

Legislative Requirements for Small Business in Ontario



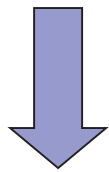
WHAT YOU NEED TO KNOW

APPLICABLE LEGISLATION

- Employment Standards Act (ESA)
- Occupational Health and Safety Act (OHSA)
- Accessibility for Ontarians with a Disability Act (AODA)
- Personal Information Protection and Electronic Documents Act (PIPEDA)

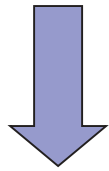
Employment Relationship

- Applicable Legislation



(absolute minimums)

- Personnel policy of organization



(beyond the minimums)

- Individual employment contracts
(beyond the personnel policies)

EMPLOYMENT STANDARDS ACT (ESA)

- **Employer Obligations:**

- Post the ESA “Rights and Obligations” Poster
[ontario.ca/employmentstandards](https://www.ontario.ca/employmentstandards)
- Provide copies of ESA poster to all employees
- Establish a regular pay period and pay day for employees
- Maintain Employee records for at least 3 years
- Abide by the minimum requirements of the Act

- **Employee Rights:**

- Right to file a complaint with the Ministry of Labour
- No reprisal

Employment Standards Act

What does it cover?

- Hours of Work
- Wages and Overtime
- Public Holidays
- Vacation
- Leave & Other time off
 - Sick Leave (Personal Days)
 - Family Medical leave, bereavement, pregnancy and parental leave
 - Jury/witness duty
- Equal pay for equal work
- Termination and Severance

Employment Standards Act

Hours of Work - Maximum of 48 Hours in a work week

Overtime and Overtime Pay

- Hours worked in excess of 44 per week must be totaled and the number of hours worked in excess of 44 per week are deemed overtime hours.
- An employer must pay an employee overtime pay at least 1.5 times the employee's wage.

Averaging Agreements

- Employees and employers may enter into a written agreement to average overtime over a greater period of time, rather than 1 week.
- Time off may be taken if agreed by the Parties.
- If the time off is not taken, the employer may pay the overtime.

Vacation

- At least two weeks vacation

Termination of Employment - Employee

Employees wishing to terminate must provide written notice:

- 1 week, if employed less than 2 years
- 2 weeks, if employed 2 years or more

Termination of Employment – Employer (without cause)

Employers wishing to terminate must provide written notice or pay in lieu of notice:

- 1 week, if employed < than 3 months but > than 2 years
- 2 weeks, if employed 1 - 3 years
- 3 weeks, if employed 3 - 4 years
- 4 weeks, if employed 4 - 5 years
- 5 weeks, if employed 5 - 6 years
- 6 weeks, if employed 6 - 7 years
- 7 weeks, if employed 7 - 8 years
- 8 weeks, if employed 8 or more years.

Termination of Employment – Employer (without cause)

- Can terminate at any time provided that notice, or pay in lieu of notice is given
- ESA minimums can be modified/increased:
 - by personnel policy
 - by employment contract
- Common law considerations:
 - availability of alternate employment
 - length of service/position with employer
 - age, salary, lack of good faith and fair dealing by the employer

Termination of Employment – Employer (for cause)

- Defined as “*willful misconduct or disobedience, or willful neglect of duty that is not condoned by the employer*”
- No notice is required **BUT**
 - Must issue warnings specific to termination
 - Must show progressive discipline and a paper trail
 - What is sufficient depends on circumstances of each case

Occupational Health and Safety Act (OHSA)

- **Employer Obligations:**

[ontario.ca/healthandsafetyatwork](https://www.ontario.ca/healthandsafetyatwork)

- Inspect, assess and prevent hazards/risks
- Have a policy and provide training
- Have a Health and Safety Rep/Committee
- Create Emergency Action Plan
- Return to work Policy

Employee Obligations:

- Adhere to policies
- Report unsafe conditions/concerns

- **Employee Rights:**

- Work in a safe environment
- No reprisals for filing complaint
- Right to refuse work

Workplace Violence and Harassment

- **BILL 168 – New obligations:**

- Assess potential for violence and harassment in workplace
- Create and post Workplace Violence and Harassment Policy
- Develop and maintain program to implement the policy
- Educate and train staff

Policy/Program to include:

- Employer's commitment to provide safe environment
- OHSA definitions with examples
- Applies to all employees from all sources
- Encourage employees to report harassment (witness/victim)
- How to report/what to include
- Will be dealt with in confidential/fair/timely manner
- No penalty for reporting/participating in investigation
- Will be informed in writing of results and corrective action
- How records will be kept
- Other available resources (H&S Rep, EAP, etc.)

Workplace Violence and Harassment

- **BILL 132 – Additional Obligations:**
 - Definition of Harassment expanded to include “Sexual Harassment”
 - Must investigate all “incidents and complaints”
 - Take reasonable steps to protect employees from domestic violence in the workplace
 - Update policies and training to reflect changes.
 - Workers have a duty to report incidents of suspected workplace violence or harassment

Accessibility for Ontarians with a Disability Act (AODA)

- **Employer Obligations:**

- Have a policy and provide training
- Create Accessibility Plan (if over 50 employees)
- Annual Report to MOL (if over 20 employees)

5 Standards = (IASR)

- Customer service
- Information and communication
- Employment
- Design of Public Space
- Transportation

AODA (Cont.)

- **Customer Service Standard**
 - Ensure no barriers to the way your members/participants receive customer service
 - Allow for service animals and support persons
 - Indicate if provide assistive devices
 - Provide notice of any service interruption
 - Provide mechanism for Customer Service Feedback

AODA (Cont.)

- **Information and Communication Standard**
 - Provide alternate formats and communication supports upon request
 - Provide accessible Feedback mechanism, if requested
 - Emergency and Public Safety Information, if requested
 - Websites:
 - Must post general statement of availability of alternate formats
 - If doing a redesign, must meet “WCAG” standards

*Consider design, format, content, availability

AODA (Cont.)

- **Employment Standard**

- Make work opportunities accessible for people with disabilities
- Relates to all phases of employment:
 - Recruitment, hiring, advancement, etc.
 - Individual Accommodation Plans - accessible formats and communication supports for job and workplace
 - Ensure performance management process takes into account accessibility needs of employee
 - Personalized emergency response plan (ERP)

STEPS TO COMPLY WITH AODA

- 1. Create an Accessibility Plan
- 2. Develop Policies, Practices and Procedures
- 3. Train Staff and Volunteers

Resources:

- www.accessforward.ca
- ontario.ca/accessibility-laws

PRIVACY - PIPEDA

- *Personal Information and Protection of Electronic Documents Act*
 - Sets out rules on how to collect, use or disclose “personal information” in the course of commercial activities.
 - Personal Information includes:
 - Home contact info
 - Identification numbers
 - Human Rights characteristics
 - Financial or Health History
 - Criminal History
 - Exceptions:
 - Employee information
 - Business contact information

For more information:

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