

# Ontario Employers: More Upcoming Changes – *Working for Workers Five Act, 2024*

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On May 6th, 2024 the Ontario government announced the *Working for Workers Five Act, 2024*, the latest addition in a series of bills addressing pathways to skilled trades, barriers to employment, frontline worker safety, fairness for jobseekers and employees and health and safety in the digital age. This announcement follows one made on May 3rd, that the Ontario government is proposing legislative changes to the *Employment Standards Act* (“*ESA*”) that would substantially increase the maximum fines for violating the *ESA* and alter job posting obligations.

## **Increased Fines for Contravening the *ESA***

Currently, the maximum fine for an individual convicted of a violation of the *ESA* is \$50,000. The proposed change would double the maximum fine to \$100,000. The government also intends to make regulatory changes to increase the fines for offenders who have contravened the same provision of the *ESA* three or more times, from \$1,000 to \$5,000. If passed, this amendment would come into force when the *Working for Workers Five Act, 2024* receives Royal Assent.

If passed, the \$100,000 maximum fine under the *ESA* would be the highest fine of its kind in Canada. As a comparison, the maximum fine in Alberta for multiple contraventions and failure to comply is \$10,000 per day, in British Columbia it ranges between \$500-10,000 depending on the contravention and in New Brunswick the maximum fine is \$900.

## **Sick Notes**

The *Working for Workers Five Act, 2024* proposes to amend S.50 of the *ESA* to prohibit employers from requiring a certificate from a medical professional as evidence of an employee's entitlement to statutory sick leave. Employers will still be allowed to require an employee who takes leave under this section to provide evidence reasonable in the circumstances that the employee is entitled to the leave. If passed, this amendment would come into force when the *Working for Workers Five Act, 2024* receives Royal Assent.

## **Job Posting Requirements**

The amendments proposed by the *Working for Workers Five Act, 2024* would also amend the *ESA* to require employers to disclose in a publicly advertised job posting whether or not a job vacancy exists and such other information as may be prescribed.

Additionally, employers may be required to respond to job applicants whom they have interviewed for a publicly posted job. This means that candidates can no longer be interviewed and subsequently never hear from an employer again, colloquially called “ghosting.” The employer would be obligated to provide the applicant with certain information, which will be defined in the legislation. The government intends to consult on these proposed changes to ensure it does not place undue hardship on employers. This legislation would be the first of its kind in Canada. If passed, this amendment would come into force at a date to be named by the

Lieutenant Governor.

### **Changes to the *Ontario Occupational Health and Safety Act***

*Working for Workers Five Act, 2024* also includes amendments to the *Ontario Occupational Health and Safety Act* (“OHSA”). The most significant of changes is an update to the definition of “workplace harassment” and “workplace sexual harassment” to directly apply to virtual interactions through technology.

Other changes include an update to posting requirements under the *OHSA* such that providing electronic copies to workers will satisfy requirements, as long as workers know where to access the information, joint health and safety meetings will be allowed to be conducted remotely, as opposed to in the workplace, and clarification that the *OHSA* applies to “telework” in private residences. If passed, these amendments would come into effect when the *Working for Workers Five Act, 2024* receives Royal Assent.

Finally, on a date to be named by proclamation, employers, and contractors under the *OHSA* would be required to ensure that washroom facilities used by workers are maintained in a clean and sanitary condition. They must also maintain cleaning records.

### ***The Working for Workers Acts***

These changes build upon a larger influx of amendments that come from the government’s prior *Working for Workers* acts that aim to protect workers and newcomers to Canada. You can read about these other amendments, including restrictions on wage deductions, payment for training periods, pooled tips, payment of tips, Canadian experience requirements and others in our previously-published article [here](#).

### **Increased Minimum Wage**

In addition to the proposed changes under the *Working for Workers Five Act, 2024*, effective October 1, 2024 the minimum wage in Ontario will increase from \$16.55 to \$17.20 per hour. This increase will bring Ontario’s minimum wage to the second highest in Canada, behind Yukon.

Further information regarding the *Working for Workers Five Act, 2024*’s other changes including youth apprenticeship programs, registration for internationally trained workers, medical coverage for firefighters and protection of women at work can be found [here](#).

***The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.***

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