

Bill 149 Receives Royal Assent—New And Upcoming Legislative Changes For Ontario Employers



On March 21, 2024 [Bill 149, Working for Workers Four Act, 2023](#) (Bill 149) received Royal Assent. As discussed in our initial blog, [More Legislative Changes on the Horizon for Ontario Employers](#), late last year when the legislation was introduced, Bill 149 brings with it several changes to Ontario's *Employment Standards Act, 2000* (ESA) and other employment-related legislation in Ontario, of which employers should be aware. Below is an overview of some of the more material changes to the ESA introduced by Bill 149, which will impact provincially regulated employers in Ontario.

In Force Immediately

The following amendments came into force immediately upon Bill 149 receiving Royal Assent on March 21:

- The definition of the term "employee" under the ESA has been amended to confirm that work performed during a "trial period" is considered "training", effectively banning unpaid trial shifts in Ontario.
- The ESA has been amended to make it clear that employers cannot deduct an employee's wages in instances where a cash shortage or loss of property occurs as a result of a customer of a restaurant, gas station or other establishment leaving the establishment without paying for the goods or services taken from the establishment.

In Force Effective June 21, 2024

Several amendments are slated to come into effect on June 21, 2024, giving employers a brief period of time to ensure compliance with the new requirements:

- Employees must be paid tips or other gratuities by cash, cheque, direct deposit or some other form as may be prescribed by regulation.
- The ESA will be clarified to confirm that, if payment is made to an employee by direct deposit, the account used must be one selected by the employee, in addition to existing requirements that the account be in the employee's name and be one accessible only to the employee or a person authorized by the employee.
- Employers who have instituted a tip or gratuity splitting/sharing policy must

post (and keep posted) such policy in at least one conspicuous place in the employer's establishment where it is likely to come to the attention of employees.

- The ESA will be clarified to confirm that alternative arrangements made with employees regarding vacation pay are only valid if the employee accepts such arrangements.

Amendments to Come into Force at a Later Date

Several of the most notable changes introduced by Bill 149 will be proclaimed in force at some later date:

- *Pay Transparency*—Employers will be required to disclose the range of expected compensation in their publicly advertised job postings.
- *Disclosure Requirements Related to AI Use in the Hiring Process*—Employers will be required to disclose the use of artificial intelligence (AI) within the hiring process directly on each publicly advertised job posting, subject to certain exceptions which may later be prescribed by regulation.
- *Ban on Canadian Experience Requirement in Job Postings*—Employers will not be permitted to include any requirements related to Canadian experience in publicly advertised job postings or any associated application forms, except as may be prescribed by regulation.
- *Record Keeping*—Employers (or some other party arranged for by the employer) will be required to retain copies of every publicly advertised job posting and any associated application form for three years after access to the posting by the general public is removed. Employers will also be required to retain copies of any tip or gratuity sharing policy for three years after the policy is no longer in effect.

Takeaways

The amendments to the ESA introduced through Bill 149 impose more stringent requirements on provincially regulated employers in Ontario, particularly with respect to hiring and employee pay practices. Employers should review their current policies and procedures to ensure compliance with the changes that took immediate effect, and with those that will soon be in effect. As always, employers should continue to monitor future legislative updates to ensure they are continuing to comply with their responsibilities, especially considering the relative frequency with which the legislature is rolling out these kinds of amendments.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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