

## Posting requirements

Employers must post in their workplaces a Ministry of Labour document that outlines the rights and responsibilities of employers and employees under the *ESA*. Employers are required to post this information in the majority language of the workplace if such a poster is available from the Ministry of Labour.

## Employees can't be penalized

Employers cannot penalize employees in any way because the employee:

- exercises or tries to exercise any rights under the *ESA*;
- asks questions about their rights under the *ESA*;
- asks their employer to comply with the *ESA*;
- files a complaint under the *ESA*;
- gives information to a Ministry of Labour employment standards officer or participates in a proceeding under the *ESA* or section 4 of the *Retail Business Holidays Act*;
- is or will become eligible to take, plans to take, or takes a pregnancy, parental or emergency leave;
- was the subject of a court order or garnishment that requires the employer to pay the employee's wages to a third party.

## Enforcing the law

Ministry of Labour employment standards officers have the right to look into possible violations of the *ESA* and they can inspect workplaces.

Employers who violate the *ESA* can be ordered to:

- pay the wages that are owing to employees (up to a maximum of \$10,000 per employee);
- pay an administrative fee;
- comply with the *ESA*;

- reinstate an employee;
- compensate an employee;
- pay a penalty.

Employers can also be prosecuted and, upon conviction, ordered to pay a fine of up to \$50,000 and/or serve up to 12 months in jail. Corporate employers can be ordered to pay a fine of \$100,000 for a first offence, \$250,000 for a second offence and \$500,000 for a third offence.

## How to file a claim

If an employee thinks that an employer or former employer has not followed the *ESA*, they are encouraged to discuss the matter with their employer.

They may also choose to send their employer a letter explaining the problem and asking to have it resolved. If they need help, they can contact the Ministry of Labour and can file a claim. Employees who are covered by a collective agreement must generally go through their union if they think their rights have been violated.

For information on how to file a claim, please call the Employment Standards Information Centre (see the back of this brochure), or visit the nearest Ministry of Labour office (see the Blue Pages or our web site).

This brochure contains only general information about some rules in the *ESA*. The *ESA* also sets out rules for Minimum Wage, Record Keeping, Retail Employees and Sunday Work, Equal Pay for Equal Work, Benefit Plans, and other topics. For more details you should refer to the law itself. See the back of this brochure for information on how to get a copy of the *ESA* or where to go to learn more about it.

## For more information

**Call the Employment Standards Information Centre at 416-326-7160 or toll-free at 1-800-531-5551.**

Information on the *ESA* can also be found on the Ministry of Labour web site at <http://www.gov.on.ca/lab/> and select "Employment Standards."

Copies of the *ESA*, fact sheets, bulletins and other useful materials can be obtained from:

- the web site at <http://www.gov.on.ca/lab/>
- the Ministry of Labour Publications Sales Unit at 1-800-809-4731;
- Fax-on-Demand at 416-326-6546;
- Publications Ontario, 1-800-668-9938; hearing impaired TTY 1-800-268-7095.

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what you  
need to know

esa

employment standards act

## What is the *Employment Standards Act*?

The *Employment Standards Act, 2000*, known as the *ESA*, is the law that sets out minimum standards for informed, fair and productive workplaces in Ontario.

## Why is there an *ESA*?

The government is committed to safe, fair and healthy workplaces. The *ESA* gives employees and employers flexibility to design work arrangements that reflect today's personal and business needs. The *ESA* helps workers get fair treatment; employers become more productive; and Ontario to attract jobs and investment, and stimulate growth.

## Who is covered by the *ESA*?

The *ESA* covers every employer and employee in Ontario except:

- employers and employees in sectors under federal jurisdiction such as banking, airlines, interprovincial transportation, and radio and television broadcasting;
- employees of the Crown, who are excluded from most, but not all, provisions of the *ESA*;
- police officers;
- people who hold political, judicial, religious or trade union offices;
- participants in work experience programs authorized by school boards, colleges or universities;
- people required to do community participation to qualify for social assistance;
- inmates taking part in work programs.

There are other exemptions and special rules. You should check the *ESA* and regulations for details (see "For More Information" at the end of this brochure).

## What are some of the key provisions of the *ESA*?

### Pregnancy Leave and Parental Leave

Birth mothers are entitled to take 17 weeks of pregnancy leave and 35 weeks of job-protected parental leave. All other new parents can take up to 37 weeks of leave. As a result, if each parent of a newborn child elects to take the maximum allowable job protected leave at separate times, the child could have a parent at home for up to 89 weeks.

(Note: Maternity and parental benefits are employment insurance payments from the federal Employment Insurance program. The rules about these benefits are different than the rules about pregnancy and parental leave under the *ESA*. For information about these benefits, please call the nearest Human Resources Development Canada office in the Blue Pages of your telephone book.)

### Emergency Leave

Unpaid, job-protected emergency leave of up to 10 days each year is available for any employee who works for a company that regularly employs 50 or more people. It may be taken in the case of personal illness, injury, or medical emergency and the death, illness, injury, medical emergency or urgent matter concerning specified family members.

### Hours of Work and Overtime

The daily limit is eight hours of work a day, or the number of hours in an established regular work day that is longer than eight hours. The weekly limit is 48 hours. Employees can agree, in writing, to work more than the longer daily and weekly limits, up to a maximum of 60 hours a week.

Most employees must receive overtime pay after 44 hours of work each week. The overtime rate is at least 1½ times the regular rate of pay. Employees can take time off at the rate of 1½ hours for each hour of overtime worked, instead of overtime pay, if they and their employers agree in writing. If an employee and employer agree in writing, the employee's hours of work can also be averaged over a period of time not to exceed four weeks for the purpose of determining whether overtime is due.

### Rest Periods

The daily rest period requirement is 11 consecutive hours off in a 24-hour period. An employee must be allowed 24 consecutive hours off in each week or 48 hours off (two consecutive days) every two weeks. An employee must also have eight hours free from work between shifts – unless the total time worked on successive shifts is 13 hours or less, or unless the employee and employer agree to another arrangement in writing. These requirements are also subject to certain exceptions, e.g. on-call employees or employers' emergency staffing needs.

### Direct Deposit

Employers can deposit wages directly into employees' bank accounts if certain conditions are met. For example, the financial institution must be within a reasonable distance from the workplace, unless the employee agrees otherwise in writing.

### Vacation Time and Vacation Pay

Employees are entitled to four percent of their wages as vacation pay. Employees earn two weeks of vacation time each 12-month vacation entitlement year. Employers must generally schedule vacations in one- or two-week blocks, unless employees request their vacation time be

scheduled in other ways. If an employee requests in writing, and an employer agrees in writing, vacation can be taken in periods as short as one day at a time.

### Public Holidays

There are eight public holidays in each calendar year in Ontario: New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day (Dec. 26).

Most employees are entitled to public holidays regardless of how long they've been working. Unless otherwise prescribed, public holiday pay is the regular wages earned plus vacation pay payable to an employee during the four work weeks prior to the holiday, divided by 20.

### Termination and Severance

In most cases, when an employer ends the employment of someone who has been continuously employed for three months or more, the employer must provide either advance written notice of termination or termination pay or a combination of the two.

How much advance written notice or termination pay is required generally depends on how long someone has been working for an employer. The requirements may also be affected by the number of employees terminated in a four-week period.

Employers must continue to make the contributions required to maintain an employee's benefit plans during the notice period. This applies even if the employee has received termination pay instead of working part or all of the notice period.