

### **What is the purpose of the Employment Standards Act, 2000 (ESA)?**

The ESA sets out the rights and responsibilities of both employees and employers in Ontario workplaces.

### **What employees and employers are not covered by the ESA?**

Most employees and employers in Ontario are covered by the ESA. However, the ESA does *not* apply to certain individuals and persons or organizations for whom they work, including:

- Those in sectors that fall under federal jurisdiction, such as airlines, banks, the federal civil service, post offices, radio and television stations and inter-provincial railways
- Individuals performing work in a work experience program authorized by a school board, college of applied arts and technology, or university
- People who do community participation under the Ontario Works Act, 1997
- Police officers (except the Lie Detectors part of the ESA, which *does* apply)
- Inmates taking part in work programs, or people who perform work as part of a sentence or order of a court
- People who hold political, judicial, religious or trade union offices.

Employees of the Crown are excluded from some (but not all) provisions of the ESA.

For a complete listing of other job categories not governed by the ESA, please check the ESA and its regulations. Regulations set out exemptions to the law, special rules and details about how to apply certain sections of the ESA.

## What are domestic workers?

Domestic workers are employed directly by householders, and not by a business or agency. An employee who is hired by a business, agency or any person other than the householder to perform homemaking services for a householder is classified as a 'homemaker' and subject to special rules and exemptions under the ESA. A householder is someone who owns or rents the home where the domestic work is done.

Domestic workers are hired to work in a private home. They do things such as housekeeping, or provide care, supervision or personal assistance to children or people who are elderly, ill or disabled.

Domestic workers have the same rights under the ESA whether they work part-time or full-time, and whether they live in or out of their employer's home.

A sitter who provides occasional, short-term care, supervision or personal assistance to children is not considered a domestic worker. Neither is someone who is employed by an agency to work in a private home.

## Does the ESA cover domestic workers?

Yes. Domestic workers have the same rights as other employees in Ontario workplaces under the ESA.

In the past, 'domestic servants' were exempt from a number of parts of the employment standards laws, while 'domestics' were exempt from others. There is no longer a distinction between a domestic and a domestic servant.

## What rights do domestic workers have under the ESA?

The ESA contains rules on the following key subjects that apply to most employees in Ontario, including domestic workers:

- personal emergency leave
- declared emergency leave
- reservist leave
- equal pay for equal work
- family medical leave
- hours of work protections (e.g., maximum hours of work, daily and weekly/biweekly rest periods)
- minimum wage
- overtime pay
- pregnancy and parental leave
- public holidays
- regular payment of wages
- severance pay
- termination notice and/or pay in lieu of notice
- vacations.

For details on all of the employment standards listed above to which domestic workers are entitled, please see [Your Guide to the Employment Standards Act](#).

## What is the [minimum wage](#) rate for domestic workers?

The **general minimum wage** rate applies to domestic workers except to certain students.

Students under the age of 18:

- who work no more than 28 hours a week when school is in session, or
- who work during a school holiday (for example, March break, Christmas break, summer holidays)

are entitled to the **student minimum wage**. Students who work **more** than 28 hours a week when school is in session are entitled to the general minimum wage.

## Can an employer take into account the provision of room and meals to a domestic worker when calculating minimum wage?

Yes, but there are limits. Room and/or meals (board) shall not be deemed to have been paid as wages unless the employee has received the meals or occupied the room.

An employee's gross pay, before any deductions are made for such things as Canada Pension Plan (CPP), Employment Insurance (EI) and income tax, must add up to at least the minimum wage for all hours worked. However, the ESA and regulations provide that certain amounts are deemed to have been paid if the employer provides the employee with room or board or both. The amounts that an employer is deemed to have paid for room or board or both are set out below:

### Room: weekly

-- private	\$31.70
-- non-private	\$0.00*

An employer may only deem the provision of room and meals (board) as payment of wages to the employee where the room is reasonably furnished, reasonably fit for human habitation, supplied with clean bed linen and towels and is reasonably accessible to proper toilet and wash basin facilities.

### Meals

-- each meal	\$2.55
-- weekly maximum	\$53.55

### Room and meals (board): weekly

-- private room	\$85.25
-- non-private	\$53.55*

\* These amounts apply only to domestic workers.

Where the employee is paid minimum wage and has been provided with room and/or board, the employer is deemed to have paid the employee the amount allowed for room and/or board. The employer must therefore pay the employee (before deductions for such things as CPP, EI or income tax) the difference between the minimum wage for all hours worked and the amount deemed to have been paid for room and/or board.

## What if the employer does not follow the ESA?

If an employee thinks the employer is not complying with the *ESA*, he or she can call the Employment Standards Information Centre at 416-326-7160 or toll free at 1-800-531-5551 for more information about the *ESA* and how to file a complaint. Complaints are investigated by an employment standards officer who can, if necessary, make orders against an employer, including an order to comply with the *ESA*. The Ministry has a number of other options to enforce the *ESA*, including requesting voluntary compliance, issuing an order to pay wages, an order to reinstate and/or compensate, a notice of contravention, or issuing a ticket or otherwise prosecuting the employer under the Provincial Offences Act.

### **Important Facts for Employers:**

#### **Employers may have obligations under Federal law to:**

- register with Canada Revenue Agency and follow its rules
- get an employer number
- deduct and send required payroll deductions to Canada Revenue Agency.

For more information, please contact [Canada Revenue Agency](#).

#### **Under Ontario law, anyone who employs a full-time domestic worker is required to register with the Workplace Safety and Insurance Board (WSIB).**

Contact WSIB at 416-344-1000 in the Greater Toronto area or 1-800-387-0750 in the rest of the province. For TTY phone 1-800-387-0050.

#### **For immigration concerns:**

Please contact your nearest [Citizenship and Immigration Canada](#) office.

This fact sheet provides general information about domestic workers as set out in the Employment Standards Act, 2000 (ESA) and its regulations. For complete information, please refer to the ESA and the regulations.

## For More Information

If you have questions about the Employment Standards Act, call the Ontario Ministry of Labour's Employment Standards Information Centre at 416-326-7160, toll free 1-800-531-5551, TTY 1-866-567-8893, or visit a ServiceOntario Centre in person.

Information and ESA publications can be found at the Employment Standards section of the Ministry of Labour's website, [www.labour.gov.on.ca](http://www.labour.gov.on.ca).

*This fact sheet is provided for your information and convenience only. It is not a legal document. For further information and the exact wording in the ESA, please refer to the Employment Standards Act, 2000 (ESA) and regulations.*

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**The Employment Standards Information Centre can be reached at 416-326-7160, toll-free at 1-800-531-5551, or, for Hearing Impaired TTY, at 1-866-567-8893.**

Information on the ESA can also be found at the Employment Standards section of the Ministry of Labour's website: [www.labour.gov.on.ca](http://www.labour.gov.on.ca).

You can order copies of the ESA and related information materials from: Publications Ontario, 1-800-668-9938; Hearing Impaired TTY 1-800-268-7095, or the Ontario government E-Laws website at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).

