

HOMEWORKERS

Employment Standards Fact Sheet

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.

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. It also contains provisions that apply to people who are seeking employment with temporary help agencies and, in some cases, to clients of such agencies, even though the client business is not the employer of the person filing a claim under the ESA.

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 homeworkers?

Homeworkers are employees who do paid work out of their own homes for an employer (e.g., online research, preparing food for resale, sewing, telephone soliciting, manufacturing, word processing).

Independent contractors are **not** homeworkers under the ESA.

Are homeworkers the same as domestic workers?

No, homeworkers are not the same as domestic workers. Homeworkers do paid work out of their own homes for an employer. In contrast, domestic workers work in a private home directly for the person who

owns or rents the home. They do things such as housekeeping and cooking, or provide care, supervision or personal assistance to children or people who are elderly, ill or disabled.

Here is an example of the difference between homeworkers and domestic workers: employees who prepare food at home for resale by their employer are homeworkers, but employees who prepare food in a private residence for the people living there to eat are domestic workers.

What rights do homeworkers have under the ESA?

Homeworkers are eligible for:

- minimum wage
- regular payment of wages
 - wages are paid on a recurring pay period on a recurring pay day, and
 - written wage statements are provided for each pay
- written job details
- hours of work protections (i.e., maximum hours of work, and daily and weekly/biweekly rest periods)
- overtime pay
- vacation with pay
- public holidays
- pregnancy and parental leave
- family medical leave
- personal emergency leave
- declared emergency leave
- organ donor leave
- reservist leave
- termination notice and pay
- severance pay
- equal pay for equal work

Note: There are rules about qualifying for some of the ESA protections listed above.

For information on the above listed standards please see [Your Guide to the Employment Standards Act](#) for more information.

What is the minimum wage rate for homeworkers?

Minimum wage is the lowest hourly wage an employer can pay employees.

There is a special minimum wage rate for homeworkers. A homeworker is entitled to a minimum wage that is 110% of the general minimum wage rate.

Both full-time and part-time homeworkers are entitled to this rate. Students of any age who are employed as homeworkers must also be paid the homeworkers' minimum wage.

The chart below sets out the general minimum wage and the homeworkers' minimum wage rates:

Minimum Wage Rate	March 31, 2010
General Minimum Wage	\$10.25 per hour
Homeworkers Wage (110 per cent of the general minimum wage)	\$11.28 per hour

If homeworkers are paid piece-work rate, how do they know whether they are receiving the equivalent of minimum wage?

The amount that a homeworker is paid must be at least equal to minimum wage. Homeworkers who are paid on a piece-work rate – a way of calculating pay that is based on the amount of work an employee completes, and not on the hours worked – can calculate whether they are being paid at least the minimum wage in the following way:

Take the total amount earned over the pay period and divide it by the number of hours worked in the same period for an average hourly rate. Compare that amount to the homeworkers' minimum wage rate in effect over that same pay period. (If overtime hours were worked, the calculation is more complicated.)

For example:

A homeworker received \$240.75 as piece-work pay for the pay period June 6 to June 12, 2010 as payment for 25 hours of work in that pay period. The homeworker received the equivalent of \$9.63 an hour in that pay period, but the homeworkers' minimum wage rate in effect from March 31, 2010 was \$11.28.

Based on the homeworkers' minimum wage, the employee should have earned \$282.00.

Result: The employer must therefore pay an additional \$41.25 to the employee (\$282.00 minus \$240.75).

Please see "What written job details must an employer give a homeworker?" (below) for information on the requirement that homeworkers' wage statements include the amount of the piece-work rate(s).

What written job details must an employer give a homeworker?

Certain requirements apply only to homeworkers. Employers must advise homeworkers **in writing** of:

- the type of work they are being employed to perform;
- the amount to be paid for an hour of work in a regular work week if the homeworker is to be paid by the number of hours worked;
- where the homeworker is to be paid by the number of articles or things manufactured*:
 - the amount to be paid for each article or thing manufactured in a regular work week; and
 - the number of articles or things to be completed by a certain date or time if the employer requires a certain number to be completed by a certain date or time; and
- an explanation of how pay will be determined when the homeworker is being paid on some other basis.

* “Manufacture” includes preparation, improvement, repair, alteration, assembly or completion.

Employers must keep detailed records of hours worked, wages and deductions. They must give all employees a written wage statement with each pay that shows the full details of the pay period.

The written wage statement must set out:

- the pay period for which the wages are being paid
- the wage rate, if there is one
- the gross amount of wages and, unless the employee is given the information in some other manner, such as in an employment contract, how the gross wages were calculated
- the amount and purpose of each deduction from the wages
- the net amount of wages.

What kind of information must employers keep?

Employers who employ homeworkers are required to keep a register containing the name, address and wage rate(s) of the homeworker. This must be kept for three years after the homeworker has stopped working for the employer.

In addition, all employers in Ontario, including anyone who employs homeworkers, must keep written records about each person they hire.

Employee records can be retained either by employers or by someone else on their behalf, but must be readily available for inspection. The period of retention varies depending on the information. For example, the employee’s name, address and starting date must be retained for three years after the employee ceases to be employed by that employer. The number of hours the employee worked in each day and each week must be retained for three years after the day or week in question.

Each employee’s written record must contain:

- the employee’s name, address and starting date of employment
- the date of birth if the employee is a student under 18 years of age
- hours worked by the employee each day and week (see *Exception to the rule: hours of work records* later in this fact sheet)

Note: It is suggested that employees also keep a record of the hours they work and number of items they complete each day.

- information contained in the employee’s wage statements
- all documents relating to pregnancy, parental, personal emergency, declared emergency, family medical, organ donor, or reservist leave
- the vacation time earned since the date of hire but not taken before the start of the vacation entitlement year
- the vacation time earned during the vacation entitlement year (or stub period, if the employer establishes an alternative vacation entitlement year)
- the vacation time taken (if any) during the vacation entitlement year (or stub period)
- the balance of vacation time remaining at the end of the vacation entitlement year (or stub period)
- the vacation pay paid during the vacation entitlement year (or stub period) and how that vacation pay was calculated.

Note: An employee is entitled to information about his or her vacation time and pay entitlement once with respect to each completed vacation entitlement year or stub period, on written request to the employer. For more information please refer to the [Vacation](#) chapter of Your Guide to the Employment Standards Act.

Exception to the rule: hours of work records

If an employee receives a fixed salary for each pay period, and the salary does not change unless the employee works overtime, the employer is only required to record:

- the employee's hours **in excess** of those hours in the employee's regular work week, and
- the number of hours **in excess** of eight per day—or in excess of the hours in the employee's regular work day, if that's more than eight hours.

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 /or a notice of contravention, or issuing a ticket or otherwise prosecuting the employer under the Provincial Offences Act.

For More Information

If you have questions about the Employment Standards Act, 2000, call the Ontario Ministry of Labour's Employment Standards Information Centre at 416-326-7160, toll free at 1-800-531-5551, or TTY 1-866-567-8893.

Information on the ESA can be found at the Employment Standards section of the Ministry of Labour's website: www.labour.gov.on.ca.

You can order copies of the Employment Standards Act, 2000 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.

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