

Employment Standards

Your Rights At Work

Information Sheet

The Employment Standards Act, 2000, also known as the ESA, is a law that sets minimum standards for workplaces in Ontario.

Who is protected by the ESA?

If you are employed in Ontario, you are probably protected by the ESA. It does not cover federal employees and certain other individuals who fall into specified categories. There are exceptions and special rules that apply to some employees under the law.

What basic rights are protected by the ESA?

Hours of Work: Generally, employees cannot be required or permitted to work more than:

- 8 hours a day, or the number of hours in an established work day if it is more than 8 hours; and
- 48 hours in a work week

An employee can agree in writing to work more than these limits. Such agreements are valid only if the employer gives the employee (where there is no trade union) an information sheet prepared by the ministry about hours of work and overtime before the agreement is made, and the agreement states that the employee received the information sheet. In addition, an employee cannot work more than 48 hours in a week unless the employer has an approval for excess hours from the Director of Employment Standards (subject to certain exemptions).

Rest Periods: Generally, employees must have at least:

- 11 consecutive hours off work each day
- 24 consecutive hours off work each week or 48 consecutive hours off work in every 2-week period.

Overtime: Most employees must be paid overtime pay after 44 hours of work each week. The overtime rate must be at least 1 ½ times the regular rate of pay.

Minimum Wage: This is the lowest hourly rate an employer can pay an employee.

Minimum Wage Rate	March 31, 2010
General	\$10.25 per hour
Students*	\$9.60 per hour

* This rate applies to students under the age of 18 who work 28 hours a week or less when school is in session or work during a school break or summer holidays.

Note: The minimum wage is different for liquor servers, homeworkers, and hunting and fishing guides. Please contact the Ministry of Labour for more information.

Payday: Employees must be paid on a regular, recurring payday and given a statement showing their wages and deductions for that pay period.

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 four-percent of their total wages earned as vacation pay.

Public Holidays: A public holiday is a day that most employees may take off work, with public holiday pay. Ontario has 9 public holidays every year. Most employees are allowed to take public holidays off regardless of how long they have been working and whether they are full-time, part-time, permanent, a student or on a limited-term contract.

Pregnancy and Parental Leave: Eligible employees are entitled to take up to 17 weeks of pregnancy leave and 35 weeks of parental leave (if they have taken pregnancy leave). All other eligible parents, including pregnant employees who do not take pregnancy leave, can take up to 37 weeks of parental leave. These are unpaid job-protected leaves.

Personal Emergency Leave: If an employer regularly employs at least 50 people, its employees are entitled to take up to 10 days each calendar year of unpaid, job-protected personal emergency leave. This leave is for personal illness, injury or medical emergency, or for the death, illness, injury or medical emergency or urgent matter concerning certain family members.

Family Medical Leave: Employees can take family medical leave to provide care or support to certain family members and people who consider the employee to be like a family member who have a serious illness with a significant risk of dying within a period of 26 weeks. It is an unpaid, job-protected leave of up to eight weeks in a 26-week period.

Termination Notice and Pay: An employer must give an employee advance written notice, termination pay instead of notice, or a combination of both, if the employee has been working continuously for 3 months or more and 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.

Note: There are other ESA rights not covered in this brochure, and not all employees qualify for all ESA rights. Contact the Ministry of Labour for details.

Employees cannot be punished for claiming their rights

Employers cannot intimidate, fire, suspend, or otherwise punish an employee or threaten any of these actions - because the employee asks about his or her ESA rights. If this happens, the employee should contact the Ministry of Labour.

The Ministry of Labour can help

If an employee thinks that an employer is not following the ESA, he or she can contact the Ministry of Labour for help. Employment Standards Officers can inspect workplaces and look into possible violations of the ESA.

Employers can be ordered to: pay the wages that are owing to employees, give an employee back his or her job, follow the rules of the ESA and/or compensate an employee.

Employers can also be prosecuted for contravening the ESA. If convicted, employers may be fined and/or sent to jail.

Note: Unionized employees should speak with their union representative before contacting the Ministry of Labour if they believe that their rights have been violated.

Filing a claim

A claim is an explanation of an employee's complaint, which also has important information about the employee, the job and the employer.

There is no cost to file a claim and an employer cannot punish an employee for filing a claim.

Four steps to filing a claim:

Step 1: Have you contacted your employer?

Generally, you are required to try to contact your employer about your employment standards issue(s) before your claim can be investigated. Issues can often be resolved quickly with this approach. **The following are examples of situations where employees may not be required to contact their employer:**

- You already tried to contact your employer.
- The money owed to you is from five months ago or more (there are time limits on recovery, **see page 5 of the Claim Guide**).
- Your workplace has closed down.
- Your employer has gone bankrupt or is in receivership.
- You are afraid to do so.
- Your issue does not involve money.
- You are or were working as a live-in caregiver.
- You have difficulty communicating in the language spoken by your employer.
- You are a young employee.
- You have a disability that makes it difficult for you to contact your employer, or
- There is a reason relating to a ground under the *Ontario Human Rights Code*.

If none of the reasons listed describe your situation and if you feel that you have a good reason not to contact your employer about your employment standards issue, you will have an opportunity to explain why on the Claim Form.

For more information, please contact the **Employment Standards Information Centre at 416-326-7160 or 1-800-531-5551**.

The ministry has also created **worksheets** to help you figure out what you are owed and **tools** to make contacting your employer easier. These tools can be found in the Before You Start booklet and the Claim Guide.

Step 2: Collect important documents

To help you fill out the Claim Form, you may need to refer to important documents about your employment history and your employer's contact information. You may need to send these documents to the ministry if your claim is being investigated. For more information on what documents you may need, please see "Collect Important Documents" in the Claim Guide.

Step 3: Fill out the Claim Form

The Claim Form asks you to give a lot of detailed information. It may take you an hour or more to complete it.

The basic information the Ministry needs from you will be marked by an asterisk (*). In some cases, the Ministry of Labour may contact you if you are missing required information.

For help filling out the Claim Form, go to our website at www.labour.gov.on.ca/english/es/forms/claim.php to find contact information for support services. You can also call the Employment Standards Information Centre at 416-326-7160 or 1-800-531-5551.

Once we have all the information we need to investigate your claim, we will contact you with your claim number and your claim will move forward for investigation.

Step 4. Send your claim to the Ministry of Labour

Individuals can file a claim submission in these ways:

Online at: www.labour.gov.on.ca/english/es/forms/claim.php. You will receive your claim submission number immediately.

By Fax at: 1-888-252-4684.

In person at: a ServiceOntario Centre (1-800-267-8097).

By mail to:

Provincial Claims Centre
Ministry of Labour
70 Foster Drive, Suite 410
Roberta Bondar Place
Sault Ste. Marie, ON P6A 6VA

Note: If you file your claim submission by fax, in person, or by mail, you will receive a letter in the mail with your claim number once all of your required information has been verified. If your claim submission is missing required information, you will receive a letter in the mail with your claim submission number, and a request to provide the information.

A claim submission number is assigned as soon as the ministry receives and registers your Claim Form. You will be provided with a claim number and your claim will be assigned for investigation once the ministry has verified that all required information has been completed.

Once a claim is filed, ministry staff can attempt to resolve the issue between you and your employer. If the issue cannot be resolved, an investigation may begin. Claims are investigated as quickly as possible. The time it takes to complete the process varies.

How to contact the Ministry of Labour

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

Visit the Employment Standards section of the Ministry of Labour website: www.labour.gov.on.ca to access online publications that provide more detailed information on the basic rights that are protected by the ESA.

Other important contacts

- Ontario Human Rights Commission: 1-800-387-9080 (toll-free)
- Workplace Safety and Insurance Board: 1-800-387-0750
- Human Resources and Skills Development Canada – Employment Insurance General Inquiries – 1-800-206-7218 (toll-free)

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