

Human Resources Legislation



Guidelines and Laws for Managing Staff

Human Resources Legislation



Employment Standards Act

Think About the Following...

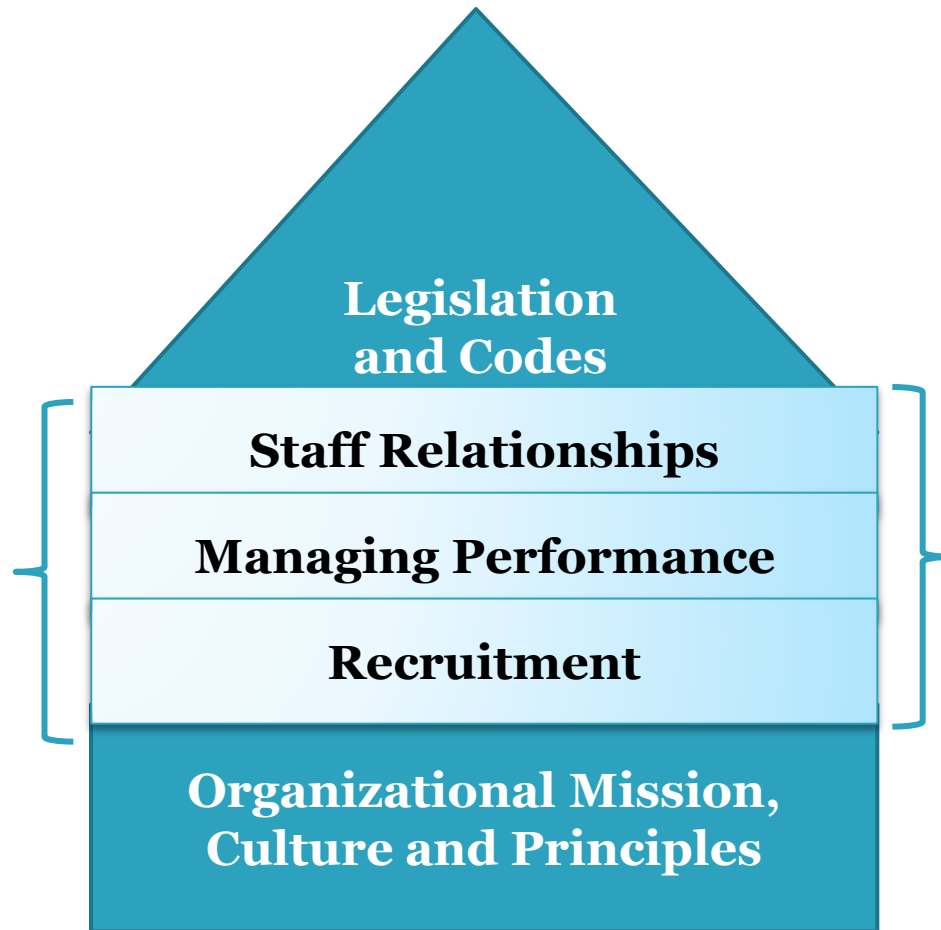
1. What would you want from your employer to feel valued and appreciated?
2. What would you need from your employer to feel safe and secure in your work?
3. Have you ever worked somewhere and not felt safe? Secure? Valued? Appreciated? Why?

Purpose of Human Resource Management

- It's the law!
- Well-trained and well-treated staff are efficient and happy staff
- Impacts everyone in your organization by providing transparency, consistency, and fairness
- Protects/maintains your most important resource (the people!)

Ultimately...Leads to organizational effectiveness and a better served community!

Key Aspects of Human Resources



Key HR Legislation in Ontario

- Employment Standards Act (ESA)
- Ontario Human Rights Code (OHRC)
- Ontario Health and Safety Act (OHSA)
- Workplace Safety & Insurance Board (WSIB)
 - Pay Equity Act
 - Labour Relations Action

Working Conditions

Ministry of Labour (MOL)

- Outlines the minimum **working conditions** for employment in Ontario
 - *Minimum working conditions: the least an employer must do/offer to an employ to adhere to the law*
- Outlines the rights and responsibilities for employers & employees

ESA Exemptions

- **ESA does not apply to certain employees, including:**
 - **Students** part of secondary school/ coop programs or approved programs by college/university applied arts or technology programs
 - **Participants of rehabilitation** programs and
 - **Young offenders** who work as part of sentences or orders
 - **Police Officers**
 - People who hold **political, judicial, religious, or elected trade union office posts**

ESA Exemptions

For Managers & Supervisors are not affected by some areas of the ESA.

For managers and supervisors the ESA does not cover the following area :

- **Hours of Work**
- **Daily Rest Periods**
- **Weekly / Bi-Weekly Rest Periods**
- **Overtime**

What You Should Know

About The Ontario Employment Standards Act

The Employment Standards Act, 2000, known as the ESA, is a law that sets minimum standards for workplaces in Ontario. If you work in Ontario, you are probably protected by the ESA. It does not cover employees in federal jurisdiction and persons in a few other special categories. There are exceptions and special rules for some employees and not all employees qualify for all ESA rules.

Your Rights and Responsibilities at Work

Employers cannot intimidate, fire, suspend, or otherwise punish an employee, or threaten any of these actions because the employee asks for or asks about their ESA rights. If an employee thinks that an employer is not following the ESA law, he or she can contact the Ministry of Labour for help.

Note: Unionized employees should talk to their union representative before contacting the Ministry of Labour if they think their rights have been violated.

Hours of Work – Generally, employees cannot be forced to work more than:

- Daily Limit: 8 hours a day or the number of hours in a regular work day, if it's more than 8. Employees may work more than the daily limit if requirements for obtaining their written agreement are met.
- Weekly Limit: 48 hours a week. Employees may work more than 48 hours in a week if requirements for obtaining their written agreement are met and the employer has an approval from the Director of Employment Standards. (In certain cases and subject to restrictions, where an approval application has been pending for at least thirty days, employees may work a limited number of excess weekly hours.)

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 Pay – Most employees must be paid overtime pay after 44 hours of work each week. The overtime rate must be at least 1½ times the regular rate of pay.

Minimum Wage – Most employees are entitled to be paid at least the minimum wage. A general minimum wage applies to most employees. There are different minimum wages for students, liquor servers, homeworkers, and hunting and fishing guides. To find out the current minimum wages visit: Ontario.ca/minimumwage.

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. Employees are entitled to be paid at least 4 per cent of their total wages earned as vacation pay.

Public Holidays – Ontario has 9 public holidays every year (New Year's Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day, December 26). Most employees take these days off work, with public holiday pay.

Leaves of Absence – Eligible employees are entitled to these unpaid, job-protected leaves:

- 17 weeks of pregnancy leave
- 35 or 37 weeks of parental leave
- 10 days each calendar year of personal emergency leave for personal illness, injury or medical emergency, or for the death, illness, injury, medical emergency of or urgent matter concerning certain family members
- 8 weeks in a 26-week period of family medical leave to care for or support 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
- Declared emergency leave
- Reservist leave

Termination Notice and Pay – Generally, if an employee has been working for 3 months or more and his or her job is terminated, the employer must give the employee advance written notice, or termination pay instead of notice, or a combination of both.

Young Workers – For more information on your rights and responsibilities at work, please visit: Ontario.ca/youngworkers

There are other ESA rights not listed on this poster.

Contact the Ministry of Labour for More Information

Call 416-326-7160, toll-free 1-800-531-5551 or Hearing Impaired TTY 1-866-567-8893.

Visit Ontario.ca/employmentstandards for more information and to contact the Ministry by e-mail.

Employment Standards claim forms can be obtained by visiting a ServiceOntario Centre. To locate the centre nearest you, call 1-800-267-8097.

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« Ce qu'il faut savoir sur la Loi sur les normes d'emploi de l'Ontario »
est également disponible en français et en d'autres langues.

The Employment Standards Act Poster

Areas Covered in Employment Standards Act

- 1. Record Keeping**
- 2. Payment of Wages**
- 3. Hours of Work**
- 4. Overtime**
- 5. Vacation**
- 6. Vacation Pay**
- 7. ESA Claims**
- 8. ESA Claims Process**

1. Record Keeping

- Employers must maintain records of each employee that should include:
 - i. Name and address
 - ii. Date of Birth
 - iii. Date of Start
 - iv. Social Insurance Number (a photocopy of the card)
 - v. Hours worked and dates
 - vi. Written agreement of overtime work and pay rates
 - vii. Vacation time records and pay records
 - viii. Details of wage statement
 - ix. Details of pregnancy, parental, family medical, personal emergency or declared emergency leaves
 - x. Record of Employment (ROE)
- Records must be maintained up to **3 yrs after end** of employment contract

2. Payment of Wages

- **Create a system and process—be consistent**
 - Establish a pay period and a pay date
 - Pay by cash, cheque, or direct deposit
 - Provide wage statements that indicate pay period, pay rate, gross pay, deductions with details and net pay
- **Statutory Deductions:**
 - Federal Tax (income tax)
 - Employment Insurance
 - Canadian Pension Plan Contributions
- **Other Possible Deductions:**
 - Court ordered deductions (eg. child support)
 - Written authorized deductions (eg. group benefits plan, donations)

3.Hours of Work

- **Limits:**
 - **Per day:** 8 hrs
 - **Per Week:** 44 to 48* Hrs
- **Meal Break:** At least 30 minutes un-paid break if the staff person works 5 hrs continuously
- **Coffee Break:** Not a statutory requirement (to be paid if provided and the employee must stay in her/his workstation)

4.Overtime

There are **two options** for paying overtime:

- Calculated **weekly** and be paid at **1.5 times** the hourly rate for hrs worked in excess of 44 hrs
- Time off instead of financial pay you receive—**“lieu hours”** (straight time off for only up to 44 hrs a week) – the extra hours you work, you take off on a later date

5. Vacation Time

- **Time Calculations:**
 - Employees earn a minimum of 2 weeks vacation time upon completion of every 12 month vacation entitlement year.
 - Employees have a right to vacation, but employers **can deny a requested vacation** and require the employee to select another vacation time
 - Employee usually **cannot take vacation** until after probation period is over.

6. Vacation Pay

For employees that do NOT receive **2 weeks paid vacation (often part-time or seasonal)**:

- Employers must **pay out 4%** of the employees gross wages **in lieu of paid vacation time**
- Can either **“pay out”** vacation earnings each paycheque or at end of contract

7.ESA Claims

- Employees have the right to file a claim when the employer is not complying with any of the sections of the ESA
- Claims must be filed with the Ministry of Labour
- Employees must complete the **Claim Form** available at www.labour.gov.on.ca

ESA Claims Process

- *No punitive repercussions* from employer for asking questions, requesting compliance, making claims, participating in investigations