

Changes to the *Employment Standards Act* *Various Employer Obligations Affected*

The Ontario government has passed legislation which has led to key changes to the *Employment Standards Act, 2002* (the “ESA”) which employers should note.

Many of these changes have been slowly implemented over the last year – the purpose of this information is to remind employers of the most important changes.

Limitation Period Extended

Previously under the ESA, an employee would only have six months to bring a complaint for unpaid wages to an Employment Standards Officer (an “ESO”). If the employee failed to bring the complaint within this timeframe, and there were no extenuating circumstances, the complaint would not be heard.

Effective February 20, 2015, the timeline for bringing a complaint for unpaid wages has been extended to two years.

Similarly, previously an employee would only have six (6) months to bring a complaint for unpaid vacation pay to an ESO. However, this timeline has been extended to one year.

\$10,000 Cap on Damages Removed

As of February 20, 2015, the \$10,000 limit on the amount of unpaid wages

that ESOs can order employers to pay under the ESA has been removed – there is no longer such a ceiling on employee claims

It is important for employers to appreciate that under this section “unpaid wages” includes base pay, commissions, termination pay in lieu of notice, severance pay, and more. It is expected that larger ESA claims may no longer be pursued through expensive civil litigation, but rather through the administrative regime established under the ESA.

New ESA Poster

Effective June 19, 2015, employers must provide all employees in Ontario that are covered by the ESA (which is the great majority of employees) a copy of the most recent version of the Employment Standards Poster. A copy of the poster must also be posted in a conspicuous place in the workplace (i.e. a bulletin board or the lunchroom fridge).

Further, any new employees must be provided with a copy of the Poster within thirty days of their start date.

To avoid any confusion or inadvertence in providing a new employee with a copy of the Poster, it is recommended that employers add this to their hiring “to-do

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checklist”.

Minimum Wage Increases

Effective October 1, 2015, Ontario is raising the general minimum wage from \$11.00/hr to \$11.25/hr. Further, on October 1st of each subsequent year, the minimum wage will automatically rise in accordance with increases to the Consumer Price Index. Any increase to take place on October 1st will be announced by April 1st of the same year.

Temporary Help

Effective November 20, 2015, employers that use temporary help agencies will be jointly and severally liable for wages owing to employees if the temporary help agency fails to pay the employee. This means an employer may be faced with a situation where it has paid the temporary help agency, but is also then liable to pay the employee his/her wages again, this time directly.

Therefore, employers are cautioned to only use the services of reputable temporary help agencies so as to avoid the spectre of having to pay its employees twice.