



The New Chicago Fair Workweek Ordinance Will Usher In Many Workplace Changes Beginning In July 2020

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On July 23, 2019, the Chicago City Council passed the Chicago Fair Workweek Ordinance (Ordinance). This is one of the most expansive ordinances of its kind containing a myriad of requirements and penalties for non-compliance. Here are the highlights:

Beginning in July 2020, many employers with employees who work in the City of Chicago must post work schedules in advance. The Ordinance requires employers to give *new* employees a good-faith estimate of the following for the initial 90-days of employment: average number of hours and days to be worked in a workweek, the start and end times of each shift, and whether there will be on-call shifts. For *existing* employees, the employer must post a work schedule 10 days in advance (increasing to 14 days in July 2022) showing new and on-call shifts.

Subject to a few exceptions, if any change is made to an employee's schedule after it is posted but more than 24 hours in advance of the change, an employee may decline the unscheduled days/hours. If the employee accepts the new schedule with more than 24 hours' notice, then the employer must pay one hour of "predictability pay." If a schedule is changed with less than 24 hours' notice the employee may decline the unscheduled hours or, if the employee accepts the change, the employer must pay at least 50% of the employee's regular pay if the change results in a cancellation or reduction of hours.

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The Ordinance goes beyond posting schedules. The Ordinance will also have a significant impact on operations, such as allowing employees to decline work if the schedule requires them to work two shifts with less than a 10-hour break, having to pay 1.25 of an employee's pay for all hours worked on the second shift if the employee works two shifts within 10 hours, require employers to offer open shifts to existing employees before using temporary employees, and allow employees to request a flexible work arrangement.

The Ordinance applies to employees who work a majority of the time in Chicago and to salaried employees earning less than \$50,000 or \$26 per hour, in the case of hourly employees. Regarding employers, the Ordinance applies mostly to large employers, such as those with 100 employees globally, those employing 50 or more employees in Chicago and who are primarily engaged in industries like healthcare, hotels, manufacturing, retail and warehouses. Restaurants are covered if they have at least 30 locations *and* have 250 employees.

The Ordinance does not apply to employers with collective bargaining agreements that are effective as of July 1, 2020. Employers and unions can expressly waive the requirements of the Ordinance in subsequent collective bargaining agreements.

Penalties for violating the Ordinance are significant. An employer may face a \$200-\$500 fine per violation, per employee, and employees can bring an individual or class action lawsuit to recover predictability pay and attorneys' fees and costs.