

August 26, 2016

VIA E-MAIL: CWR.SpecialAdvisors@Ontario.ca

RE: Changing Workplaces Review – Ontario’s Personal Emergency Leave Options

Dear Special Advisors Mitchell and Murray,

On behalf of the members of the Ontario Restaurant Hotel and Motel Association (ORHMA) and the Greater Toronto Hotel Association (GTHA), we are writing to provide input into the Changing Workplaces Review, specifically on the Ontario Personal Emergency Leave (PEL).

ORHMA and GTHA Members are concerned that significant amendments to the ESA could compromise productivity and investment and thus the economic wellbeing of both employers and employees.

ORHMA and the GTHA recommend that the government preserve the 50 employee threshold for PEL. This is an important recognition of the unique challenges PEL creates for small business. The Interim Report acknowledges the unique challenges of small business, “Such employers do not have the resources to employ human resources professionals and lack the expertise needed to deal with absenteeism issues. Secondly, there is a concern that they do not have the flexibility and the capacity to deal with PEL as currently framed in the legislation. Therefore, they may argue that the extension of PEL provisions to smaller employers will have significant adverse impact on their ability to provide service/product to their customer/consumer base.” There is potential for economic hardship for small business and their employees hence the need to maintain the current 50 employee threshold.

The Interim Report also discussed the **Greater Right or Benefit** provision in the ESA. The current intention of the ESA is such that if an employer offers a benefit to an employee that is more generous than the minimum standards defined in the ESA, then the ESA does not apply to that employee, in that particular circumstance.

This is an important principle that must be maintained in the ESA yet more clarity is required. Clarity will allow employers the opportunity to ensure that their leave policies will provide a greater right or benefit and employees will be clear on their leave provisions. Clarity will also reduce administrative costs and streamline processes that will benefit both the employer and employee. Clarity will provide more incentive for employers to provide leave provisions that are greater than the ESA.

ORHMA and the GTHA recommend that the Greater Right or Benefit section of the ESA be amended to provide clarity on the employer entitlements (paid or unpaid) that provide a greater right or benefit.

Prior to 2001, there were only two job-protected leaves, and between 2004 and 2014 seven new leaves were introduced. A move toward consolidation of all leave provisions would provide administrative relief and clarity to employers and employees.

ORHMA and the GTHA recommend that the government move forward with a process involving employers and employees to consolidate the leave provisions in the ESA.

In the absence of a signal toward broader consolidation, and PEL remains a standalone leave category, we recommend a further breakdown of PEL into separate categories with separate entitlements with the aggregate leave remaining at ten days.



ORHMA and the GTHA recommend that the government analyze any potential impacts (job loss, investment, economic impact) of the proposed amendments to these acts and report publicly prior to introducing amendments.

We appreciate the opportunity to provide input on the Changing Workplaces Review interim report, specifically on the Personal Emergency Leave and look forward to further consultation with the Ministry of Labour to ensure any changes made to the PEL are in support of a the employer-employee relationship.

Should you have any questions please contact the undersigned.

Yours truly,

Tony Elenis
President & CEO
Ontario Restaurant Hotel & Motel Association
2600 Skymark Avenue Suite 8-201
Mississauga, ON L4W 5B2

Yours truly,

Terry Mundell
President & CEO
Greater Toronto Hotel Association
207 Queens Quay W, Suite 404
Toronto, ON M5J 1A7

cc: Hon. Kevin Flynn, Minister of Labour