

New Obligations For Ontario Employers With Stronger Workplaces For A Stronger Economy Act, 2014



On November 20, 2014, the *Stronger Workplaces for a Stronger Economy Act, 2014* received royal assent. The new legislation is intended to provide additional support for vulnerable workers by amending a number of Ontario's employment and labour statutes, including the *Employment Standards Act, 2000* (ESA) and the *Occupational Health and Safety Act* (OHSA).

The following are highlights of the key amendments and their timelines for coming into force in Ontario.

CAP FOR UNPAID WAGE CLAIMS ELIMINATED UNDER ESA

The ESA currently caps unpaid wage claims at C\$10,000 and imposes a six-month time limit on recovery for most claims. The amendments will eliminate the monetary cap and replace the six-month limitation with a two-year limitation for all wage claims. Provisions dealing with the transition from the current scheme to the revised scheme are included in the new legislation.

These amendments will come into force on February 20, 2015.

MINIMUM WAGE TIED TO CPI

The ESA has been amended to include a formula for the calculation of annual minimum wage increases. Beginning in 2015, minimum wage increases will be tied to the Consumer Price Index for Ontario as published by Statistics Canada. The government will publish by April 1 of each year the new minimum wage rates that will come into effect on October 1 of the same year.

These amendments came into force on November 20, 2014.

TEMPORARY HELP AGENCIES AND CLIENTS: JOINTLY AND SEVERALLY LIABLE

Temporary help agencies and their clients will now be held jointly and severally liable under the ESA for wages owed to assignment employees. If a temporary help agency fails to pay an assignment employee during a pay period, each client for whom the employee performed work will be held jointly and severally liable with the agency for a share of unpaid wages proportional to the number of hours worked for that client.

Furthermore, the amendments will introduce new recordkeeping and record retention requirements. Temporary help agencies and their clients will both be required to record the number of hours worked by each assignment employee, and to retain the resulting records for a period of three years.

These amendments will come into force on November 20, 2015.

SELF-AUDIT FOR COMPLIANCE WITH ESA

The enforcement provisions of the ESA will be strengthened by providing employment standards officers with the power to request that an employer conduct a self-audit. The purpose of a self-audit will be to determine whether the employer is in compliance with the ESA and regulations, and an investigation or enforcement action may be undertaken on the basis of the audit's results.

These amendments will come into force on May 20, 2015.

INFORMATION POSTER TO BE DISTRIBUTED TO EACH EMPLOYEE

The ESA currently requires the Minister of Labour to prepare and publish a poster providing information about the ESA and regulations. In addition to posting the most recent version of the poster in a conspicuous location in each workplace, employers will now also be obligated to provide each employee with a copy of the poster. This includes new and current employees.

These amendments will come into force on May 20, 2015.

DEFINITION OF 'WORKER' EXPANDED UNDER OHSA

The definition of "worker" under the OHSA has been expanded to include individuals who are performing unpaid work, such as secondary school students who perform work for no monetary compensation under a work experience program or unpaid trainees/unpaid interns. The purpose of this amendment was to address a perceived gap in the legislation which had protected only paid workers.

These amendments came into force on November 20, 2014.

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