

Protections For The Gig Economy: Legislative Reform



Ensuring Fair Compensation and Job Security: New Legal Protections for Gig Workers

What is the Gig Economy?

The gig economy is a term used to describe a marketplace in which individuals, gig workers, accept short-term contracts and freelance work in place of traditional permanent employment. Gig workers often earn income through temporary work that may be arranged on an online platform or an app.¹

Unlike [traditional employees](#), while gig workers typically have greater flexibility in their schedules, they also often have low and unpredictable wages, they are given little to no notice for loss of work, and they do not typically receive compensation for injuries on the job.

Gig workers play a crucial role in our economy and the government is now taking steps to support them through changes in the law.

How are Employees or Workers Protected?

In British Columbia, the *Employment Standards Act (ESA)* and *Workers Compensation Act (WCA)* provide protections for employees and/or workers. The *ESA* outlines who is legally considered an “employee” and the *WCA* defines who is legally considered a “worker”.

Because of the protections in place by these laws, employees and/or workers can expect minimum standards for hours of work, minimum wages, leaves of absence, and termination notices and pay.

Until November 2023, gig workers were not included under the legal definition of employees (in the *ESA*) or workers (in the *WCA*) and because of this, they did not have the legal protections that all employees and workers are entitled to.

Amendments to the *Employment Standards Act* and *Workers Compensation*

Act Affecting Gig Workers

In November 2023, the *Labour Statutes Amendment Act* (the “**LSAA**”), was passed in the BC legislature and noteworthy elements include the amendments it made to the *ESA* and *WCA* to provide protections for gig workers.

Gig workers, who are defined as “online platform worker[s]” who perform “prescribed work that [they] accepts through an online platform,”² will now be considered employees under the *ESA* and workers under the *WCA*. Additionally, online platform operators through which gig workers accept work, will now be considered the “employers” of gig workers under the *ESA* and the *WCA*. This designation is an essential step that may indicate that online platform operators have the obligations and liabilities similar to those of traditional employers.

Given the nature of gig work, certain provisions of the *ESA* and *WCA* will need to specifically accommodate to the needs of gig workers. Certain *ESA* and *WCA* provisions may not be applicable to gig workers while other provisions may need to be modified. Regulations are expected to be released in 2024 to provide more clarity on this issue. As it stands, the [Ministry of Labour Backgrounder](#)³ anticipates the following protections for ride-hailing and food delivery workers:

Minimum wage:

- Establish a minimum earnings standard of 120% of B.C.’s general minimum wage (currently \$16.75) and apply it to engaged time.
 - Engaged time begins when a worker accepts an assignment through its completion.
 - Engaged time does not include the time spent waiting between assignments. This is the rationale for adding a 20% premium.
- Platform companies will top up the difference when the earnings paid in a pay period do not meet the minimum earnings standard for the engaged time worked.
- Tips are not included in the minimum earnings calculation.

Expenses:

- Establish an additional compensation standard to recognize the costs that workers incur when using a personal vehicle for work.
- The Ministry of Labour will be consulting with workers, platform companies and others to determine an appropriate compensation standard.

Tip protections:

- Prohibit platform companies from withholding tips or making deductions from tips.

Pay transparency:

- Ensure that when platform companies offer an assignment to a worker, that worker can see the earnings for completing the assignment.
- Platform companies will also be required to provide workers with wage statements every pay period so workers can ensure they are paid correctly.

Destination transparency:

- Platform companies will be required to provide all pickup and delivery locations for each assignment.
- This will allow workers to assess the desirability and safety of assignments before accepting them.

Suspensions and terminations:

- Platform companies will be required to inform a worker in writing of the reason for a suspension or deactivation of their account.
- Platform companies must also provide a review process that allows workers to present their side and supporting evidence.
- In response to a review, companies must provide a written explanation of their final decision.
- Platform companies will be required to give written notice or compensation for length of service if they want to terminate a worker's account unless there is just cause for the termination.

Workers' compensation coverage:

- Workers' compensation coverage from WorkSafeBC will be extended to ride-hailing and food-delivery workers.
- Workers will be eligible for workers' compensation benefits, including vocational rehabilitation services, for work-related injuries.

Platform companies will be responsible for:

- Registering for coverage with WorkSafeBC and paying premiums;
- Following health and safety rules to keep workers safe;
- Reporting injuries and diseases; and
- Investigating significant incidents.

Standards in the following areas will not be established at this time under the ESA for ride-hailing and food-delivery workers, but government will continue to monitor these areas:

- Hours of work and overtime;
- Statutory holidays;
- Paid leaves; and
- Annual vacation.

These new developments are reshaping the **gig economy** and will hopefully provide greater stability and protection for gig workers. As new regulations implementing the above are put into place, stakeholders should consider how these changes may implement them and their workplace.

Footnotes

1. Government of Canada, "Gig Economy" (24 October 2023), online: *Canada.ca* (<https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/compliance/platform-economy/gig-economy.html>).

2. Bill 48, *Labour Statutes Amendment Act*, 4th Sess, 42nd Parliament, British Columbia, 2023 (assent to 30 November 2023), at ss. 2, 9.

3. Government of British Columbia, "Fairness coming for gig workers" (16 November 2023), online: *news.gov.bc.ca* (<https://news.gov.bc.ca/releases/2023LBR0030-001799>).

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