

# Year In Review – Key Legislative Updates Of 2024



Welcome to our annual review of notable legislative updates over the past year that we believe will be of interest to employers and human resources professionals.

## **Ontario**

The *Working for Workers Four Act, 2024*, *Working for Workers Five Act, 2024* and *Working for Workers Six Act, 2024* all received Royal Assent in 2024 and, together with accompanying regulations, introduced new and amended provisions to the *Employment Standards Act, 2000*, *Occupational Health and Safety Act* and *Workplace Safety and Insurance Act, 2017*.

Key amendments to each of these pieces of legislation are outlined below.

### ***Employment Standards Act, 2000 (ESA)***

Key amendments in force as of **March 21, 2024**:

- **Definition of “Employee”:** The definition of “employee” is amended to confirm that work performed in a “trial period” is considered “training” and, as such, any person performing work in a trial period is to be considered an employee for the purpose of the *ESA*.
- **Deductions from Wages:** An employer cannot make a deduction from wages because an employee had a cash shortage or loss of property and another person had access to the cash or property, including where a customer of a restaurant, gas station or other establishment leaves the establishment without paying for the goods or services taken from, consumed or received at the establishment.

Key amendments in force as of **June 21, 2024**:

- **Payment Methods for Tips:** An employer must pay any tip or gratuity by cash, cheque payable to the employee, direct deposit or any other prescribed method. If paid by direct deposit, the account in which the pay is deposited must meet the requirements of the *ESA*.
- **“Tip Pool” Policy Requirements:** If an employer has a tip policy where the employer or a director or shareholder of the employer shares in a “tip pool,” the policy must be in writing, posted in the workplace and retained for three years after it ceases to be in effect.

- **Vacation Pay Provision Amendments:** Clarifying amendments made to the vacation pay provisions to confirm that any permissible alternate pay arrangement agreed to between an employer and employee must be in writing.
- **Direct Deposit Clarifications:** A clarifying amendment made to the direct deposit provisions to confirm that, if payment is made by direct deposit, in addition to being in the employee's name and being accessible only to the employee or a person authorized by the employee, the account must be one selected by the employee.

Key amendments in force as of **October 28, 2024:**

- **Sick Leave Evidence:** An employer is prohibited from requiring an employee to provide a certificate from a qualified health practitioner as evidence of their entitlement to *ESA* sick leave.
- **Fines and Penalties:** The maximum fine for an individual convicted of violating the *ESA* is increased from \$50,000 to \$100,000.

Key amendments coming into force on **June 19, 2025:**

- **Long-Term Illness Leave:** An employee with at least 13 weeks of service is entitled to an unpaid leave of up to 27 weeks if the employee is unable to perform the duties of their position because of a serious medical condition.

Key amendments coming into force on **July 1, 2025** (not applicable to an assignment employee placed by a temporary help agency):

- **Employee Information:** An employer that employs 25 or more employees on an employee's first day of work must provide an employee with the following information before the first day of work or, where that is not practicable, as soon thereafter as is reasonably possible:
  - the legal name of the employer, as well as any operating or business name of the employer, if different
  - contact information for the employer, including address, telephone number and one or more contact names
  - a general description of where it is anticipated the employee will initially perform work
  - the employee's starting hourly wage or other wage rate or commission, as applicable
  - the applicable pay period and pay day
  - a general description of the employee's initial anticipated hours of work

Key amendments coming into force on **January 1, 2026.** These provisions will apply only to an employer that employs **25 or more employees** on the day the publicly advertised job posting is posted:

- **Job Posting Requirements:** By regulation, the term "publicly advertised job posting" has been defined to mean "an external job posting that an employer or a person acting on behalf of an employer advertises to the general public in any manner." However, it does not include:
  - a general recruitment campaign or "help wanted" sign that does not advertise a specific position
  - a posting restricted to existing employees of the employer
  - a posting for work that is to be performed outside of Ontario or outside and in Ontario where the work performed outside Ontario is not a continuation of work performed in Ontario (i.e., the work to be performed must fall within the scope of the *ESA*'s application)
- **Compensation Information:** An employer must include information about the

expected compensation (defined in the regulations as “wages” as defined in the *ESA*) for a position, or range of expected compensation, in any publicly available job posting. Pursuant to regulation, if a range of compensation is posted, the range must not exceed more than \$50,000 annually. Further, the requirement to include compensation information will not apply to positions where the expected compensation, or the upper limit of the expected range of compensation, is more than \$200,000 in wages annually.

- **Prohibition on Canadian Experience Requirement:** An employer cannot include any requirement related to Canadian experience in a publicly available job posting or associated job application form.
- **Use of AI in Job Selection Process:** An employer must disclose in any publicly available job posting if it uses artificial intelligence to screen, assess or select applicants. “Artificial intelligence” is defined by regulation to mean “a machine-based system that, for explicit or implicit objectives, infers from the input it receives in order to generate outputs such as predictions, content, recommendations or decisions that can influence physical or virtual environments.”
- **Information on Job Availability:** Every publicly advertised job posting must include a statement on whether the posting is for an existing vacancy and any other information as may be prescribed. The regulations do not currently prescribe any additional information.
- **Interview Information:** An employer who interviews an applicant for a publicly advertised job posting must, within 45 days of an applicant’s interview or last interview if there are multiple interviews, advise the applicant of whether a hiring decision has been made in respect of the position. This information may be provided in person, in writing or by using technology. For the purpose of this new obligation, “interview” is defined as “a meeting in person or a meeting using technology, including but not limited to teleconference and videoconference technology, between an applicant who has applied to a publicly advertised job posting and an employer or a person acting on behalf of an employer where questions are asked and answers are given to assess the applicant’s suitability for the position, but does not include preliminary screening before the selection of applicants for such a meeting.”
- **Job Posting Record-Keeping Obligations:** An employer must retain copies of every publicly advertised job posting and associated application form for three years after public access to the posting is removed and must retain a record of the information provided to applicants who have been interviewed for three years after it was provided to the applicant.

Key amendments coming into force **on a date to be proclaimed in the future:**

- **Placement of a Child Leave:** An employee with at least 13 weeks of service will be entitled to an unpaid leave of up to 16 weeks after the placement or arrival of a child into the employee’s custody, care and control through adoption or surrogacy.

### ***Occupational Health and Safety Act (OHSa)***

Key amendments in force as of **October 28, 2024:**

- **Telework:** The *OHSa* applies to telework performed in or around a private residence. Additional amendments exclude any office in a private residence from the definition of an “industrial establishment.”
- **Workplace Harassment Definition:** The definition of workplace harassment and workplace sexual harassment is expanded to include harassment that occurs in a workplace “virtually through the use of information and communications technology.”

- **Joint Health and Safety Committee:** A constructor or employer is permitted to post the names and work locations of joint health and safety committee members in a readily accessible electronic format, rather than in the physical workplace.
- **Joint Health and Safety Meetings:** Joint health and safety committee meetings can now occur in locations other than the workplace (i.e., they can be held remotely).
- **OHSA and Policy Postings:** An employer may post its workplace health and safety policy in a readily accessible electronic format, rather than in the physical workplace. An employer may post a copy of the *OHSA* and any explanatory material in a readily accessible electronic format, rather than in the physical workplace. As was previously the case, this material must be posted in both English and the majority language of the workplace.

Key amendments in force as of **December 19, 2024:**

- **Fines and Penalties:** A minimum fine of \$500,000 will be imposed on any corporation found guilty of a second or subsequent offence under the *OHSA* that results in the death or serious injury of one or more workers in a two-year period.
- **Personal Protective Equipment:** An employer is required to ensure that any personal protective clothing and equipment is a proper fit and appropriate in the circumstances; the government also has the authority to impose additional regulatory requirements related to the assessment of personal protective clothing and equipment.
- **Chief Prevention Officer Powers:** The Chief Prevention Officer has the authority to:
  - establish criteria to assess and approve training programs delivered outside of Ontario for equivalency
  - establish policies related to general training requirements under the *OHSA*
  - seek advice from an advisory committee established by the Ministry of Labour, Immigration, Training and Skills Development
  - collect and use personal information for the purpose of developing, monitoring or reporting on a provincial health and safety strategy or for the purpose of providing advice on the prevention of workplace injury and occupational disease

Key amendments in force as of **January 1, 2025:**

- **Worker Trades Committees:** The Minister of Labour, Immigration, Training and Skills Development has the power to require a constructor to establish a worker trades committee at a project and provide for the composition, practice and procedure of that worker trades committee.

Key amendments coming into force on **July 1, 2025:**

- **Washroom Facilities:** A constructor or employer is required to ensure that any washroom facilities provided for worker use are maintained in a clean and sanitary condition. The constructor or employer is also required to keep, maintain and make available records of the cleaning of washroom facilities.

Key amendments coming into force on **January 1, 2026:**

- **Washroom Cleaning Records:** Cleaning records must be maintained that document the date and time of the two most recent cleanings for each washroom facility. These records may either be physically posted in a conspicuous location near the washroom facilities or made available electronically, provided workers receive

clear instructions on how and where to access this information. Under the current regulations, a constructor must maintain a record of the servicing, cleaning and sanitizing services of any toilet, urinal and clean-up facilities. By regulation, effective **January 1, 2026** this record must also include the date of all services for the past six months or the duration of the project, whichever is shorter.

### ***Workplace Safety and Insurance Act, 2017***

Key amendments in force as of **May 1, 2024**:

- **“Super Indexing”**: The Ontario government may “super index” increases to Workplace Safety and Insurance Board benefits above the annual rate of inflation through regulation.
- **Presumptive Coverage for Esophageal Cancer**: Presumptive coverage for primary-site esophageal cancer is extended to prescribed firefighters and fire investigators, provided the worker had at least 15 years of service before being diagnosed (decreased from 25 years).

Key amendments in force as of **October 28, 2024**:

- **Presumptive Coverage for PTSD**: Presumptive coverage for post-traumatic stress disorder (PTSD) is extended to wildland firefighters and wildland fire investigators.

Key amendments in force as of **December 2, 2024**:

- **Presumptive Coverage for Skin Cancer**: Presumptive coverage for primary-site skin cancer is extended to prescribed firefighters and fire investigators, provided the worker had at least 10 years of service before being diagnosed.

Key amendments coming into force **on a date to be proclaimed in the future**:

- **Presumptive Coverage for Kidney Cancer and Colorectal Cancer**: Presumptive coverage for primary-site kidney cancer and primary-site colorectal cancer is extended to prescribed firefighters and fire investigators, provided the worker had at least 10 years of service before being diagnosed.
- **Surplus Distribution**: The Workplace Safety and Insurance Board shall distribute surplus amounts in the insurance fund to a Schedule 2 employer that is a municipality, provided certain prescribed requirements are met.

## **Federal**

### ***Canada Labour Code (CLC)***

- **Replacement Workers**: A federally regulated employer is prohibited from using replacement workers during a legal strike or lockout, subject to certain exceptions. A violation of this prohibition will be deemed an unfair labour practice, with a penalty of up to \$100,000 per day. Additionally, employers and unions must establish a maintenance of activities agreement within 15 days of a bargaining notice or seek resolution from the Canada Industrial Relations Board, which has been granted enhanced powers. This provision will come into force on **June 20, 2025**.
- **Worker Misclassification**: A person (other than a manager or someone employed in a confidential capacity in matters related to industrial relations) who is paid remuneration by a federally regulated employer is presumed to be an employee unless proven otherwise. The *CLC* is also amended to expressly prohibit such

misclassification. These provisions came into force on **June 20, 2024**.

- **Policy on Disconnecting from Work:** A federally regulated employer is required to implement a policy that outlines, among other things, its rules and expectations on work-related communication outside of the scheduled hours of work. This provision will come into force **on a date to be proclaimed in the future**.
- **Shareable Leave for Adoption and Pregnancy:** A federally regulated employee is entitled to a shareable leave of absence of up to 16 weeks where a child is placed into their actual care for the purpose of adoption or where a child arrives into their actual care where the child was born via surrogate. This provision will come into force **on a day to be fixed by order of the Governor in Council**.
- **Leave for Pregnancy Loss:** A federally regulated employee will be entitled to an unpaid leave for pregnancy loss, where eligibility criteria are met. This provision will come into force **December 12, 2025** or an earlier date fixed by order of the Governor in Council.
- **Unpaid Leave for Family Deaths:** A federally regulated employee is entitled to an unpaid leave of absence of up to 10 days in the event of the death of a member of their immediate family or a family member in respect of whom the employee is, at the time of death, on a compassionate care leave or a leave related to critical illness. This provision came into force on **June 20, 2024**.
- **Termination Entitlements:** A federally regulated employer is required to provide individual employees with a graduated notice of termination based on their consecutive years of continuous employment. An employer is also required to provide individual employees with a statement of benefits upon termination. This provision came into force on **February 1, 2024**.

## Other Legislation of Note

- **Temporary Help Agency (THA) and Recruiter Licensing Framework:** On **July 1, 2024**, the new THA and recruiter licensing framework in Ontario took effect. (See our [related FTR Now](#) for more details.)
- **Digital Platform Workers' Rights Act:** Effective **July 1, 2025**, the new *Digital Platform Workers' Rights Act, 2022* and its associated regulations will come into force. (See our [related Human Resources Legislative Update](#) for more details.)
- **Cyber Security in the Public Sector:** On **November 25, 2024**, the *Strengthening Cyber Security and Building Trust in the Public Sector Act, 2024* received Royal Assent. See our [related Human Resources Legislative Update](#) for more details.)
- **University and College Policy Requirements:** On **May 16, 2024**, the *Strengthening Accountability and Student Supports Act, 2024* received Royal Assent. (See our [related Human Resources Legislative Update](#) for more details.)

*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.*

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