

Ontario Employment Law For Foreign Employers



Peter Straszynski discusses Ontario employment law for foreign employers including what a non-Canadian company planning to hire in Ontario needs to know with regards to The Human Rights Code, The Employment Standards Act, The Common Law and Wrongful Dismissal, Employment Insurance Act, Occupational Health and Safety Act, Workplace Safety & Insurance Act, Pay Equity Act and Ontario Labour Relations Act as part of the Torkin Manes LegalPoint Video Series.

Q. What does a non-Canadian company, planning to hire in Ontario, need to know?

A non-Canadian business planning to hire employees in Ontario should be aware of our particular set of workplace statutes, as well as some of the more important aspects of our “common law” system.... Foreign businesses are sometimes surprised by how different our laws and rules can be when it comes to the employment relationship..... Any business looking to employ people in Ontario should first get advice from qualified counsel, so that they fully understand the system of laws governing the employment relationship.

The Human Rights Code

Ontario employers are governed by the Ontario Human Rights Code.

The Code provides that every person has a right to be free from discrimination and harassment in their employment on the basis of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or handicap.

The Employment Standards Act

The Ontario Employment Standards Act provides for certain minimum terms and conditions of employment for most employees in Ontario.

The Act sets out minimum standards regarding wages, hours of work, overtime, vacations, public holidays, leaves of absence (including pregnancy and parental leaves), termination of employment and rights to reinstatement, among other things.

The Common Law and Wrongful Dismissal

There is no recognized concept of “employment at will” in Canada, similar to that recognized in some U.S. States..... Under our “common law” (Judge-made law), employment can be terminated at any time, without just cause, but only upon the provision of “reasonable” prior notice of termination or payments instead.

At common law, it is not at all unusual for Judges to routinely award notice periods in the range of one month’s notice for every year of employment, and possibly more.

Employment Insurance Act

Our federal Employment Insurance Act is designed to provide income protection for employees who are unemployed for a variety of reasons..... Aside from benefits that may be available after terminations of employment, the statute also provides for benefits that may be payable during periods of illness or, for example, a pregnancy leave of absence.

Both employers and employees contribute premiums to the Insurance scheme.

Occupational Health and Safety Act

Our provincial Occupational Health & Safety Act requires the establishment of Health and Safety Committees in most workplaces, and is aimed at the prevention of workplace accidents or injuries.

A violation of occupational health and safety legislation can generally be prosecuted as a provincial offence. Individuals and corporations may be subject to fines if found guilty, while individuals may face the additional risk of incarceration.

Workplace Safety & Insurance Act

Our Workplace Safety & Insurance Act (formerly known as Workers’ Compensation) creates a system of compensation for workplace accidents or injuries which occur while workers are in the course of their employment.

Employer contributions are the exclusive source of funding for Workplace Safety & Insurance scheme.....

Pay Equity Act

The Ontario Pay Equity Act is legislation aimed to redress systemic gender discrimination in compensation for work performed by employees in female job classes.

The pay equity model is based on the concept that employees should be paid equally for work which is of “equal value” to the employer, not just for work which is substantially similar.

Every private employer with 10 or more employees must establish and maintain compensation practices that provide for pay equity in their own “establishments”.

Ontario Labour Relations Act

The term “labour relations” typically refers to the body of law that governs unionized workplaces.

The Ontario Labour Relations Act deals with issues like :

Who can belong to a union;

How and when a union can obtain bargaining rights;

How, when and at whose initiative, can bargaining rights be terminated;

The duty to bargain in good faith by both a union and an employer;

The statutory "freeze" on terms and conditions of employment during Union organizing drives;

The content and operation of collective agreements and the arbitration process through which such agreements are enforced;

The right to strike or lock out;

Successor rights in cases which a unionized employer transfers a unionized business or undertaking;

Unfair labour practices by employers or unions; and

Procedure for applications or complaints before the Ontario Labour Relations Board in respect of any of these matters.

Conclusion

If you'd like to learn more about any of these topics and how Ontario Employment Law may affect your plans to do business here, please see our related publications titled "Summary of Ontario Employment Law", or contact us any time ...by phone or by email.

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