

EMPLOYERS AND RECRUITERS OF LIVE-IN CAREGIVERS: WHAT YOU NEED TO KNOW



Introduction

On March 22, 2010, a new law will come into effect. *The Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others), 2009* (EPFNA) covers:

- foreign nationals working as live-in caregivers or looking for work as live-in caregivers (Caregivers)
- those who recruit or attempt to recruit foreign nationals for positions as live-in caregivers (Recruiters)
- those who employ foreign nationals in positions as live-in caregivers (Employers)

The EPFNA is in addition to the protections that foreign national live-in caregivers have under the *Employment Standards Act, 2000* (ESA). More information on these standards is available [here](#).

The EPFNA will be enforced by the Ministry of Labour through various methods, including responding to complaints by live-in caregivers. Additional information, described below, is available to live-in caregivers to ensure they are aware of their rights.

FOR RECRUITERS

Fees

The new law prohibits Recruiters from charging ANY fees to Caregivers for ANY service, directly or indirectly. The prohibition includes, but is not restricted to, fees for

- finding or attempting to find employment for Caregivers
- assisting Caregivers with resume writing, interview preparation or any other activity related to job placement
- assisting Caregivers with immigration matters

Recruiters may still charge fees to Employers but they cannot make arrangements with Employers whereby Employers recover from Caregivers all or part of the fees they paid to the Recruiters.

A Recruiter who charges fees can be ordered to return the fees to the Caregiver and can be

prosecuted for an offence with, for individuals, a maximum fine of \$50,000 and 12-months imprisonment. Corporations may be subject to even larger fines.

Record keeping

Recruiters must record:

- the names of the Caregivers they place and attempt to place in employment
- the names and addresses of Employers and potential employers
- the amount of any fee paid to the Recruiter
- the date and reason for the payment

Other protections

Recruiters are also prohibited from taking or keeping any personal property of the Caregivers, including:

- passports
- work permits
- birth certificates

Information sheets

Recruiters must supply Caregivers with:

- An information sheet that sets out their rights under this new law; and
- An information sheet that sets out their rights under the *ESA* (Which sets minimum standards in areas such as minimum wage, time off and hours of work.)

Review the information sheets [here](#). They are also available in:

- English
- Filipino
- Spanish
- French
- Hindi

If the Caregiver's first language is one of these languages, the Recruiter must supply both the English version and the translated document.

No Opting Out and No Reprisal

Recruiters cannot ask Caregivers to opt out of their rights under this Act or under the *ESA*.

Recruiters cannot threaten, intimidate or punish anyone for asserting his or her rights under this Act or under the ESA.

More information

For more information on how Recruiters are affected by the new law, contact the Employment Standards Information Centre at (416) 326-7160 (toll-free at 1-800-531-5551) or, for the hearing impaired, at TTY 1-866-567-8893.

FOR EMPLOYERS

Fees

The Act prohibits Employers from recovering recruitment fees or other placement costs from Caregivers.

An Employer who charges fees can be ordered to return the fees to the Caregiver and can be prosecuted for an offence with, for individuals, a maximum fine of \$50,000 and 12-months imprisonment. Corporations may be subject to even larger fines.

Other protections

Employers are also prohibited from taking or keeping any personal property of the Caregivers, including:

- passports
- work permits
- birth certificates

Information sheets

If an Employer does not use the services of a recruiter they must supply the Caregivers with:

- An information sheet that sets out their rights under this new law; and
- An information sheet that sets out their rights under the *ESA*. (Which sets minimum standards in areas such as minimum wage, time off and hours of work.)

Review the information sheets [here](#). They are also available in:

- English
- Filipino
- Spanish
- French
- Hindi

If the Caregiver's first language is one of these languages, the Employer must supply both the English version and the translated document.

No Opting Out and No Reprisal

Employers cannot ask Caregivers to opt out of their rights under this Act or under the ESA.

Employers cannot threaten, intimidate or punish anyone for asserting his or her rights under this Act or under the ESA.

The ESA and other obligations

Employers are required to follow the ESA that sets minimum standards in areas such as:

- Minimum wage
- Time off, and
- Hours of work

To learn more about Employer obligations, see the [Complying with Employment Standards brochure](#) or contact the Information Centre at the numbers below.

There are also obligations for Employers under federal legislation. For further information visit the [Human Resources and Skills Development Canada website](#).

To learn more about *The Employment Protection for Foreign Nationals Act (Live-in Caregivers and Others)*, 2009 visit

[Ontario.ca/EPFNA](https://www.ontario.ca/EPFNA)

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.

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)**

ISBN 978-1-4435-2386-8 (Print)

ISBN 978-1-4435-2387-5 (HTML)

ISBN 978-1-4435-2388-2 (PDF – Print)

ISBN 978-1-4435-2389-9 (PDF – View)

March 2010