths of leave and payment entitlements for Maternity and Parental Leave?

Effective December 3, 2017 in the ESA, the leaves are entitled 'Pregnancy Leave' which is open only to the birth mother, and 'Parental Leave' which is open to either parent for birth or adoption.

Maternity (Pregnancy) Leave - Pregnancy Leave following the birth of a child will remain at 17 weeks. For miscarriage or stillbirth, Pregnancy Leave may be extended to 12 weeks.

Parental Leave – Parents have the option of taking the current 35 weeks of parental leave or an extended leave of 61 weeks. Both Employment Insurance (EI) and Supplementary Unemployment Benefit (SUB) will be prorated over the extended parental leave. Most employees will decide at the time of applying for Parental Leave whether they are taking the regular or extended Parental Leave. However, parents have until two weeks prior to the beginning of the Parental Leave to determine the length of the leave.

NOTE: Parents may share the parental leave period.

For more information on Regular and Extended Parental Leave, contact your Compensation and Benefits Specialist.

Leave – Other

Q1. What are the other unpaid leaves under the ESA?

- a. Crime-Related Child Disappearance Leave will increase from 52 up to 104 weeks of leave without pay where a child disappears and it is probable that the disappearance was the result of a crime;
- b. Child Death Leave will provide leave without pay up to 104 weeks in case of death of a child for any reason (certain exceptions apply).
- c. Critically Ill Childcare Leave is replaced by the Critical Illness Leave, to provide care or support to a minor child or an adult family member whose life is at risk as a result of an illness or injury. The period of unpaid leave in a 52-week period is up to 37 weeks for a minor child and up to 17 weeks for an adult family member.

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- d. Family Medical leave will increase from up to eight weeks to up to 28 weeks unpaid leave (in a 52-week period). This leave is to allow employees to take an unpaid leave to care for a family member who is ill and likely to die within 26 weeks.
- e. Family Caregiver Leave provides up to eight weeks of unpaid leave to care for family members who have a serious medical condition.
- f. Organ Donor Leave is an unpaid leave for donating an organ. The length of the leave is dependent on recovery time but will not be more than 13 weeks.
- g. Reservist Leave is an unpaid leave for members of the Canadian Armed Forces reserves who are deployed by the military. The length of the leave depends on the requirements of the Canadian Armed Forces.
- h. Emergency Leave (Declared Emergencies) is an unpaid leave for employees to deal with emergencies which are declared under a declared state of emergency (as declared by a municipality or region).

These leaves are effective January 1, 2018. For more information about these leaves, please contact your Compensation/Benefits Specialist.

Overtime

Q1. What are the overtime provisions under the ESA?

Effective January 1, 2018, any non-exempt employee, working more than 44 hours in any given week will be paid time and a half overtime or can bank lieu time. Provisions as per the Collective Agreement will apply to unionized staff.

Exempt employees include Managerial/Supervisory staff and IT Professionals.

Q2. What will happen if an employee has multiple part-time contracts? Will this result in overtime?

Multiple contracts may result in overtime if the employee is working more than 44 hours between all contracts in any workweek. An employee can have one or more contracts at Humber College, however, it is the time worked during the workweek between multiple contracts that defines overtime eligibility. To ensure compliance, the total number of hours For Humber Employees.

worked by the employee across multiple positions at Humber College will be used to calculate the overtime threshold. If the employee's work hours in any week exceed 44, the employee will be eligible for overtime based on the contract which the employee worked on the last day of the work week (and exceeded 44 hours per week).

Q3. Can an employee opt for lieu time instead of overtime payment?

Yes. An employee can opt to take lieu time instead of overtime. However, lieu time must be taken within three months (or up to one year with both the employee's and manager's agreement) or the overtime must be paid out.

Q4. Overtime example.

Example: A full-time Support Staff has an additional contract (40 hours per week regular plus 6 hours per week coaching for a total of more than 44 hours). The 45th and 46th hours will be paid at time and a half (if coaching – time and a half for that rate; if full-time Support Staff work – time and a half at that rate)

If an employee is exempt from overtime (i.e. Managerial/Supervisory or IT Professional) and the bulk of the hours are exempt, an additional contract will not result in overtime (i.e. Manager at 37.5 hours who coaches nine hours – no overtime owing).

Public Holiday/Statutory Holiday

Q1. Under ESA provisions, how is Public Holiday/Statutory Holiday Pay calculated at Humber College?

Under ESA effective January 1, 2018, Public Holiday / Statutory Holiday Pay will be calculated as: regular earnings in the previous pay period divided by number of days worked.

Example: Employee works on a 24 hour per week work contract. Employee is scheduled to work eight hours three times a week at \$24.05 per hour. Employee worked 48 hours for six days in the two weeks preceding the Public Holiday/Statutory Holiday. To determine what the Public Holiday/Statutory Holiday pay will be:

- a. Employee worked 48 hours.
- b. The number of days worked in the pay period before the holiday is six (three per week)
- c. Therefore, employee will receive 48/6 hours of public holiday pay.
- d. Calculated as eight hours x \$24.05 per hour = \$192.04

Q2. Which employees are eligible for Public Holiday/Statutory Holiday Pay?

All College staff who have active contracts running before and after the Public Holiday.

Q3. Can a non-full-time employee work on a Public Holiday/Statutory Holiday?

Yes. A manager can have a non-full-time employee work on a statutory holiday and then substitute the holiday for an alternate scheduled day of work. Holiday pay will be paid on the alternate day of work.

The options are:

- a. Take the statutory holiday as time off and be paid public holiday pay
- b. Work on the statutory holiday and be paid public holiday pay plus hours worked at overtime pay (time and a half)
- c. Work on the statutory holiday, receive regular pay for hours worked, and take a substitute public holiday off (and receive public holiday pay)

Written notification is required to identify the substitute day with public holiday pay on which the employee is working, the substitute day, and the date this information was provided to the employee.

Q4. If an employee starts a new contract on January 2; will they receive pay for the January 1 holiday?

No. If the employee is not employed at the time of the public holiday; they are not entitled to public holiday pay.

Vacation

Q1. What is required under the vacation provisions under ESA?

Under the legislation effective January 1, 2018, employees are eligible for both vacation pay and vacation time. Non-full-time employees receive vacation pay on each pay period and take vacation time as unpaid. Non-full-time employees are now entitled to three weeks of paid vacation after five years of service (six per cent vacation pay) with the same employer or two weeks of paid vacation (four per cent vacation pay) for employees with less than five years of service.

Non-full-time employees who are eligible for six per cent vacation pay will be notified.

All full-time staff already have vacation entitlements that are equivalent or more than six per cent (three weeks of vacation pay and time).

Q2. How is five years of service calculated at Humber College for the purpose of vacation eligibility?

Any active employee (on January 1, 2018) with continued employment relationship with Humber without a gap of 20 weeks or more in the last five years is eligible for revised vacation entitlement as per the ESA.

Equal pay for equal work

Q1. What does the Equal Pay for Equal Work provision mean? As of when is it effective?

Equal Pay for Equal Work prohibits paying employees differently based only on their employment status. Under the ESA, this provision is effective April 1, 2018.

Q2. How do I know if my pay will change due to the new requirements of the Act?

Whether or not an employee's pay will change depends on the type of work they do, whether that type of work is performed by a full-time employee, and whether the non-full-time employee does substantively the same work as the full-time employee. Any employees who are eligible to receive a change of rate will be notified and that change will be retroactive to April 1, 2018, where applicable.

Q3 – How is the Equal Pay for Equal Work provision going to be implemented for NFT support and student employees?

HR has been collecting information from Humber departments on the jobs being performed by NFT support and student employees. We are reviewing the jobs and, if there is a need to change employees' rates because of the Equal Pay for Equal Work provisions, both employees and managers will be informed.

Q4 – How is Equal Pay for Equal Work going to be implemented for NFT academic employees?

The College has determined that NFT professors (part-time and sessional) who teach credit courses are performing substantively the same job as partial-load professors. We have confirmed the pay rates for this work and are in the process of identifying any changes to individual salaries, effective April 1, 2018. If an employee is eligible for a rate change, a pay adjustment will be processed by the end of May 2018 and will be retroactive to April 1, 2018.

All new contracts will reflect the new rates.

The College has also determined that continuing education, corporate training, and other training facilitators' jobs are not comparable to that of a partial-load professor. As such, the rates for these groups will not be impacted.

In addition, the College has confirmed that NFT counsellors and NFT librarians are already being paid the same daily rate as FT counsellors and FT librarians. Therefore, there will be no change to the daily rates for these employees.

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Q5 – How is Equal Pay for Equal Work going to be implement for NFT administrative workers?

NFT administrative staff are generally paid in the same salary range as their FT counterparts. We are reviewing these staff jobs and salaries but anticipate very few changes in salary due to the Equal Pay for Equal Work provisions.

Q6 – What if I am an NFT employee and I believe my job is substantively the same as a FT worker, but I have not been provided an increase in pay?

Employees who believe their jobs should be compared to a FT worker should contact HR. A form on the website <http://hrs.humber.ca/fairworkplaces> is available for employees to provide details of their concern and send to HR. HR staff will review and follow up on each concern.

Scheduling

Q1. What is required under the scheduling provision and when will it be implemented at Humber College?

New scheduling provisions under the ESA will be effective January 1, 2019. There are many requirements including notification of shift changes and additional shifts, as well as provisions for on-call pay. More details will follow.

Glossary

ESA – Employment Standards Act

HRBP – Human Resource Business Partner

FT – Full-time employees

NFT – Non-fulltime employees

PEL – Personal Emergency Leave

VP – Vacation Pay

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