

The Season Is Changing ... And So Is The Minimum Wage



A new school year has started and with it comes the typical September changes. Some of us will change the time we leave for work in the morning to account for school buses or extra time for school drop-off and crossings. Some people will do a closet turnover, swapping out their summer wardrobe for long sleeve shirts and sweaters. Routines will change as extra-curriculars start back up and new schedules are introduced. No matter who you are, September is a time where you look at and prepare for the changes to come even before the leaves change their colour.

Employers have their own changes to contend with. September brings a number of changes in the workplace as well, including a new financial quarter, return from vacations, and the absence of summer, co-op and intern students who have returned to their regular 9-5 of class time. One big change that is receiving a lot of attention these days is the return to in-person work for many employees. But employers shouldn't let the attention on these changes turn their mind away from preparing for another change that comes every fall in Ontario – the **October 1st** increase in the minimum wage.

Since October 1, 2015, the minimum wage in Ontario has increased each year on October 1st, tied to and adjusted in accordance with the Ontario Consumer Price Index (the "CPI"). The minimum wage is not decreased in the event there is a decrease in the CPI.

Effective October 1, 2025, the minimum wage will be as follows in Ontario:

Employers should prepare now to implement any changes required to their pay rates and ensure that employment agreements for employees starting work before October 1st account for this change in the minimum wage. Here are a few important reminders:

- **Compliance is Mandatory:** The minimum wage obligations under the Ontario *Employment Standards Act, 2000* (the "ESA") apply to most employees in Ontario⁵, regardless of how they are paid, so it's important for employers to review the pay information for all employees in advance of October 1st. For example, starting October 1, 2025:
 - Salaried Employees – An employee who regularly works a 40-hour work week must receive a base salary of at least \$36,608 (\$17.60 x 40 hrs x 52 wks);
 - Commissioned Employees – A 100% commission employee who works 35 hours/work week and earns \$750 in gross pay (draw, commissions, or commissions + draw)

in a bi-weekly pay period, will not have been paid at the minimum wage rate and will be entitled to a “top up” of \$482 for that pay period ($\$17.60/\text{hr} \times 70 \text{ hrs}/\text{pay period} = \$1,232 \text{ vs. } \$750$).

- **Harvesting Work-Hour Information is Critical:** Minimum wage compliance is determined by looking at the employee’s “regular wages” paid (salary, commissions/draw, fixed rate, or piece rate) and dividing it by their hours worked in each pay period. Special attention should be paid to employees who earn commissions (with or without a draw) or work variable schedules. Employers must track their employees’ hours worked for this calculation and because the ESA requires records to be kept of the number of hours each employee works –regular and overtime⁶ – in each day and each week.
- **Draw Balances Don’t Excuse Falling Short:** Where an employee receives a draw (an advance against their future commissions), their total gross pay must meet or exceed the minimum wage for their hours worked in each pay period. Employers cannot rely on an employee’s future anticipated earnings to justify paying less than the minimum wage in the current period. This means if an employee’s draw amount exceeds their earned commissions in the current pay period – resulting in a negative balance to be applied against commissions earned in the future – you must to “top up” the employee’s pay to at least the minimum wage.
- **Split Pay Periods Around October 1st:** If a pay period includes days before and after October 1st (e.g., a bi-weekly pay period of September 29th to October 3rd), you must treat it as two separate periods. Pay employees at least the correct minimum wage for each part—using the old rate before October 1st and the new rate on October 1st and after.
- **Look At All Wage Rates:** Employees who receive overtime pay or premium pay during a pay period must receive at least 1.5x the minimum wage rate for each overtime/premium pay hour worked;
- **The Federal Minimum Wage:** The rates above don’t apply to federally regulated employees (e.g. , someone who works in a Bank or for an airline). The federal minimum wage for those employees was increased to \$17.75/hour effective April 1, 2025.
- **Non-Compliance Harvests Trouble:** Failing to meet the minimum wage requirements in any pay period – even if the employee earns greater wages in a subsequent pay period (including where commissions are earned later to cover a negative draw balance), can lead to:
 - Legal liability for breach of the ESA;
 - An order for non-payment of wages issued by the Ministry of Labour, which must be posted in the workplace;
 - Penalties or fines from the MOL;
 - Back-pay obligations for any shortfall; and
 - Reputational damage if employees raise concerns or file complaints.

As the season changes, don’t fall like the leaves on the trees. September is the perfect time to plan for the October 1st minimum wage changes to ensure your compliance. Piccolo Heath is glad to help you and answer your questions so employers can embrace the change in the season just as easy as a change in the weather.

Footnotes

1 Applies to students under the age of 18 who work up to 28 hours/week when school is in session, or who work during a school break or summer holidays. If the student is Homeworker, they are entitled to the Homeworker minimum wage rate regardless of their age or hours worked.

2 Rate for working less than 5 consecutive hours in a day.

3 Rate for working five or more hours in a day whether or not the hours are consecutive.

4 A “Homeworker” is defined as an individual who performs work for compensation from their personal

residence, but does not include an independent contractor. Examples of Homeworkers are virtual assistants, home-based web designers, and home-based artisans.

5 The ESA includes limited exceptions to the minimum wage rules. For examples, co-op students and “outside” commission salespeople (those who normally make their sales away from the employer’s premises). If you have questions about whether an employee is exempted, please reach out to us at Piccolo Heath LLP.

6 Employers do not have to keep records of hours worked by salaried employees in each day and each week if (i) they record the number of excess hours worked in each work week and the number of hours worked in excess of 8 hours or their regular work day (whichever is greater) in a day; or (ii) the employee is exempt from the ESA hours of work and overtime rules.

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.

Author: [Cynthia Ingram](#)

Piccolo Heath LLP