

## ***Employment Standards Act, 2000***

The *Employment Standards Act, 2000* (ESA) is available online in both [English](#) and [French \(Français\)](#).

The Ontario Ministry of Labour's website also provides information about the *ESA* in the following languages:

[اللغة العربية](#) – Arabic

[বাংলা](#) – Bengali

[中文\(繁體\)](#) – Chinese (Traditional)

[中文\(简体\)](#) – Chinese (Simplified)

[hrvatski](#) – Croatian

[دری](#) – Dari

[فارسی](#) – Farsi

[Ελληνικά](#) – Greek

[સાબે – જમણે](#) – Gujarati

[हिन्दी भाषा](#) – Hindi

[Italiano](#) – Italian

[한국어](#) – Korean

[Oji-Cree](#) – Oji-Cree

[Polski](#) – Polish

[Português](#) – Portuguese

[ਪੰਜਾਬੀ](#) – Punjabi

[Русский](#) – Russian

[Српски](#) – Serbian

[Español](#) – Spanish

[Tagalog](#) – Tagalog

[தமிழ்](#) – Tamil

[Türkçe](#) – Turkish

[اردو](#) – Urdu

[Tiếng Việt](#) – Vietnamese

Please call the Employment Standards Information Centre (416-326-7160 or 1-800-531-5551; TTY: 1-866-567-8893) if you have any questions about employment standards. Its staff can answer your questions in the languages listed above (excluding Croatian, Serbian, and Turkish).

If you would prefer, you can email your questions to the Ontario Ministry of Labour.

For questions concerning employment standards (including filing a claim, leaves, hours of work, wages, vacation and public holidays, and lost jobs) please email [webes@ontario.ca](mailto:webes@ontario.ca).

For questions concerning occupational health and safety (including workplace health and safety inquiries and reporting unsafe work practices) please email [webohs@ontario.ca](mailto:webohs@ontario.ca).

For questions concerning labour relations (including collective agreements, mediation, and arbitration conciliation) please email [webdrs@ontario.ca](mailto:webdrs@ontario.ca).

For questions concerning the Jobs Protection Office (including Ontario-Quebec labour mobility and Ontario-Quebec construction projects) please email [ogconstruction@ontario.ca](mailto:ogconstruction@ontario.ca).

There is also a [feedback form](#) available on the Ontario Ministry of Labour's website that you can use to submit questions.

### **Who is covered by the *Employment Standards Act, 2000 (ESA)*?**

Not all jobs are covered under the *ESA*. Some of the jobs not covered are:

- Jobs under the government of Canada (examples are airlines, banks, federal civil servants, post offices, radio and television stations, and railways)
- Anyone working in a trade union (these employees must follow procedures in their collective agreement first)
- Community service jobs under the *Ontario Works Act, 1997* (for more information please see the [Ontario Works Act, 1997](#))
- Secondary school students who are performing work under a work experience program authorized by the school board that operates the school in which the student is enrolled
- Anyone performing work under a program approved by a college of applied arts and technology or a university

For a complete list of who is not covered, please see [Part III of the \*ESA\*](#).

### **General Information**

- An employer cannot take away any right given to an employee under the *Employment Standards Act, 2000 (ESA)*. Any contract that takes away such a right from an employee is not valid. (Note: Parts of the *ESA* allow an employee to give up certain rights. The employee can only give up these specified rights if he/she wants. An employer CANNOT force an employee to give up these rights.)
- An employee CANNOT be punished by an employer for:
  - Asking an employer to abide by *ESA* standards
  - Inquiring about *ESA* rights and regulations
  - Filing a complaint with the Ontario Ministry of Labour
  - Exercising or attempting to exercise a right under the *ESA*
  - Giving information to an employment standards officer
  - Testifying in an *ESA* proceeding
  - Taking or planning to take pregnancy, parental, or emergency leave
- If an employee is having one of his/her rights taken away, he/she may file a complaint with the Ontario Ministry of Labour.
  - Claim forms can be found [online](#) or at any [ServiceOntario location](#).
  - Once you file a claim, you may have to attend a meeting for more information. Even if you do not attend this meeting a decision will be made. IT IS IMPORTANT FOR YOU TO ATTEND THIS MEETING IF THERE IS ONE.
  - For more information about filing a claim see the [Before You Start](#) guide and the [Claim Guide](#) provided by the Ontario Ministry of Labour.
  - If you want to have a decision reviewed, you must file an appeal form within 30 days of the decision. You can find the appeal form [online](#) or you can pick one up from the Ontario Labour Relations Board's office at 505 University Ave 2<sup>nd</sup> floor, Toronto, Ontario, M5G 2P1
- In general, a claim must be filed within two years of the *ESA* violation.

- Complaints about wages must be filed within six months of when the wages should have been paid. There are two exceptions to this:
  - Claims to recover vacation wages must be brought within 12 months of the wages coming due, not six months.
  - When an employer has made multiple violations of the *ESA*, so long as one violation was in the six months before a claim was filed, an employee can recover wages from all violations in the 12 month period before the claim was filed.

For additional information please see the [ESA](#).

Community Legal Education Ontario has a [booklet](#) describing your rights under the *ESA* available on its website in both English and French.

## Wages

Minimum wage rates:

Category	Minimum Wage Rate as of March 31, 2010
General minimum wage	\$10.25 per hour
Students under 18 and working not more than 28 hours per week or during a school holiday	\$9.60 per hour
Liquor servers	\$8.90 per hour
Hunting & fishing guides for less than five consecutive hours in a day	\$51.25 per day
Hunting & fishing guides for five or more hours in a day whether or not the hours are consecutive	\$102.50 per day
Homeworkers (people doing paid work in their home for an employer)	\$11.28 per hour

An employer can deduct expenses for room and/or board, if the employer supplies an employee with room and/or board.

For additional information on wages, please see [Part IX of the \*Employment Standards Act, 2000\*](#) and the [Ontario Ministry of Labour's website](#).

## Overtime

- The overtime rate is 1.5 times your normal rate.
- An employee can only be paid overtime if they work more than 44 hours in a week.
- An employee and his/her employer may agree to time off instead of overtime wages. Time off must be 1.5 times the amount of overtime hours worked.
  - This time off must be taken within three month of the overtime hours worked. You can wait up to 12 month to take this time off if both the employer and employee agree.
  - If the employee stops working for the employer before taking these extra days off, then the employer must pay the employee the overtime rate from those extra hours worked.

For additional information on overtime, please see [Part VIII of the \*Employment Standards Act, 2000\*](#) and the [Ontario Ministry of Labour's website](#).

## Deductions

- An employer can only make deductions from an employee's pay cheque when:
  - The employer must do so under law and order
  - The employer must do so under the *Employment Standards Act, 2000 (ESA)*
  - The employee has given the employer written consent to do so. If the employer gives written consent, the exact amount must be included. These deductions cannot be because of:
    - Faulty work
    - The employer has a cash shortage, lost property, or something stolen and someone other than the employee had access to the cash or property

For additional information on deductions, please see [Part V of the ESA](#) and the [Ontario Ministry of Labour's website](#).

### **Benefits**

Age, sex, and marital status or same-sex partnership cannot influence the benefits an employee receives.

For additional information on benefits, please see [Part XIII of the Employment Standards Act, 2000](#).

### **Hours of Work**

- An employee cannot be required to work more than 8 hours a day or 44 hours a week.
- If the employer gets permission from the government, the employee may work:
  - Up to 12 hours a day and 48 hours a week
  - More than 48 hours a week. However, the total number of hours over 48 cannot add up to more than 100 over the course of a year.
- Sometimes you are able to work more than 60 hours in a week. See [Part VII of the Employment Standards Act, 2000 \(ESA\)](#) for more information.
- Employees must be given a 30 minute break for every 5 straight hours of work. If the employee and employer agree in writing, the employee may take separate breaks instead of one 30 minute break. For example, one 20 minute break and one 10 minute break.
  - The employer does not have to pay the employee for this 30 minute break.

For additional information on hours and breaks, please see [Part VII of the ESA](#) and the [Ontario Ministry of Labour's website](#).

### **Holidays**

- Public holidays include:
  - New Year's Day
  - Family Day
  - Good Friday
  - Victoria Day
  - Canada Day
  - Labour Day
  - Thanksgiving Day
  - Christmas Day
  - Boxing Day
- Simcoe Day is NOT a public holiday under the *Employment Standards Act, 2000 (ESA)*.

- For an employee to be paid for a public holiday, the employee must work their regularly scheduled shift the day before and after the holiday. For example, if a holiday is on Friday, October 21<sup>st</sup> and an employee normally works Monday to Friday, the employee must work on Thursday, October 20<sup>th</sup> and Monday, October 24<sup>th</sup> to be paid for the holiday on Friday, October 21<sup>st</sup>.
  - If an employee has a valid reason not to be there on the day before or after the holiday, then they are entitled to be paid for the holiday. Being on vacation does not qualify as a valid reason.
- An employee must work on a public holiday if the employee has previously agreed to.

For additional information on public holidays, please see [Part X of the ESA](#) and the [Ontario Ministry of Labour's website](#).

### **Vacation**

- All employees must be given at least two weeks' vacation every 12 months of 4% of their gross wages for 12 months in vacation pay.
- If an employee stops working for the employer, the employer must pay the employee all vacation pay for any vacation days not taken.
- Employers must respect an employee's right to not work on religious days.

For additional information on vacations and vacation pay, please see [Part XI of the Employment Standards Act, 2000](#) and the [Ontario Ministry of Labour's website](#).

### **Termination/Quitting/Lay-Off**

- If an employee works for an employer for more than three months, the employee is entitled to either written notice of termination or termination pay, or a combination of both.
- If an employee no longer works for an employer, the employee is still entitled to all of his/her wages within either:
  - 7 days after employment ends, or
  - The day after the next scheduled payment day
- The following table shows the notice of termination that must be given depending on the amount of time and employee has been employed:

<b>Length of Time Employed</b>	<b>Amount of Notice</b>
Less than 3 months	None
3-12 months	At least 1 week
1-3 years	At least 2 weeks
3-4 years	At least 3 weeks
4-5 years	At least 4 weeks
5-6 years	At least 5 weeks
6-7 years	At least 6 weeks
7-8 years	At least 7 weeks
8 years or more	At least 8 weeks

- Any employee who wishes to stop working for his/her employer must:
  - Give at least 1 week's notice if the employee has worked for the employer for less than 2 years; or

- Give at least 2 weeks' notice if the employee has worked for the employer for 2 years or more.
- An employer CANNOT reduce an employee's wages when:
  - The employee gives notice that they no longer want to work for the employer; or
  - The employer tells the employee that they will no longer be working for the employer.
- An employer must continue to give the employee all benefits during the period between notice and when the employee stops working for the employer.

For additional information on termination and notice, please see [Part XV of the \*Employment Standards Act, 2000\*](#) and the [Ontario Ministry of Labour's website](#).

## Leaves

- During any leave, the employer must continue to provide benefits to the employee unless the employee puts in writing that they no longer want benefits. IF THE EMPLOYEE NO LONGER WANTS TO BE PART OF A BENEFIT PLAN, HE/SHE (NOT THE EMPLOYER) MUST MAKE A WRITTEN REQUEST.
- When an employee returns from a leave, the employee has the right to return to the position he/she had before taking leave. If the position does not exist anymore, the employee has the right to a similar job.
- When an employee returns from a leave, he/she is entitled to the same wage or the wage the employee would have earned if he/she had not taken a leave.

For more information on the various types of leave and other rights, please see [Part XIV of the \*Employment Standards Act, 2000\*](#) and the [Ontario Ministry of Labour's website](#).

## Employer Duties

- The employer is responsible for keeping track of all hours worked by an employee for 3 years after the work was performed.
- The employer must keep track of all the employee's vacation time and leaves for 3 years.

### *Occupational Health and Safety Act*

The *Occupational Health and Safety Act (OHS Act)* is designed to protect workers from health and safety hazards at work.

You have the right to a safe workplace. You must use or wear any equipment, protective devices or clothing required by your employer. If you are asked to do work that is unsafe, you have the right to refuse to do the work. You have a responsibility to report any workplace hazards to your employer (including violence and harassment). You must not work or operate equipment in a way that may endanger another worker (including pranks and contests).

The *OHS Act* is available online in both [English](#) and [French \(Français\)](#).

[Health and Safety Ontario](#) provides information about common workplace hazards and what you should do to protect yourself at work on its website.

The Ontario Ministry of Labour has a [Guide to the \*OHS Act\*](#) on its website.

For questions concerning occupational health and safety (including workplace health and safety inquiries and reporting unsafe work practices) please email [webohs@ontario.ca](mailto:webohs@ontario.ca).

There is also a [feedback form](#) available on the Ontario Ministry of Labour's website that you can use to submit questions.

If you have any health and safety concerns about your workplace you should first bring them to the attention of your employer. If your employer does not resolve the issue, you can bring it to the attention of your health and safety representative or Joint Health and Safety Committee. If the matter is still not resolved, you should report it to the [nearest Ontario Ministry of Labour office](#).

### **Workers' Compensation**

If you have suffered from an accident or injury related to your job or workplace, you may be entitled to Workers' Compensation.

[Community Legal Education Ontario](#) has the following information brochures about Workers' Compensation on its website:

- [Benefits if you were injured on or before January 1, 1990](#)
- [Benefits if you were injured between January 2, 1990 and December 31, 1997](#)
- [Benefits if you were injured on or after January 1, 1998](#)
- [Making a claim](#)
- [Your legal responsibilities](#)
- [Your right to appeal](#)
- [Getting your job back after an injury](#)
- [Your health care](#)

If you believe you may have a right to claim Workers' Compensation you should speak with a legal representative. The following legal clinics provide free information and advice about Workers' Compensation:

#### **Industrial Accident Victims Group of Ontario**

489 College St. Suite 203  
Toronto, ON M6G 1A5  
Telephone: 416-924-6477  
Toll-free: 1-877-230-6311  
Website: <http://www.iavgo.org/>

#### **Injured Workers' Consultants**

815 Danforth Ave. Suite 411  
Toronto, ON M4J 1L2  
Telephone: 416-461-2411  
Website: <http://www.injuredworkersonline.org/>

#### **Toronto Workers Health and Safety Legal Clinic**

180 Dundas St. W. Suite 2000, PO Box 4  
Toronto, ON M5G 1Z8  
Telephone: 416-971-8832  
Website: <http://www.workers-safety.ca/>

## **Employment Insurance**

If you are unemployed, you may qualify to receive Employment Insurance (EI) benefits from the government.

For specific information about EI, please visit the websites of [Service Canada](#) and [Community Legal Education Ontario](#).

Applications for EI can be submitted [online](#) or at your [local Service Canada Centre](#).

If you need assistance you can contact your [local legal clinic](#).