

Ontario Working for Workers Four Act, 2023, Receives Royal Assent

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Further to our update on [November 9, 2023](#), regarding Ontario's plan to introduce new legislation that would impact several industries, the [Working for Workers Four Act, 2023](#) ("Bill 149") received Royal Assent on March 21, 2024. Bill 149 brings further changes to Ontario workplace legislation, including the *Employment Standards Act, 2000* ("ESA") and the *Workplace Safety and Insurance Act, 1997* ("WSIA"), among others. We highlight some of the key changes below.

AMENDMENTS TO THE ESA

A "Dine-and-Dash" Provision (*in force as of March 21, 2024*)

Bill 149 prohibits the practice of an employer making deductions from an employee's pay because a customer leaves an establishment without paying for the goods or services received. This provision applies to restaurants, gas stations, and any other establishment, which is defined as any location where an employer carries on business.

Trial Periods (*in force as of March 21, 2024*)

The definition of "employee" in the *ESA* includes a person who receives training from an employer. Bill 149 ensures that "training" includes any work performed during a trial period. This will effectively put an end to the practice of unpaid trial periods.

Payment and Sharing of Tips and Gratuities (*taking effect as of June 21, 2024*)

Bill 149 sets out how an employee shall be paid tips and gratuities, which mirrors the rules on how an employee is to be paid wages. Specifically, tips and gratuities must be paid by cash, cheque, direct deposit, or by any other prescribed method. If paid by direct deposit, employers will be required to ensure that payment is made into an account which is selected by the employee and in the employee's name. In addition, if the employer has a policy that sets out how tips and gratuities are to be shared among employees, this policy must be posted in a conspicuous location in the workplace. A copy of this policy must be retained for three (3) years from the date that the policy ceases to be in effect.

Transparency in Job Postings (*taking effect on a future date to be named by proclamation*)

Bill 149 will require employers to provide an expected compensation range on all publicly advertised job postings. In addition, an employer who uses artificial intelligence to screen, assess, or select applicants will be required to disclose this practice on all publicly advertised job postings. Bill 149 does, however, provide the Government of Ontario with regulatory powers to establish exceptions to this rule. Employers will also be required to retain copies of all publicly advertised job postings for three (3) years after access to the posting by the general public has been removed. Note that “artificial intelligence” and “publicly advertised job posting” will be defined in future regulations.

Prohibition on Requiring Canadian Work Experience (*taking effect on a future date to be named by proclamation*)

Bill 149 provides that an employer’s publicly advertised job posting will be precluded from including in the posting or in any associated application form any requirements related to Canadian work experience. Exceptions to this prohibition will be established by regulation.

AMENDMENTS TO THE WSIA

Esophageal Cancer (*taking effect on a future date to be named by proclamation*)

Currently, if a firefighter or fire inspector suffer from esophageal cancer, it is presumed to be an occupational disease that occurs due to the nature of the worker’s employment if they had at least 25 years of service prior to the diagnosis. Bill 149 will provide for the same presumption after only 15 years of service.

Additional Indexing Factor (*taking effect on a future date to be named by proclamation*)

Bill 149 provides for regulation-making authority with respect to an additional indexing factor. The Ministry of Labour referred to potential regulations under this amendment as “super indexing”, which may increase employee compensation through Workplace Safety and Insurance Board benefits.

OTHER AMENDMENTS

The *Digital Platform Workers’ Rights Act, 2022*, which is not yet in force, will be amended to provide the Government of Ontario with regulation-making authority with respect to compliance rules for providing minimum wages and for the establishment of a recurring pay period. These changes will come into effect on the same date that the original minimum wage provisions come into force, which has yet to be announced.

Bill 149 will also amend the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* by providing regulation-making authority with respect to the establishment of transparent, objective, impartial and fair assessment of qualifications by regulated professions. These changes will also take effect on a future date to be named by proclamation.

TAKEAWAY

Employers should take note of the Bill 149 legislative changes already in force and turn their mind to planning for the changes to come. Furthermore, the Ontario government recently announced that it would be holding consultations on potentially restricting non-disclosure agreements in the settlement of cases of workplace sexual harassment, misconduct or violence, which could be the subject to future legislation. We will provide updates on future developments as more information becomes available.

If you have questions about Bill 149, or how it might impact your workplace, please reach out to a member of Blaney's [Labour and Employment Group](#).

The information contained in this article is intended to provide information and comment, in a general fashion, about recent developments in the law and related practice points of interest. The information and views expressed are not intended to provide legal advice. For specific legal advice, please contact us.