

Changing
Workplaces Review

**GUIDE TO
THE INTERIM
REPORT**

Ministry of Labour

Why an Interim Report?

The breadth of the Review and the number and variety of submissions made in the consultation process have led us to conclude that Ontarians should not only be informed of the issues and options for legislative change that have been identified and discussed, but also they should have an opportunity to comment before we make our Final Report with recommendations.

The Interim Report is comprised of 5 chapters. The introductory chapters set out the purpose of the Interim Report and the perspectives of the parties (Chapter 1), the principles informing our deliberations (Chapter 2) and an outline of the pressures and changes that have been and are occurring in the workplace, and an identification of those employees who have been made vulnerable and are working in precarious jobs (Chapter 3). The issues and options for reform to the *Labour Relations Act, 1995* (LRA) and to the *Employment Standards Act, 2000* (ESA) are in Chapters 4 and 5 respectively.

Chapters 4 and 5 of the Interim Report are purposively inclusive and reflect many of the issues and options for change that have been identified. As a result, some options are conflicting or contradictory. In almost every case, the maintenance of the status quo is an option. With perhaps one exception – as noted in the section on exemptions to the ESA in Chapter 5 – we have not yet come to any final conclusions and have an open mind on all issues.

However, not all issues and potential legislative responses which we discuss have been the subject of significant public debate or discussion and the views of interested parties are not well known. For purposes of illustration only, if a union is in the midst of an organizing campaign, or some existing employees want to decertify the union, what do stakeholders who have yet to comment think of requiring employers to provide a list of employees in the proposed bargaining unit with or without contact information? What do stakeholders think about the proposal for an internal responsibility system for the ESA? If interested parties elect to comment on these issues or other newer issues in a timely manner, we would

have an opportunity to consider such comments prior to making our Final Report with recommendations. Other “newer” issues and related options in the Interim Report on which parties may wish to comment:

Issues that have not been the subject of significant debate or which may have some new elements

Chapter 4 (LRA):

- related and joint employer issues including temporary help agencies and franchise operations (section 4.2.2);
- broader-based and sectoral bargaining options (section 4.6.1);
- options to change the remedial certification rules (section 4.3.1.5);
- access to employee lists (section 4.3.1.3);
- variation and consolidation of bargaining units (section 4.3.4);
- administrative penalties and procedures (section 4.5.3); and
- employee voice options (section 4.6.2).

Chapter 5 (ESA):

- definition of employee (section 5.2.1);
- who is the employer and scope of liability (section 5.2.2);
- exemptions and the possible recommendation for a new exemption process set out in the options (section 5.2.3);
- hours of work and overtime pay options (5.3.1);
- scheduling (5.3.2);
- options to change public holiday pay calculations (section 5.3.3.1);
- personal emergency leave and paid sick days (sections 5.3.4 and 5.3.5);
- part-time and temporary work – wages and benefits (section 5.3.7);

- temporary help agencies (section 5.3.9);
- just cause for termination (section 5.3.8.3);
- other standards and requirements, including written agreements between employers and employees and pay periods (sections 5.4.2 and 5.4.3); and
- enforcement and administration of the ESA, including strategic enforcement, internal responsibility, changes to administrative penalties and procedures, onus of proof and procedure and access to justice (section 5.5).

We do not wish to discourage any comment and/or criticism with respect to any issue or option for change in the Interim Report. There are issues and options outlined that have received little attention from all or some stakeholders. We may have missed options for change that are better than those identified. We welcome other solutions. We ask those who make further submissions to be as constructive and succinct as is practicable and to avoid the repetition of positions expressed earlier. We remain open to substantive criticism and comment.

Inferences about our final views should not be drawn from the Interim Report. We are moving towards decisions around our recommendations, and seek your responses to the Interim Report to help inform our recommendations.

Submissions

We ask for submissions on personal emergency leave to be made **by August 31** as we have been asked by the government to make recommendations on this issue in advance of our Final Report. With respect to all other issues, interested parties are encouraged to provide comments in writing as soon as is practicable but, in any event, **by no later than October 14**.

Written submissions will be accepted until the deadlines but stakeholders are strongly encouraged not to wait until the last minute to make submissions.

Thank you,

C. Michael Mitchell
The Honourable John C. Murray

Special Advisors

How you can provide input on the Interim Report

If you are interested in responding to the Interim Report with your comments, ideas and suggestions, please contact the Ontario Ministry of Labour by:

E-mail: CWR.SpecialAdvisors@ontario.ca

**Mail: Changing Workplaces Review, ELCPB
400 University Ave., 12th Floor
Toronto, Ontario M7A 1T7**

Fax: 416-326-7650

Notice to Consultation Participants

Submissions and comments provided are part of a public consultation process to solicit views on reforms to Ontario's employment and labour law regime that may be recommended to protect workers and support business in the context of changing workplaces. This process may involve the Ministry of Labour publishing or posting to the internet your submissions, comments, or summaries of them. In addition, the Ministry may also disclose your submissions, comments, or summaries of them, to other parties during and after the consultation period.

Therefore, you should not include the names of other parties (such as the names of employers or other employees) or any other information by which other parties could be identified in your submission.

Further, if you, as an individual, do not want your identity to be made public, you should not include your name or any other information by which you could be identified in the main body of the submission. If you do provide any information which could disclose your identity in the body of the submission this information may be released with published material or made available to the public. However, your name and contact information provided outside of the body of the submission, such as found in a cover letter, will not be disclosed by the Ministry unless required by law. An individual who provides a submission or comments and indicates a professional affiliation with an organization will be considered a representative of that organization and his or her identity in their professional capacity as the organization's representative may be disclosed.

Personal information collected during this consultation is under the authority of the *Employment Standards Act, 2000* and the *Labour Relations Act, 1995*, and is in compliance with subsection 38(2) of the *Freedom of Information and Protection of Privacy Act*.

If you have any questions regarding the collection of personal information as a result of this consultation you may contact the Ministry's Freedom of Information Office, 400 University Avenue, 10th Floor, Toronto, Ontario, M7A 1T7, or by calling 416-326-7786.