

New Statutory Holiday for Ontario; New Costs for Employers

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One of the first acts of Ontario's newly re-elected McGuinty government last fall was to add Family Day as a new statutory holiday under the *Employment Standards Act*. As a result, some – but not all – workers in Ontario will have an additional day off with pay on the third Monday of each February, starting with February 18, 2008.

While the government's purpose in making this change was to give people more time with their families, the move represents a significant expense to many employers, with some estimating Ontario's aggregate business costs to range from \$500 million to \$2 billion. The City of Toronto has reportedly increased payroll by \$2.3 million as a result. And while this follows through on the Liberal Party's election platform, some feel the proposal did not receive significant discussion at the election campaign or public consultation levels.

Employers will need to examine this regulatory change and how it relates to their holiday policy and/or their collective agreements for unionized groups, because providing this day as a paid holiday is not an automatic requirement. For instance, where the employer already provides employees with a greater right or benefit, they are not required to give employees Family Day off. While there are now nine public holidays in Ontario, some employees may already be receiving additional holidays not listed in the *Employment Standards Act*, such as Easter Monday and Civic Holiday in August.

Each time a new statutory holiday is added (such as with Boxing Day in 1989), employers need to review their package of holidays for employees. Essentially, an employer and employee can contract out of the *Employment Standards Act* holidays as long as employees receive an equal or greater number of days off. For instance, an employer could provide 10 paid days off at dates other than the statutory holiday dates and that would exceed the current requirement of nine days off.

Employers will also need to consider the costs involved. If an employee is required to work on a holiday and there isn't a written policy or agreement providing for a substitute holiday, work on that day is payable at time-and-a-half.

The addition of Family Day to Ontario's statutory holidays reinforces the importance of regularly reviewing the provisions in applicable company policies, employment contracts, handbooks or collective agreements in order to focus on the whole holiday package being offered to employees.

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