

HR Alert: New Ontario Gig Worker Protection Law Takes Effect on July 1



Ride share, delivery, courier, and other companies that use digital platforms to assign work to “gig workers” in Ontario will soon be subject to strict new employment standards requirements. Here’s a briefing of what these employers need to know about the so-called [Digital Platform Workers’ Rights Act](#) (“Act”) to ensure compliance when the law takes effect on July 1, 2025.

Context: Current Lack of Employment Protections for Gig Workers

In the 20th century, each province and territory adopted employment standards laws to ensure that non-union workers get fair wages, reasonable work hours, vacations, and other basic employment protections. Those laws address the 2 basic kinds of work relationships that existed at that time, namely, employment and independent contracting. The problem is that modern gig work falls somewhere between those classifications. Like independent contractors, gig workers have the freedom to make their own schedules or even decide not to work at all; but they’re also financially dependent on their employers the way employees are. Because gig workers are “neither of the above,” they’re not covered by employment standards laws.

Ontario Adopts Canada’s First Gig Workers’ Law

That’s a major problem given that 1 in 4 (26.6%) of all self-employed Canadians (639,000 people) are “gig workers” (Statistics Canada for the fourth quarter of 2023). So, it was inevitable that provinces would at least start thinking about enacting [laws to protect gig workers](#). Ontario broke the seal by adopting the Act as part of broader employment legislation (Bill 88) in April 2022. But it took another 2 years for the government to proclaim the Act and another year for the law to take effect.

Who the Ontario Act Covers

Technically, the term “gig worker” appears in neither the Act nor the [Regulations](#). What the Act does say is that “operators” of “digital platforms” must take certain measures to protect workers who perform “digital platform work.” So, to make sense of the law you need to understand what each of these terms means:

- **“Digital platform”** means an online platform that allows workers to choose to accept or decline digital platform work.

- **“Operators”** are individuals or companies that use a digital platform to facilitate the performance of digital platform work by workers.
- **“Digital platform work”** means providing for payment ride share, delivery, courier, or other prescribed services other than taxicab or limousine services by workers who are offered “work assignments” by an operator through the use of a digital platform.

The Regulations explain what “work assignments” are and when they start and end. As with employment standards protections, neither operators nor workers may waive their rights or contract out of the Act.

What the Act Requires

The Act requires operators/employers to do (or refrain from doing) 10 things:

1. Establish Recurring Pay Period & Pay Day

Operators must establish a recurring pay period and recurring pay day on which they must pay gig workers all amounts earned during the pay period, including tips and other gratuities.

2. Pay Minimum Wage

Operators must pay workers at least the minimum wage rate payable under the Ontario *Employment Standards Act* (ESA) for the digital platform work they perform.

3. Not Withhold Tips

Operators may not withhold or make deductions from any amounts earned by workers, including tips or gratuities, unless the Act authorizes those withholdings or deductions.

4. Provide Written Information to New Gig Workers

Operators must provide, in writing, certain information to workers at various points during their tenure. The first trigger occurs when the worker is first given access to the operator’s digital platform for purposes of accepting or declining work, after which the operator has 24 hours to provide the worker information about, among other things:

- The worker’s recurring pay period and pay day.
- How the worker’s pay will be calculated.
- The factors, if any, used to determine whether work assignments are offered to workers and how those factors are applied.
- Whether the digital platform uses a performance rating system and a description of the consequences of a worker’s performance rating or failure to perform a work assignment.

5. Provide Written Information When Offering Assignments to Gig Workers

Operators must also provide the following information, in writing, when offering workers work assignments:

- The estimated amount the worker will be paid for the work and a description of how that amount was calculated.

- Any factors used in determining to offer the worker the assignment.
- The consequences, if any, based on the worker's performance rating for the work assignment or failure to perform the work assignment.

6. Provide Written Information After Gig Workers Complete Assignments

Last but not least, an operator must provide the following information in writing to workers within 24 hours of their completing a work assignment:

- The actual amount the worker will be paid for the work, a description of how that amount was calculated and when the amount will be paid.
- The amount of any tips or other gratuities collected by the operator for the work assignment, the amount of tip or other gratuity that to be paid and when it will be paid.
- Any calculations used to determine travel distances or mileage when calculating the amount of pay for the work assignment.
- A description of any amounts paid to the worker for expenses.
- The amount and method of calculating any premium paid to the worker for working at a specified time or performing a specified task.
- The times that the work assignment started and finished.

7. Keep Records

Operators must keep, retain for at least 3 years, and make available for government inspection records containing the following information for each worker who accesses its digital platform for purposes of accepting or declining digital platform work:

- The worker's name and address.
- The dates on which the worker was given access to the digital platform for performing work.
- The dates on which the worker's access was removed or reinstated.
- The dates the worker performed work assignments and the start and end times of each assignment.
- Any amounts paid to the worker in connection with a work assignment, the dates the amounts were paid, and a description of the payments, including any tips or other amounts included in the payment.
- Whether the digital platform uses a performance rating system and a description of the consequences of a worker's performance rating.

8. Give Gig Workers Termination Notice

The Act bans operators from removing a worker's access to the digital platform without first providing a written explanation of the reasons for removal. The operator must also furnish 2-weeks written notice to workers whose access is removed for a period of 24 hours or longer, unless the worker:

- Is guilty of willful misconduct.
- Is removed due to public safety concerns.
- Is unable to legally perform digital platform work under federal or provincial legislation, or municipal by-law.

- Must otherwise be removed as required by law.

9. Resolve Disputes in Ontario

The class action by drivers against Uber has created controversy over operators' use of contract clauses that require gig workers to resolve all claims individually via arbitration, often in some faraway venue that's hard for workers to travel to, and not class action lawsuits. While not banning mandatory arbitration clauses, the Act does require operators and workers to resolve all of their disputes in Ontario.

10. No Reprisals Against Gig Workers

The Act carries over another key ESA protection by banning operators from engaging in reprisals against, intimidating or penalizing gig workers for asking about or asserting their rights under the law.

Risks of Noncompliance

Workers who think an employer has violated the Act can file complaints with the Ontario Ministry of Labour, which can then investigate and enforce the law similar to the way it enforces the ESA. Potential penalties for individuals:

- \$250 for a first offence cited by an MOL officer.
- \$500 for a second offence in a 3-year period.
- \$1,000 for a third or subsequent offence in a 3-year period.
- Up to \$50,000 and/or 12 months in prison for a quasi-criminal offence.

Potential penalties for corporations:

- \$15,000 for a first offence cited by an MOL officer.
- \$25,000 for a second offence in a 3-year period.
- \$50,000 for a third or subsequent offence in a 3-year period.
- Up to \$100,000 for a first quasi-criminal offence.
- Up to \$250,000 for a second quasi-criminal offence (even if it occurs more than 3 years after the first offence).
- Up to \$500,000 for a third or subsequent quasi-criminal offence.

Takeaway: Checklist of Compliance Actions

The first thing Ontario companies must do is determine whether they're "operators" subject to the requirements of the Act. If so, they'll need to make it a priority to take proactive measures to ensure that they'll be in compliance with the Act when it takes effect on July 1. Here's a Checklist of action items:

- Review and revise your current gig worker contracts to ensure that workers covered by the Act are paid at least the ESA minimum wage, which is currently \$17.20 per hour but increases to \$17.60 per hour on October 1.
- Adjust your payroll systems so that there's a recurring pay period and pay day for gig workers.
- Verify that your payroll systems are capable of capturing and reporting all of the written information the Act requires you to provide gig workers upon

hiring, assigning work, and completing an assignment.

- Incorporate the new information requirements into your current payroll recordkeeping policy, including new language specifically requiring retention of those records for at least 3 years after the gig worker ceases to have access to your platform.
- Ensure that your gig worker pay records are accessible to MOL officials for inspection.
- Revise your termination protocols, if any, for gig workers to ensure that you provide the required notice to each worker upon removing their access to your digital platform.
- Review the dispute resolution provisions of your current gig worker contracts to ensure they require all disputes are resolved in Ontario.
- Create and implement a non-retaliation policy for gig workers—or ensuring that your current non-retaliation policy for employees specifically includes gig workers.
- Train HR and payroll staff about the new requirements and how to comply with them.