



STEERING THROUGH CHANGE

A Handbook to Help Ontario Businesses
Understand and Manage Bill 148.



Updated in January 2018

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Areas of Focus

Communication	Workforce Planning
Compensation	Automation
HR Infrastructure	Process Improvement
Policies & Procedures	Sales
HR IT Systems	Margins

On November 27th, 2017, Bill 148 received royal assent and immediately brought into effect some of the proposed changes to the *Employment Standards Act (ESA)* including increases to the length of parental Leave and critical illness leave. The proposed changes to the minimum wage, vacation pay, holiday pay, and other leaves will take effect starting on January 1st 2018. This booklet was developed in consultation with the employer community over the summer of 2017, in preparation for the implementation of Bill 148, and is intended for general information purposes and does not constitute legal advice.

01. Introduction: What are the changes?

A Changing Minimum Wage

Bill 148, the *Fair Workplaces, Better Jobs Act* is intended to balance employee rights and economic growth by updating workplace laws across Ontario.

The minimum wage increased dramatically from \$11.40 to \$14.00 on January 1, 2018 and will increase to \$15.00 by 2019. The proposals include wage exceptions for specific classes of workers, including servers and students, consequently Bill 148 ensures all wages will increase together, as shown below:¹

Minimum Wage Categories	Oct. 2017	Jan. 2018	Sept. 2019
Students under 18 who work less than 28 hours a week when in school or who work during school breaks	\$10.90	\$13.15	\$14.10
Liquor Servers	\$10.10	12.20	13.05
Hunting and Fishing Guides	\$58.00 (working less than 5 consecutive hours)	\$70.00	\$75.00
	\$116.00 (working more than 5 consecutive hours)	\$140.00	\$150.00
Homeworkers (employees doing paid work in their own home for an employer)	\$12.80	\$15.40	\$16.50

Ontario Raising Minimum Wage

Ontario is planning to raise its general minimum wage to \$15 an hour by 2019. Here is a look back at the province's minimum wage since 2005:



Within Canada, small business employs over 8.2 million people, which is approximately 71% of the total private labour force, exceeding the medium to large employment rates combined. A large increase in labour costs could potentially have unintended impacts on small to medium-sized enterprises (SME). This report will focus on the key impacts that the new legislation will bring and how to equip businesses to deal with the changes.

Dissecting Bill 148 Beyond the Wage Increase

Bill 148

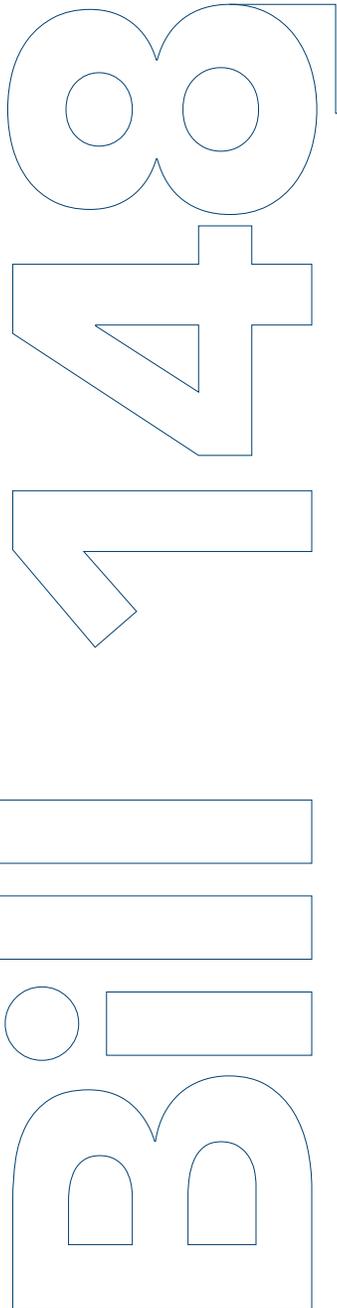
Scheduling.

The legislation seeks to reduce the adverse effect that unstable or unpredictable work schedules can have on workers such as declining job satisfaction or increased strain on an employee's personal life. Under Bill 148, employers must take into consideration each of the following rules;

- Employees will have the right to request both schedule and location changes after 3 months of employment without any repercussions.
- Employees committed to work at least 3 hours each day must be compensated for those 3 hours at their regular rate of pay even if a shift is cut short; the same applies to employees who are "on-call" but are not called in or employees whose shift is cancelled within 48 hours of its start. This does not apply in cases beyond the employer's control (fire, weather, etc.)
- If less than 4 days' notice is given for a shift, an employee can refuse to accept but this does not apply to emergencies, threats to public safety, etc.
- Collective agreements between employers and unions would take precedence over some of these rules.^{1,3}

Extended Paid Vacation.

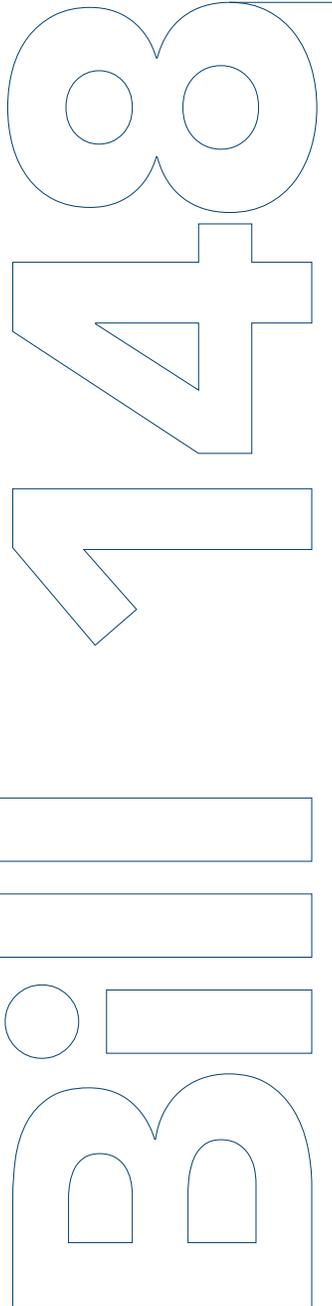
Previous legislation provided a minimum of 2 weeks and 4% vacation pay to employees regardless of employment tenure. Under Bill 148, the vacation entitlement has increased for employees with 5 or more years of service to 3 weeks with vacation pay at 6%.^{1,3}



Paid Emergency Leave.

The right to leave in case of death, illness, injury or the medical emergency of oneself or a family member is important. With Bill 148, the 50-employee threshold for personal emergency leave has been eliminated and now applies to all workplaces regardless of size. Under Bill 148, all employees who have worked for their employer for one week will be entitled to 10 personal emergency leave days per year. The first two days will be paid at the regular wage even if a shift premium or overtime pay exists. If an employee takes leave in the first week of employment, it will be taken from the eight unpaid days. Employers should be aware that they can ask for evidence to support the employee's leave but they cannot mandate a certificate from a qualified health practitioner.

Separate leaves for child death from any cause or the crime-related disappearance of a child have been created, allowing an employee with at least six months of employment to take unpaid leave of up to 104 weeks off. In addition, a standalone leave has been developed for sexual or domestic violence. Under this leave, an employee with at least 13 consecutive weeks of employment may take an unpaid leave of up to 15 weeks. The employer must be informed in advance and can request reasonable evidence. The leave is to be used for seeking medical attention for physical or psychological injury, accessing victim services, relocating, counselling, legalities, etc.^{1,3}



Family Medical Leave.

Family medical leave is an existing leave that can be taken to provide care or support to certain family members or people who consider the employee to be family. A qualified health practitioner must issue a certificate stating there is significant risk of death within the designated period. Bill 148 increases the family medical leave entitlement from up to 8 weeks of unpaid leave in a 26-week period to up to 27 weeks of unpaid leave in a 52-week period.^{1,3}

Public Holiday Pay.

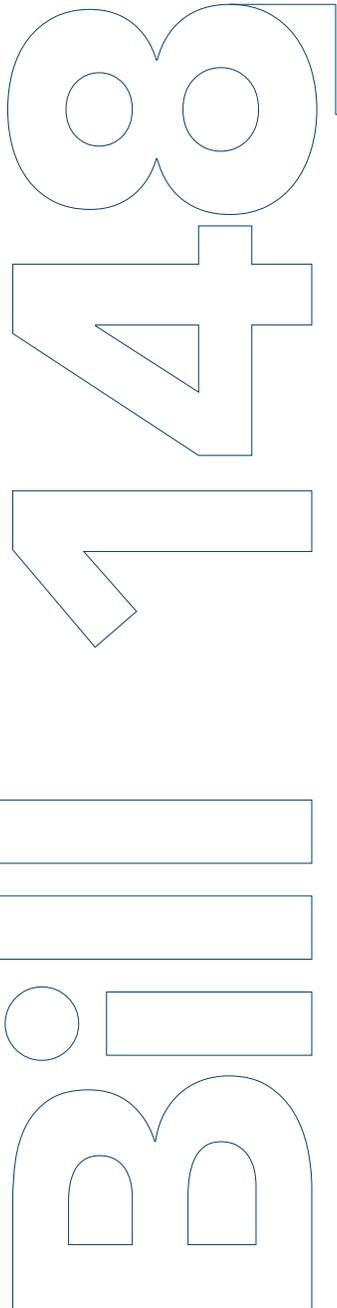
Significant changes to the method of calculating holiday pay have been made in order to simplify its application and inherently benefit employees with irregular hours. Holiday pay will now be based off of the pay period immediately preceding the holiday and should be calculated as follows:^{1,3}

NEW

$$\frac{\text{Total Amount of Regular Wages Earned}}{\text{Number of Days Worked in that Period}}$$

Pregnancy & Parental Leave.

For employees who suffer a still-birth or miscarriage, they will be **allotted 12 weeks instead of six weeks of leave.** The length of **parental leave increased by an additional 26 weeks.**^{1,3}

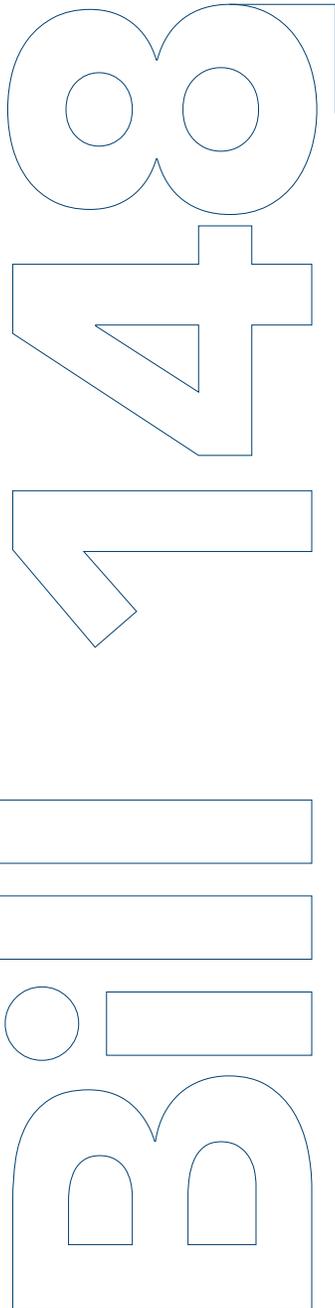


Equal Pay for Equal Work.

The complex relationship that exists between employers, temporary agencies, and assigned workers creates an environment of ambiguity for both the employee and the employer, especially when work assignments are short-term. As such, Bill 148 has introduced changes to mitigate the uncertainties that exist for temporary or seasonal workers. Under the new legislation, temporary employees must be paid at the same rate as full-time or permanent employees fulfilling the same role. These temporary employees have the right to review their wages without any repercussions. Employers may deny wage adjustments based on valid exceptions such as seniority (accumulated hours), merit, piecework, and/or other legitimate factors excluding employment status.

In addition, employment agencies must provide one week's notice or pay in lieu of notice for early termination of an assignment that was set to last longer than three months. If sufficient notice is not given, the employee must be offered at least one week of reasonable work or another assignment during the notice period.

As with temporary or seasonal employees, casual and part-time employees must be given the same wages as full-time employees who are performing the same job. Moreover, they too have the right to request a review if they feel they are not receiving equal wages.^{1,3}

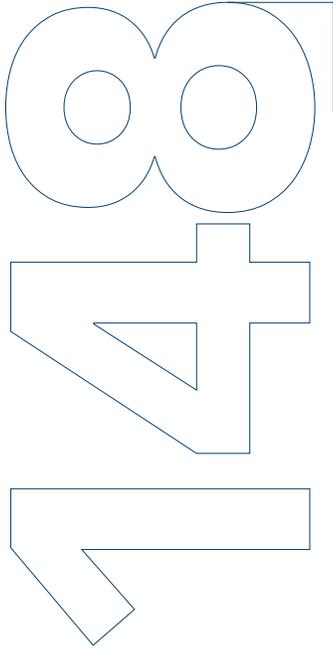


Union Certification.

In previous legislation a voting-based certification process was in place for most industries with the exception of the construction industry, which follows a card-based union certification process. Bill 148 extends card based certification to include building services, community services, home care and temporary agencies. The intention is that card-based certification will help avoid direct or indirect employer influence over voting.^{1,3}

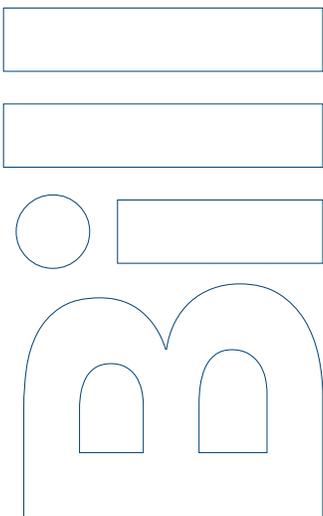
Bill 148 introduces changes to the certification process, including:

- Access to employee lists and contact information should be granted for unions that have the support of 20% of employees.
- The Ontario Labour Relations Board is empowered to give further directions on the voting process and to conduct votes outside the workplace.
- First contract arbitration applications will be prioritized before displacement and decertification applications.
- Certain conditions of the remedial union certification have been eliminated, making it easier for unions to get certified if employers intervened inappropriately.
- First contract arbitration is more accessible and a more intensive mediation process has been integrated.^{1,3}



Independent Contractors.

In previous years, some companies have tried to manipulate employee classifications to their advantage. In certain industries, simply contracting employment out effectively lowered risk and labour costs, compelling employers to manipulate employee classifications. As such, the legislative changes are meant to prevent the misclassification of employees as “independent contractors.” The changes impose rules and regulations that aim to prevent employers from treating employees as self-employed, which eliminates their entitlements and protection under the *ESA*. Employers who misclassify will be subject to several penalties or must provide sufficient evidence showing that the individual is not an employee in the case of a dispute.^{1,3}



02. Impacts on Businesses

Potential Risks from the New Legislation

Not only is the minimum wage change the largest in 45 years, it is also expected that Ontario businesses will need to adapt to at least 64 different labour cost outcomes.⁴ The impact of these cost increases will be dealt with by each business individually, but almost half of the costs are expected to be reduced by business owners through employment changes which could put close to 185,000 jobs at risk.⁴ The other costs will likely be absorbed by the business or passed on to customers.⁴ Organizations with small profit margins that are heavily dependent on labor may need to consider a proactive approach to effectively moderate the negative impacts of these changes.

Several key issues for small business to consider:

1. Profitability

- Are profits increasing year-over-year?
- Are your margins large enough to withstand rising business costs?

2. Current Staffing Levels

- Can the organization afford to maintain current staff levels?
- Does your workforce need to be rationalized?
- Do hours of work and scheduling need to be modified?

3. Competition

- The wage increase will likely not affect larger companies: what pricing strategy will your company use to keep pace?

4. Taxes

- What are the additional effects of tax changes such as increases in payroll taxes, EI, and CPP?

Retail Trade.

This industry operates with unpredictable workforce requirements and a high number of seasonal or temporary workers, resulting in fluctuating variable costs. With the injection of a higher minimum wage, this may make it difficult to maintain **profitability**. Due to the competitive nature of the retail market, many small and medium-sized businesses operating on thin profit margins will begin to consider market exits if larger **competitors** dominate the industry.

Manufacturing.

Profitability and **staffing levels** may become a major concern for this industry, with increased regulations regarding contractors and temporary workers, in addition to the minimum wage increase.

Food Services Sector.

This industry will face some challenges maintaining **profitability** and market share as absorbing increased labor costs over such a short period may lead to price increases that outpace larger competitors. Managing **staffing levels** will also be impacted as scheduling rules have been modified to reduce variability and provide more stability to employees reducing employer flexibility.

03. Strategies to Mitigate the Impact of Bill 148

Managing Human Capital

The passing of Bill 148 means significant changes to the *ESA* and *Labour Relations Act (LRA)* and will have implications for many aspects of the **employer-employee relationship**.

What Can You Do? Understanding the potential implications that Bill 148 will have on your organization's HR operations and planning how to adapt is the best strategy to use for managing impacts. Specific actions that you can take to mitigate risks will be presented, but first ask yourself the following:

1. Communication

- How are changes being communicated to employees? (e.g. formal letters outlining changes)
- What rationale will be provided for how your organization has decided to respond?
- How will managers be supported in communicating and handling employee questions?

2. HR Infrastructure

- How are changes to leave, overtime, on-call pay and vacation requirements being incorporated into your overall employment offering?
- Are there discretionary benefit offerings that can be adjusted to offset the costs associated with changes to leave and vacation requirements?
- How can changes be incorporated to simplify administration? (e.g. create a generic leave policy that applies to the various leaves)
- How is HR documentation being updated? (e.g. onboarding check-lists, offer letters, etc.)
- What new HR processes will need to be created? (e.g. requests for wage reviews)
- How are HR record-keeping processes going to be updated?

3. Compensation

- How are changes to the new minimum wage going to be incorporated into your existing compensation structure?
- What impacts will changes to the new minimum wage have on wage rates for other classes of jobs in your organization? (e.g. when changes are made to wages of some job classes but not others, compression issues can emerge)
- How are changes to equal pay for equal work going to be incorporated into your existing compensation structure? (e.g. if separate compensation schedules or wage rates exist for part-time, casual and temporary workers they may need to be adjusted)
- How will changes to overtime and on-call pay be incorporated into your compensation program?

4. HR IT Systems

- How will new reporting requirements related to employment terms and conditions, as well as scheduling, be captured in your Human Resources Information and/or Scheduling Systems?
- How will changes to overtime, after call-in and on-call pay be tracked and administered in your payroll system?

Refine & Implement

Compensation Tips

1. Update existing salary structures and ranges to ensure alignment with new wage minimums.
2. Use the implementation of Bill 148 as an opportunity to review compensation levels across the organization to ensure they remain competitive. Pay particular attention to compensation levels for jobs where current wages are only slightly above the new minimum wage (\$15 - \$17 per hour). Increases to the wage rate of these jobs can help preserve morale.
3. Harmonize salary structures to ensure compliance with new equal work for equal pay requirements.

Adapting Your People Resources to the New Legislation



Communication

Start with management

Prepare and distribute communications for managers about the legislation. Ensure they are fully informed on the potential impacts and how your organization intends to respond. Include key messages to help managers respond to employee questions.

Disseminate information to employees.

Prepare a communication plan for employees. Develop one-page summaries that can be passed out. Hold a meeting to present significant changes and answer any pertinent questions. Email employees with updates or helpful links that will further their understanding.

Specifically call out changes.

Prepare letters and documentation for impacted employees to highlight important changes to their employment terms and conditions.



In unionized environments, create a detailed plan for how required changes will be implemented and communicated in your organization by collaborating with key union stakeholders.

Human Resources Infrastructure



Review and update HR policies and documentation to reflect new requirements. For example, ensure employee handbooks or agreements have been modified to incorporate new leave policies or entitlements.



Adjust administrative routines to accommodate process changes caused by the new legislature (such as, developing a plan for how requests for wage reviews, scheduling changes or relocation requests will be managed). In unionized environments, you will need to develop comprehensive policies in response to proposed changes of the *LRA*.



Update offer templates and provisions to align with Bill 148. This includes strengthening provisions to mitigate against allegations that a dependent contractor relationship exists.



Refresh onboarding check-lists to ensure all information required to comply with new record-keeping requirements is captured and that compliance with equal work for equal pay requirements are adhered to. This will be especially important when using staff from Temporary Help Services Agencies.



Update employee record-keeping software to ensure new information requirements are captured electronically.

Facilitating Success With Human Resources Policies and Procedures



- Communicate to workers, management, and leadership
- Provide leadership and management with support and make sure there is a thorough understanding of the content
- Ensure consistent and ongoing application of new policies
- Make certain that material is user friendly by using plain language

How to develop (or update) HR policies and procedures:

Review written and unwritten policies and procedures to understand the existing framework

Identify:

- Existing policies and procedures need to be changed or updated to comply with new legislation
- New policies or procedures that need to be created to comply with new legislation

Create a template (if a template does not currently exist). Templates typically include the following:

- Policy name
- Effective date/date of revision
- Policy statement and content
- Application
- Definitions
- Procedures (if applicable)

Draft your content:

- Align with decisions about how changes will be managed in the broader context of your organization's employment terms and conditions
- Use plain language and ensure content is user friendly

Communicate using a phased roll-out, starting with leadership, management and then staff; focus on priority information

Review and finalize by obtaining feedback and buy-in from leadership

Adapting Your Record-Keeping Processes



1. Review and understand the new requirements.

Ask: What information needs to be collected? What do you need to use it for? Who needs to have access to this information? Will it need to be updated? All of these questions will help you to understand the best way to go about collecting information efficiently.

2. Review and understand current record keeping mechanisms.

Ask: Where is information stored? When is it collected? Who Collects it? How is it maintained? Do you already collect the information that is required to be collected? All of these questions will help you to develop an approach for complying with new record keeping requirements.

3. Develop the preferred approach for collecting, storing, and maintaining the new information.

Where possible, harmonize with existing data collection processes and systems instead of creating something new.

4. Understand your business' record-keeping needs.

Ask: Do my existing systems allow me to store this information? For example, if you have an electronic system for tracking employee records, does it have the fields you need for capturing information? If existing systems do not capture required information, what changes are needed?

5. Plan for implementation.

If record-keeping involves the use of technology and changes are needed call your IT vendor (or department) to complete required updates. If updates will take some time, create an interim plan for tracking information until updates are complete.

Workforce Planning

5 Steps to Help Optimize Your Workforce

With added labour costs, it is vital to synchronize your workforce with overall business needs. Demand planning and forecasting can help your organization avoid excessive labour costs by knowing when, where and how to effectively staff your organization.



In the long-term, evaluate your talent supply to identify skill gaps and talent risks that may exist. Develop succession and retention plans to deal effectively with future business requirements.

Increasing Automation

Technology has penetrated most industries, especially manufacturing, as it allows for automation which helps provide a competitive advantage. Advances in technology give organizations the tools and equipment necessary to help reduce production time, increase information accuracy, ensure safety, maximize production volume and most pertinently, reduce costs. Often business owners think automation is too capital intensive, requiring heavy investment into equipment or software. However, this is not always the case: in many instances, organizations can leverage Excel or other simple applications to develop and implement effective tools. Use the methodology below to see how you can start automating your business to improve operation capability and scale the use of analytics across your organization.

-  1. To start identifying areas for automation, conduct an operational review of your business and create an inventory of all the most labor-intensive processes.
-  2. Review your organization's strategies and map identified opportunities to your overall business goals and objectives.
-  3. Prioritize opportunities based on which will best address your business needs and requirements; focus on a few pivotal processes – do not try to do them all at once.
-  4. Start selecting the software or equipment required to capitalize on your automation opportunities.
-  5. Identify risks and implications the changes will have based on roles, organizational needs, policies, procedures, and skills.
-  6. Develop a holistic plan for rollout and implementation; including scheduling, training, etc.



Once automation is in place, organizations should review impacts and develop transition plans to scale the improvements across the organization and expand usage into other pertinent departments.

Implementing Business Process Improvement

Many process improvement techniques exist to help organizations improve their daily operations and increase productivity. On an ongoing basis companies should look for ways to produce more without adding any additional labour by focusing on waste reduction, speed, efficiency, and flow. Ultimately, the objective of process improvement is to define value for your customer and/or eliminate waste for your organization. There are several common areas where your organization can identify process improvement opportunities.



Work Imbalances



Misinterpretation of Customer Needs



Overproduction



Ineffective Physical Layouts



Defects or Errors



Supply & Material Waste Issues



Inventory Control



Lack of Proactive Management

Stages of Process Improvement

1. Define

- Understand what needs to be done and why; identify all inputs and outputs of relevant processes.

2. Critique

- Review pain points in the process and formulate a “to be improved” process, how could it be improved from both a business and customer perspective.

3. Conduct

- Watch employees perform the process and record activity descriptions, line speeds, timing, material handling, etc.

4. Evaluate

- Identify problem areas based on lost time, decreased output, etc.; provide evidence to support the need to change and validate root causes.

5. Design

- Establish critical measures and baselines for performance then brainstorm, plan and test proposed solutions to close gaps.

6. Implement

- Execute prioritized pilots or begin full implementation, adjust processes as required and provide sufficient training and mentoring.

7. Measure

- Monitor and control progress for sustainability; implement processes for ongoing quality assurance and continuous improvement.

Increasing Sales



Strategic Thinking

Is a Must in Sales

As a way to combat the effect increased costs from Bill 148 will have on your organization, focus your attention on improving sales. Successful sales strategies are deliberate and require a specific process that you initiate over and over again to generate and retain customers. Leverage the steps below to help you develop a sales strategy that works for you:

Step 1:

Formally define your target market and ensure it is large enough to support growth.

Step 2:

Review current sales processes; map out the entire customer journey.

Step 3:

Rationalize which of the sales processes identified are the most profitable and scale it across accounts.

Step 4:

Identify areas to reduce the cost of acquiring sales and find opportunities to increase client satisfaction.

Common Growth Strategies



Market Penetration

Sell more of your product to current customers. This is best approached by analyzing account histories and identifying those with the greatest opportunity for cross-selling or selling in bulk. Next, create a tailored plan for each account or type of customer. Some strategies may include offering promotions or introducing a loyalty program.

Market Expansion

Expand your reach and try to offer your product or services to new customers. Use market segmentation to locate potential targets based on demographics. Understand and leverage the 4P's of marketing – product, place, price and promotion – to attract these new customers.

Alternative Channels

Grow through alternative channels. Reach customers in a different way, such as selling products online if you are a brick-and-mortar store or direct to customer if you are a wholesaler.

Product Development

Instead of focusing on new markets, try spending more time on innovation. Develop complementary products to add to your current product or service portfolio. If possible, extend your current product line-up by producing different variants.

Managing Margins

Pricing.

Maintaining the status quo while operating costs are increasing due to Bill 148 will likely cause a reduction in operating income. Business leaders will often hesitate to pass rising costs on to the customer through price increases, fearing this will force customers to leave or switch to a competitor. However, for small organizations with high labour costs a price change may be necessary to sustain competitive margins. Depending on your business and the competitive landscape you operate in, the nominal value of a price increase will differ, so there is no precise or standard percentage businesses should enforce following Bill 148. However, the following tips have been provided to help with implementing a price change:

- **Warn.**
Give fair warning to your customers: loyal customers will expect to be informed in advance when a price change is coming up.
- **Sustain.**
Set a price that you can live with for a long time: customers will not respond well to constant price changes. Highlight how long prices have been at the current level to ease any concerns regarding fluctuations.
- **Inform.**
Provide clear explanations to customers when justifying the price increase: keep it short but be straightforward and transparent. Ensure employees effectively communicate the same message.
- **Personalize.**
For important customers such as large accounts or strategic partnerships, have senior leaders contact them personally.
- **Compromise.**
If possible, review products and services with customers who are looking for price relief. There may be options where they pay extra for products or services that they could do without as a price tradeoff.

B2B

When selling from one business to another, client satisfaction is of the utmost importance. You must take extra care when dealing with price increases in this environment - follow some of these helpful tips to guide you:

- Introduce price increases when new contracts are being signed.
- Ensure value is being delivered before you communicate a change in costs, impress your customers during the period prior to the change.
- Raise prices for your biggest, most important clients at a lower percentage than your small or least loyal customers.

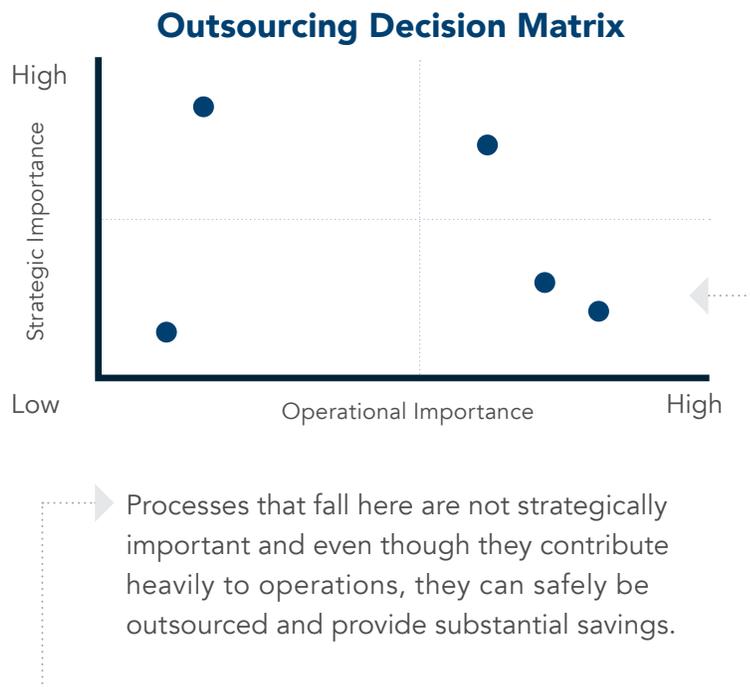
Additional Strategies to Manage Margins

Outsourcing.

Companies across the globe have been outsourcing specific business processes because they are costly, time consuming, or detract from their organizations core competencies. Due to the impacts from Bill 148, it would be beneficial for small and medium-sized businesses to review their current operations and identify outsourcing opportunities which could offset rising costs. Common areas for outsourcing, include administration, customer service, accounting and human resources.

“Should this process be outsourced?”

Deciding which processes should be outsourced requires owners to look beyond just cost savings. Try using a decision matrix to help you identify the greatest opportunities. After reviewing your processes and identifying areas for potential outsourcing, plot them based on operational and strategic importance as shown below.



Customer Relationship Management (CRM).

This an ongoing process for optimizing interactions with current customers while also seeking new opportunities to increase sales. The objective of the CRM framework is to introduce routines for customer interactions. By implementing this type of strategy, you are establishing accountability for your sales team and enabling them to reach revenue and profit targets for the organization.



In order to develop a useful CRM strategy, it is important to **identify** who your customer is. From there you can start to **differentiate** customers and look at their purchasing behavior – analyze what products they are buying, how often, etc. **Customize** your sales plans based on the consumer types identified to optimize your revenue potential. Finally, develop “touchpoints” or plan to **interact** with customers to ensure your organization is being proactive with sales.

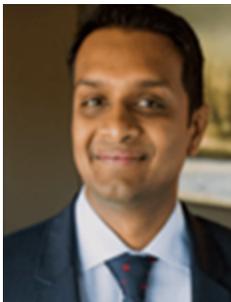
Try developing a CRM tracker to help your business reach your customers: be sure to incorporate all vital factors that will feed your sales funnel such as contact information, location, contact frequency, method of communication and client notes.

Acknowledgements

MNP is a leading national accounting, tax and business consulting firm in Canada. We proudly serve and respond to the needs of our clients in the public, private and not-for-profit sectors. Through partner-led engagements, we provide a collaborative, cost-effective approach to doing business and personalized strategies to help organizations succeed across the country and around the world. While the firm's clients include businesses of all kinds and sizes, considerable attention is given to small and medium-sized organizations.

With our focus on operational excellency, we assist small and medium-sized enterprises in looking inward at how they are doing business to achieve optimal performance and build a sustainable competitive advantage. Furthermore, we integrate human capital considerations into the framework of an organization's strategy, structure, systems and processes. Ultimately, we help small and medium-sized businesses reach their full potential.

Considerable editorial contributions were made by:



Yohaán Thommy, PMP, LSSBB

Partner, Consulting, MNP LLP

T: 905-247-3254

E: Yohaán.Thommy@mnp.ca

A: 50 Burnhamthorpe Rd W #900,
Mississauga, ON, L5B 3C2



Alan Lambert

Partner, Advisory Services, MNP LLP

T: 416-515-5053

E: Alan.Lambert@mnp.ca

A: 111 Richmond St W #300
Toronto, ON M5H 2G4

OCC

For more than a century, the Ontario Chamber of Commerce (OCC) has been the independent, non-partisan voice of Ontario business. Our mission is to support economic growth in Ontario by defending business priorities at Queen’s Park on behalf of our network’s diverse 60,000 members. The OCC has been a leading advocate for business on how the labour and employment reform will impact businesses and communities across the province. Members of the OCC have expressed concern over how to transition the changes required from Bill 148 in such a short amount of time. To help members with the transition, the OCC teamed up with MNP to develop this handbook.

For more information on the OCC’s advocacy work on Bill 148 please contact Karl Baldauf at karlbaldauf@occ.ca.



Karl Baldauf

Vice President, Policy
& Government Relations

T: 647.243.3543

E: karlbaldauf@occ.ca

A: 180 Dundas Street West, Suite 1500
Toronto, ON M5G 1Z8

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STEERING THROUGH CHANGE

A Handbook to Help Ontario Businesses
Understand and Manage Bill 148.

