New Ontario ESA Requirements Regarding Pay Transparency, Job Postings And More Coming In 2025 And 2026



Ontario recently introduced new regulations under the *Ontario Employment Standards Act, 2000* (the "*ESA*") that will have a significant impact on the hiring process for Ontario employers.

As we reported earlier this year, the *Working for Workers Four Act* and the *Working for Workers Five Act*, established and expanded on the anticipated provisions related to publicly advertised job postings, including the prohibition on having a "Canadian experience" requirement. Please see our earlier Employment Updates here and here. On November 29, 2024, these Acts were proclaimed, and the amendments will be effective starting January 1, 2026.

In addition, a new regulation that was prescribed under the original Working for *Workers Act, 2023* (reported on by us here) will require employers to provide newly-hired employees with certain information starting July 1, 2025.

We highlight the scope and timing of the obligations regarding job postings, interviews and employee information as prescribed by the new regulations below. The full text of the new regulations can be found here and here.

CHANGES IN EFFECT JULY 1, 2025

Employment information on hiring

Ontario employers with **25 or more employees** will be required to provide newly hired employees with the following information in writing before their first day of work or as soon as reasonably possible thereafter:

- **Legal name:** The legal name of the employer, as well as any operating or business name of the employer if different from the legal name.
- **Contact info:** Contact information for the employer, including address, telephone number and one or more contact names.
- **Location:** A general description of where it is anticipated that the employee will initially perform work.
- **Starting pay:** The employee's starting hourly or other wage rate or commission, as applicable.

- **Pay period / pay day:** The pay period and pay day established by the employer in accordance with subsection 11(1) of the *ESA*.
- **Hours of work:** A general description of the employee's initial anticipated hours of work.

CHANGES IN EFFECT JANUARY 1, 2026

Job posting and interview requirements

The new obligations on job postings and interviews will apply to Ontario employers with **25 or more employees** on the day the publicly advertised job posting is posted.

A "publicly advertised job posting" has been defined to mean an external job posting that an employer or person acting on behalf of an employer advertises to the general public in any manner. However, there are certain exemptions, including:

- a general recruitment campaign or help wanted sign that does not advertise a specific position;
- a posting for a position that is restricted to existing employees of the employer; or
- a posting for a position performed outside Ontario that does not fall within the scope of the *ESA*.

The following requirements apply to publicly advertised job postings:

- **Compensation range (i.e. pay transparency):** An employer must include information about the **expected** compensation or the range of **expected** compensation for the position in the job posting.
    - **Definition:** "Compensation" has been defined to mean wages within the meaning of the *ESA*, which can include a wide variety of monetary remuneration, including salary, hourly pay, commissions, non-discretionary bonuses and profit-sharing.
    - **Ranges:** If a range is provided, it cannot be greater than $50,000 annually (e.g. $60,000 to $110,000).
    - **Exemption:** The requirement to post compensation does not apply to a position that is expected to pay more than $200,000 annually or that has an expected range of pay where the upper limit of the range is greater than $200,000 annually.
- **Canadian experience:** Employers are prohibited from including any requirements related to Canadian work experience in the job posting or in any associated application form.
- **Artificial intelligence:** An employer who uses artificial intelligence to screen, assess, or select applicants will be required to disclose this practice on its job postings.
    - **Definition:** "Artificial intelligence" has been defined to mean a machine-based system that, for explicit or implicit objectives, infers from the input it receives in order to generate outputs such as predictions, content, recommendations or decisions that can influence physical or virtual environments.
- **Existing vacancy:** The job posting must include a statement disclosing whether it is for an existing vacancy.
- **Information after interview (i.e. the duty to inform applicants interviewed):** If an employer interviews an applicant for a position in a job posting, the employer must, within 45 days of the last interview, provide information as to whether a hiring decision has been made in respect of the job posting.
    - **Definition:** "Interview" has been defined to mean a meeting in person or using technology, which can include teleconference or videoconference

technology, between an applicant who has applied to a publicly advertised job posting and an employer or person acting on behalf of an employer where questions are asked and answers are given to assess the applicant's suitability for the position, but does not include preliminary screening before the selection of applicants for such a meeting.
    - **Method:** The information is to be provided in person, in writing or using technology.
- **Record retention:** An employer must retain job postings and any associated application forms, as well as the information provided to applicants after an interview, for a period of three years.

TAKEAWAYS

Ontario employers should review their on-boarding documentation to ensure that it includes the information required to be disclosed to employees on hire. Some or all of this information could also be included in a template offer letter or employment agreement. While these requirements do not take effect until July 1, 2025, employers are free to make the necessary adjustments to their employment documents prior to that deadline.

Ontario employers now have just over one (1) year to review their hiring processes and documents to ensure compliance with the new job posting and interview requirements that will take effect January 1, 2026.

While the above requirements only apply to Ontario employers with 25 or more employees, the requirements take effect immediately once an employer reaches that threshold. Employers that are near the threshold may elect to simply adopt the requirements in order to avoid having to closely track their changing head count.

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

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