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c 31 Employment Standards Amendment Act, 1984

Ontario

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CHAPTER 31

An Act to amend the Employment Standards Act

Assented to June 27th, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 40a (3) (c) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed.

(2) Section 40a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is amended by adding thereto the following subsections:

(7) Where an employee who is entitled to severance pay under this section has a right to be recalled for employment under the terms and conditions of employment, the employee may elect to be paid the severance pay forthwith or may elect to maintain the right to be recalled.

Election by employee

(8) Where the employee elects under subsection (7) to be paid the severance pay forthwith, the employee shall be deemed to have abandoned the right to be recalled.

Effect of election to accept severance pay

(9) Where the employee elects to maintain the right to be recalled or fails to make an election, the employer shall pay the severance pay to the Director in trust to be paid by the Director,

Effect of election to maintain right of recall

- (a) to the employer, where the employee accepts employment made available under the right of recall and such acceptance takes place in the period provided under the terms and conditions for recall or within a period of twelve months from the termination whichever period is shorter and in such case the employee shall be deemed to have abandoned the right to severance pay;
- (b) to the employer, where during the period of twelve months from the termination the employee advises

the Director in writing that the employee elects to retain the right to be recalled and in such case the employee shall be deemed to have abandoned the right to severance pay; or

- (c) to the employee in any case other than a case mentioned in clause (a) or (b) and, upon payment, the employee shall be deemed to have abandoned the right to be recalled.

2. The said Act is amended by adding thereto the following section:

Interest on
trust funds

51a.—(1) Upon an application for review under section 50, the wages paid to the Director in trust shall be paid into an interest bearing account to abide the decision of a referee and shall be paid out in accordance with the decision of the referee together with any interest earned thereon.

Interest on
award of a
referee

(2) In a hearing under section 51, a referee may, where it appears just and equitable to do so, direct that interest calculated in the same manner as prejudgment interest in the Supreme Court be paid by an employer upon any wages to which an employee is entitled.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Employment Standards Amendment Act, 1984*.