

## Big Changes For Chicago Employers Coming In July 2020

The Chicago City Council passed the [Chicago Fair Workweek Ordinance](#) last month and Mayor Lightfoot is expected to sign it into law. The new law will go into effect for covered Chicago employers on July 1, 2020. This ordinance is a solution in search of a problem. It will further exacerbate Chicago's reputation as a location inhospitable to employers.

### In a Nutshell

Employers will be required to provide new employees with good-faith estimates of what the employees' work schedules will be for their first 90 days of employment. In addition, employers will be required to provide all covered employees with their regular work schedules at least ten days in advance (14 days beginning July 1, 2022).

### What Employers are Covered by the New Ordinance?

- Employers of 100 or more employees globally (or 250+ globally if a non-profit or restaurant)
- Of the 100/250 global employees, 50 or more must be "covered employees"
- Must belong to "covered industry"

### Who are Considered "Covered Employees"?

- Regular employees and certain temporary employees
- Earn salary of \$50,000 a year or less or \$26.00 an hour or less
- Spends the majority of time working within the City of Chicago

- Performs the majority of his or her work in a “covered industry”

### **What is Considered a “Covered Industry”?**

- Building Services
- Healthcare
- Hotel
- Manufacturing
- Restaurant
- Retail
- Warehouse Services

### **What are the Requirements of the Ordinance?**

*Advance Notice* - Employers will be required to provide new employees with the median number of weekly hours the employee can expect to work each week for the first 90 days of that individual’s employment and if that employee can expect any on-call shifts. Employers will also have to inform new employees of the days and times of shifts that the employee can expect to work and/or the days and times or shifts the employee will NOT be scheduled to work.

Employers will be required to provide all covered employees with their work schedules at least ten (10) days in advance. The advance notice deadline increases to 14 days beginning July 1, 2022.

*Offering Additional Shifts to Own Employees First* - If an employer has additional shifts available, the employer must offer the shifts to its own employees or long-term temporary employees capable of performing the work, before offering the shift to temporary or seasonal workers. The extra shifts must be posted in writing for at least three (3) consecutive calendar

days in a conspicuous location where notices are usually posted.

Employees are not required to take additional hours or shifts and cannot be retaliated against if they do not take additional hours/shifts, but if they do, they must accept them in writing. If no qualified employee accepts the extra work, employers can offer the extra work to temporary or seasonal workers who have worked for the employer for at least two (2) weeks.

***Post Notice of Employee Rights*** – Employers must post a notice of employee rights in a highly visible spot at each location where covered employees work. Further, employers must provide a notice of employee rights with an employee’s first paycheck.

### **Employee Rights**

Employees have the following additional rights under the ordinance.

***Right to Predictability Pay*** – If an employer makes certain changes to an employee’s schedule after the 10/14-day deadline and an employee accepts the new schedule, the employee will be paid Predictability. Predictability Pay is in addition to any additional wages actually earned as a result of the changes.

- An employee will be paid an additional hour of pay for 1) each shift in which hours of work were added; 2) each change of date or times of a shift when there is no loss of hours; and 3) cancels or subtracts hours from a regular or on-call shift (as long as the employer provided more than 24 hours’ notice).

- An employee will be paid at least 50% of an employee's regular rate of pay for any scheduled hours the employee did not work as a result of an employer canceling or subtracting hours from a shift without providing the employee with at least 24 hours' notice.

An employer may reduce an employee's hours for just cause disciplinary reasons or make other changes resulting from events outside of the employer's control. However, the employer must make these changes on the posted work schedule and provide it to any affected employees within 24 hours of the change.

***Right to Rest*** - An employee has the right to decline to work hours that he or she is scheduled if those hours begin less than ten (10) hours after their last shift ended. If an employee does work a shift that begins less than ten (10) hours after the end of the previous day's shift, the employer must pay the employee 1.25 (1¼) times the employee's regular rate of pay for that particular shift.

***Right to Request Flexible Working Arrangement*** - An employee has the right to request a modified work schedule, including additional shifts or hours, changes in days or start/end times for shifts and permission to exchange shifts with other employees. An employer may not retaliate against an employee for making a request and an employer's response to the request must be in writing.

***Right to Keep Schedule Private*** - Any covered employee who is the victim of domestic or sexual violence, or who has a family or household member who is a victim, has the right to request

that their work schedule not be posted or sent to other employees.

**Conclusion** – Thankfully, the new ordinance only covers larger employers and doesn't regulate all industries. Nevertheless, the Fair Workweek Ordinance imposes a substantial regulatory burden on the employers it does cover. It will result in the unintended consequence of suppressing job creation in the City which will hurt the very employees the Ordinance was intended to help.

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Ross I. Molho  
Clingen Callow & McLean, LLC  
2300 Cabot Drive, Suite 500  
Lisle, Illinois 60532  
[www.ccmlawyer.com](http://www.ccmlawyer.com)  
(630) 871-2614

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