

Updates in Ontario labour and employment matters: disclosure of salary ranges and AI; potential banning of NDAs



CHANGES TO WORKERS' RIGHTS LEGISLATION AND *DIGITAL PLATFORM WORKERS' RIGHTS ACT*

On November 6, 2023, the Government of Ontario announced its intention to introduce expansive workers' rights legislation. If passed, the legislation would require employers to include expected salary ranges in job postings, and require employers to disclose whether artificial intelligence is used during their hiring process.

In addition, the Government has proposed changes to vacation pay laws, with the intention of making employees aware that their written consent is required if vacation pay is paid in any way other than a lump sum before their vacation.

The Government further proposed changes to the *Digital Platform Workers' Rights Act*, 2022. These changes would create a regulatory authority to provide greater flexibility on the determination of pay based on minimum wage.

NDAS IN CASES OF WORKPLACE SEXUAL HARASSMENT, MISCONDUCT OR VIOLENCE

Finally, the Government of Ontario is considering whether or not to ban the use of non-disclosure agreements (NDAs) in the settlement of cases of workplace sexual harassment, misconduct or violence. The Government plans to conduct consultations and detailed analysis on this topic before making a decision.

Although the policy goal to prevent repeat abusers is a good one, a Government ban on the use of NDAs in the settlement of these kinds of cases could also have the unintended effect of reducing the likelihood of settlement, meaning that victims of sexual harassment, misconduct and violence may be forced to endure long and difficult litigation proceedings to enforce their rights, and making it harder to protect their identities from becoming public. Respondents and defendants will be loathe to settle such cases if it cannot be done on a confidential basis, and where the general public does not understand or believe the without prejudice nature of such settlements and that they do not amount to an admission of liability.

Of course, the parties are now free to agree to have such a non-disclosure clause or not, and complainants have the right to take their complaints to a public hearing rather than settling them if that is important to them. A government measure such as this proposal may be considered rather paternalistic.

We will keep you updated on the progress of these matters. Should you have any questions or concerns, please feel free to reach out to a member of Miller Thomson's [Labour & Employment](#) group.

Source: [Miller Thomson](#)

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