

EMPLAWYERS' UPDATE

**A Special Edition Newsletter on
Labour and Employment Law Issues**

Employers to Pay the Price: Extended Parental Leave Policies

The Federal Budget, released on March 22, 2017, proposes to change the current Employment Insurance (EI) parental benefits regime to allow parents to choose between:

- an extended period of EI parental benefits of up to 18 months at a lower benefit rate of 33 per cent of average weekly earnings; or
- to remain at the existing benefit rate of 55 per cent of average weekly earnings over a period of up to 12 months.

In other words, employees will be able to opt for a prolonged parental leave, will receive the same amount of EI benefits in total, but spread out in smaller payments over the longer period.

At first glance, the proposed changes to the EI parental benefits regime appear to have limited financial impact on employers, other than the resources necessary to find a replacement. However, there is a potential for “hidden” costs resulting from this change.

Many collective agreements or parental leave policies state that, for each week in respect of which an employee receives parental benefits under EI, the employer will top up the difference between a set percentage (which can range from 35 to 93%) of the employee’s average weekly earnings and the EI benefit (the 55 per cent). As a result, if an employee opts for the extended parental leave, the employer would be obligated to pay the difference between agreed upon top up percentage and 33 per cent of the employee’s average weekly earnings, instead of the former 55 per cent which would result in an increase of the top up cost per employee. Additionally, in certain cases, depending on the top up language, the employer would be obligated to pay the increase top up payments for the full 18 months.

To implement these measures, the federal government must amend the Employment Insurance Act. Before making any revisions to your workplace policies, we recommend consulting a labour and employment lawyer. Bird Richard will keep you informed of the upcoming legislative changes and how to limit their impact on your business.

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