

Out with the New:

Important Changes to Public Holiday Pay

June 26, 2018

As many of you know, the Government of Ontario introduced a new formula for calculating public holiday pay effective January 1, 2018. This was one of the many changes made to the *Employment Standards Act, 2000* under *The Fair Workplaces, Better Jobs Act* (“Bill 148”). The new formula took the regular wages earned by the employee (before taxes and statutory deductions) in the pay period immediately prior to the public holiday and divided it by the number of days the employee actually worked to earn those wages.

This new formula created considerable controversy as it resulted in a significant increase in public holiday pay for part-time and other casual employees. For example, under the new formula, an employee who worked two (2) days and earned \$200 in regular wages (\$100 per day) in the pay period prior to the public holiday is entitled to the same amount of public holiday pay as an employee who worked ten (10) days and earned \$1,000 in regular wages (\$100 per day) during that same period.

After receiving a considerable amount of negative feedback, the Wynne government decided to temporarily reinstate the public holiday formula that applied prior to Bill 148. **As a result, the old formula will apply effective July 1, 2018.** Specifically, the regular wages and vacation pay earned by the employee in the four (4) weeks before the work week in which the public holiday occurs will be divided by twenty (20) to determine a per diem rate. The Wynne government had planned to conduct a comprehensive review of the public holiday system over the next year to develop a new public holiday pay formula. However, with the change in government after the June election, it is unclear what approach the Ford government will take on public holiday pay so...stay tuned.

See a quick summary of Public Holiday Pay Calculation Formulas on Page 2.

Quick summary:

Time Period	Public Holiday Pay Calculation Formula
Prior to January 1, 2018	$\frac{\text{Regular Wages and Vacation Pay earned in the 4 weeks Prior to Public Holiday Work Week}}{20}$
January 1, 2018 to June 30, 2018	$\frac{\text{Regular Wages earned in Pay Period Prior to Public Holiday}}{\text{Number of Days worked in Pay Period Prior to Public Holiday}}$
July 1, 2018 to December 31, 2019*	$\frac{\text{Regular Wages and Vacation Pay earned in the 4 weeks Prior to Public Holiday Work Week}}{20}$

Minden Gross LLP is here to assist you with the details or answer any questions.

For further information, please contact:

Tracy A. Kay ▪ 416.369.4330 ▪ tkay@mindengross.com

Andrew H. Zinman ▪ 416.369.4106 ▪ azinman@mindengross.com

Carrington A. Hickey ▪ 416.369.4309 ▪ chickey@mindengross.com

The issues raised in this article by Minden Gross LLP are for information purposes only. The comments contained in this document should not be relied upon to replace specific legal advice. Readers should contact professional advisors prior to acting on the basis of this material.

© 2018 – Minden Gross LLP

* Subject to change.