Ontario Proposes New Legal Framework For Digital Platform Workers



The Ontario provincial government recently introduced legislation that, if passed, would establish a new legal framework for "digital platform work" in Ontario. The proposed *Digital Platform Workers' Rights Act, 2022* (the Act) seeks to introduce new rights and protections for workers providing ride share, delivery and courier services via online platforms. This is one of the many workplace-related changes being proposed under the *Working for Workers Act, 2022*.

The stated purpose of the Act is to create certain minimum rights for digital platform workers, regardless of whether those workers are employees. As a result, the new protections afforded by the Act would extend equally to digital platform employees and contractors. Such rights and protections include the following:

- **The right to minimum wage.** Digital platform operators would be required to pay workers at least the minimum wage payable under the *Employment Standards Act, 2000* (the ESA), exclusive of tips and other gratuities. The general minimum wage rate currently in effect under the ESA is $15 per hour.
- **The right to a recurring pay period and pay day.** Digital platform workers would be entitled to a recurring pay period and pay day. All amounts earned during a given pay period, including tips and other gratuities, must be paid no later than the pay day for such period.
- **The right to amounts earned.** Digital platform operators would be prohibited from making deductions or withholdings from workers' earnings, including tips and other gratuities, unless authorized to do so by statute or court order. This prohibition mirrors the restrictions on making deductions from employees' wages under the ESA.
- **The right to information.** Digital platform operators would have to provide workers with certain information at specified times. For example, within 24 hours of the worker being given access to the operator's digital platform, the operator must provide the following information in writing:
    - a description of how pay is calculated
    - when and how tips or other gratuities are collected
    - the applicable recurring pay period and pay day
    - the details regarding any factors used to determine whether work assignments are offered to workers
    - whether the digital platform uses a performance rating system and its impact on the worker
- **The right to notice of removal.** To remove a worker's access to the digital

platform, the operator would be required to provide the worker with a written explanation as to why their access is being removed and, unless the worker has been guilty of "wilful misconduct", 2 weeks' written notice of the removal.
- **The right to dispute resolution in Ontario.** All digital platform work-related disputes between the operator and worker would need to be resolved in Ontario.
- **The right to be free from reprisal.** Digital platform operators would be prohibited from intimidating, penalizing or otherwise reprising against workers for exercising their rights under the Act. Further, similar to the ESA, the parties could not contract out of the minimum requirements of the Act, but the operator could provide a greater right or benefit to the worker.

The Act would introduce a number of new record-keeping obligations for operators and impose joint and several liability on directors for certain amounts owing to workers. The rights and entitlements contemplated by the Act seek to avail digital platform workers of many of the protections afforded to employees under the ESA. As a result, the Act includes detailed compliance and enforcement mechanisms similar to those under the ESA. If enacted, the Act would represent a marked departure from the current legal and regulatory landscape for digital platform work.

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