
Ontario Government Does About Face on Public Holiday Pay Calculation

By Jeremy D Schwartz and Amanda D. Boyce

In response to strong [pushback from the business community](#), the Ontario government has doubled back on recent changes to public holiday pay calculation brought about by Bill 148. [Ontario Regulation 375/18](#), filed on May 7, 2018, changes the public holiday pay calculation back to its pre-Bill 148 format as of July 1, 2018.

A Recent History of Public Holiday Pay

Prior to the Bill 148 amendments, section 24 of the Employment Standards Act (“ESA”) required employers to calculate the public holiday pay payable to an employee by taking the total amount of regular wages earned and vacation pay payable to the employee in the four work weeks before the work week in which the public holiday occurred, and dividing by 20.

This method resulted in reduced public holiday pay entitlements for part-time and casual employees compared to full-time employees.

In an effort to increase entitlements for part-time and casual employees, Bill 148 altered the public holiday pay calculation. As of January 1, 2018, employers were required to divide the total amount of regular wages earned in the pay period immediately preceding the public holiday by the number of days the employee worked in that period.

Employers objected that this method was confusing and unworkable. It also resulted in undesirable results. For instance, a casual employee who only worked one 8 hour shift in a pay period would be entitled to 8 hours of public holiday pay under the new method, whereas a part-time employee who worked 4 shifts of 5 hours each, or 20 hours in the pay period, would only be entitled to 5 hours of public holiday pay. Similarly, a full-time employee who worked ten shifts of 7 hours each would only be entitled to 7 hours.

The New/Old Method - Ontario Regulation 375/18

The Ontario government filed this regulation on May 7, 2018. It will come into force on July 1, 2018, and it has the effect of changing the public holiday pay calculation back to the pre-Bill 148 method from July 1, 2018 onward. It will not affect the payments employers made for Family Day in February of 2018, which were governed by the Bill 148 method.

However, we note that this reprieve is temporary. The ESA itself still contains the problematic Bill 148 formula, and O. Reg. 375/18 is set to be revoked on December 31, 2019.

The government is currently inviting [further submissions](#) on the public holiday pay provisions, and we strongly recommend that employers throughout the province provide feedback.

Submissions regarding the Public Holiday Pay Review can be sent to:
exemptions.review@ontario.ca

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