

Complying with Employment Standards:

WHAT BUSINESSES NEED TO KNOW



Making Sense of Compliance

If you run a business or manage people, you need to know about the Employment Standards Act, 2000 (ESA). This law sets minimum standards for conditions of employment in most workplaces in Ontario. Knowing about employment laws is an essential business tool.

Why is there an Employment Standards Act?

The ESA establishes basic employer obligations and employee rights with respect to rates of pay, hours of work and overtime, vacations, public holidays, various forms of leave and more.

Every province and most industrialized countries have similar legislation.

The ESA is enforced by officers who work for the Employment Standards (ES) Program, which is part of the Ministry of Labour. They visit businesses throughout Ontario.

Keys to Compliance

Here are some key employment standards you should be aware of:

- **Post the poster “What you Need to Know”.** Most Ontario workplaces are required to put up the poster “What you Need to Know” produced by the Ministry of Labour. This [poster](#) can be downloaded from the Ministry of Labour website and it’s free! The poster lets you and your employees know what the key minimum standards are and directs you to more information on the Ministry of Labour website and in the Act itself.
- There are also [exemptions and special rules](#) that could apply to your business. You should review them.

- **Hours of Work:** The ESA limits hours that employees can work in a day and in a week. It provides ways in which you and your employees can agree to work more hours to meet your business needs. (In the case of hours in excess of the weekly limit, approval by the Ministry of Labour is required.) It also sets out mandatory rest periods and rules around overtime. To find out more, see the [chapter in the ES Guide](#). You can also [apply for excess hours of work](#) (beyond the weekly maximum).

- **Minimum Wage:** This is the lowest hourly rate an employer can pay an employee. The chart below sets out the rates and the dates these are in effect.

Minimum Wage Rate	Effective March 31, 2009	Effective March 31, 2010
General	\$9.50 per hour	\$10.25 per hour
Students	\$8.90 per hour	\$9.60 per hour

- **Vacation Time and Pay:** Most employees earn at least 2 weeks of vacation time after every 12 months of employment. Employees are entitled to be paid at least 4% of their total wages earned in that 12-month period as vacation pay.

- **Public Holidays:** Ontario has [nine public holidays](#) every year. Most employees are allowed to take these public holidays off work with public holiday pay. The Ministry of Labour provides employers with access to an on-line calculator to help you calculate the public holiday pay for your employees. You can try it out [here](#).

- **Leaves of Absence:** There are [four main types of leaves of absence](#) that some employees are eligible for – pregnancy and parental leave, emergency leave, and family medical leave. These leaves are job-protected. That means employees cannot be terminated for asking for or taking these leaves of absence.

- **Termination Notice and Pay:** An employer must give an employee who has been employed for 3 months or more advance written notice, termination pay instead of notice, or a combination of both, if his or her job is terminated. The amount of notice or pay depends on how long the employee has been working for the employer and the number of employees being terminated in a 4-week period.
- **Temporary Help Agencies:** Changes to the ESA affecting the temporary help sector came into force on November 6, 2009. They respond to the realities of Ontario's labour market. Ontario's temporary workforce often performs "temporary jobs" for extensive periods in environments where permanent workers do similar work. The changes will promote fairness and sustainable employment for temporary help agency employees. To learn more about these changes temporary help agencies and their client businesses should consult [*What Temporary Help Agencies and Client Businesses Need To Know*](#). This publication is also available in print from the Ministry of Labour.

Paths to Compliance

Businesses may have contact with the ES Program in many ways:

Voluntary Compliance

The first step to compliance is knowing what the law requires and what you need to do when employing people and when you are faced with a dispute with your employee. It is easy to access information about the ESA. The [Ministry of Labour's website](#) is one of the best places to begin. We are updating and improving access to information there to better serve your business needs.

Check out our [Guide](#). It's easy to use and has examples and sample calculations to help you manage your greatest asset – your employees.

There is a helpline for you to call, which is answered by knowledgeable staff. They can provide you with the information you need – free of charge. Simply call the Employment Standards Information Service at 1-800-531-5551.

Compliance Tools for the Taking: The ES Program is developing a number of tools, available on the website, to help you comply with the ESA. These include interactive calculators to assist you in complying with obligations, such as public holiday pay. A Guide explains the ESA in more detail and our Employment Standards Information Centre can answer your questions about how to comply with the ESA. All of these services are free and more are being developed. Visit our website regularly.

Proactive Inspections

Employment Standards (ES) officers visit businesses across Ontario ‘proactively’, even if no complaint has been filed by an employee. These officers will help you correct areas where your business is not complying with the Act. In most cases, a review of the following 10 standards takes place, which apply to most, but not all, workplaces in Ontario.

- ESA poster
- Wage statements
- Deductions from wages
- Record keeping
- Hours of work
- Eating periods
- Overtime pay
- Minimum wage
- Public holidays
- Vacation with pay

Officers usually provide advance notice of an intended visit. They will review your records and speak to you and your employees. If there are issues of non-compliance they will discuss these with you and, depending on the nature of the violation, they may provide an opportunity to correct them. ES Officers may also issue orders to pay, tickets or lay charges; courts may impose fines.

Complaints and Investigations

Employees who feel their rights have been violated under the ESA may file a claim electronically, by fax or by mail. Last year more than 20,000 workers did just that.

When a contravention of the Act is alleged by an employee, the ES Program of the Ministry of Labour will investigate the complaint. If a contravention is found, in addition to any payment which may be due to the employee, the employer may be subject to orders and possible prosecution.

The employer is provided with opportunities to participate in the investigation. The employer will be contacted by an Officer and may ask questions about the complaint or their obligations under the law. The employer may discuss these with the Officer; in some cases he or she may want to get independent legal advice.

In an investigation, as an employer, you may be required to provide evidence, facts and other information. You may also be required to attend a meeting with the Officer to resolve the complaint. Claim investigations take time and result in costs for everyone involved. These costs can be avoided by complying with the Act.

Why Comply?

In 2008 almost 500 prosecutions were brought against employers for violating the ESA. Tickets for hundreds of dollars were issued to hundreds of businesses last year. More serious violations have involved tens and, in some cases, hundreds of thousands of dollars in court orders. Directors of corporations can be held personally liable for their company's violations and even jailed. In the long run, these penalties cost businesses much more money than compliance. Names of convicted businesses can be found [here](#).

Don't end up on that list. Visit our website or call for assistance.

GOOD BUSINESS INSIDE AND OUT

Complying with the ESA is the first step in helping your business to establish the right employment conditions for a satisfied and productive work force.

Learn more about the ESA and how compliance will help you build your business. It just makes good business sense.

Compliance is not just about avoiding costly and time consuming investigations.

You've probably heard about or read the studies that show that employees who are more satisfied at work are more productive, have fewer sick days, provide better customer service and tend to stay longer with a company reducing costly turnover and absenteeism.



Employees cannot be punished for claiming their rights. This is known as a 'reprisal'. Businesses that commit a reprisal have been ordered to compensate employees, often for many thousands of dollars.

FOR MORE INFORMATION VISIT

www.ontario.ca/employmentstandards

**or call the Employment Standards
Information Centre at 416-326-7160,
1-800-531-5551 (toll free), or 1-866-567-8893
for Hearing Impaired TTY.**

**Employment Rights and Safety
Go Hand in Hand**

See also

www.ontario.ca/SafeAtWorkOntario

**Occupational Health and Safety
416-326-3835 (Greater Toronto Area)
1-800-268-8013 (Toll free province-wide)**

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