

What is the *Employment Standards Act (ESA)*?

The *Employment Standards Act, 2000 (ESA)* is the law that sets out minimum standards of employment in ***most*** workplaces in Ontario.

Who does the ESA apply to?

The *ESA* applies to ***most*** Ontario employees and their employers. It ***does not*** cover employees and workplaces that come under federal jurisdiction.

Note: Some workplaces are governed by **federal** laws such as: banks, broadcasting, airlines, postal services, telecommunications, cross-border and inter-provincial trucking and some other transportation services. Workers that are subject to federal laws have protection under the *Canada Labour Code* (“CLC”) which sets the minimum standards for employment instead of the *Employment Standards Act*. Under the CLC, there are different rules, deadlines and remedies that apply and it is a good idea to get legal advice and information about this process.

If you are uncertain whether you are a provincially-regulated or federally-regulated employee, contact CALC for help.

For more information on federally regulated workplaces:

- Government of Canada:
<https://www.canada.ca/en/services/jobs/workplace/federally-regulated-industries.html>

For more information about CLC claims:

- Federal Labour Program, toll-free #: 1-800-641-4049

What kinds of things does the *ESA* deal with?

The *ESA* deals with minimum employment standards, including the following:

- **Wage & Payment:** minimum wage, termination and severance, equal pay for equal work
- **Hours of work, Holidays and Leaves of Absence:** vacation entitlement, hours of work, eating periods and overtime, public holidays, leaves of absence (sick leave, pregnancy & parental leave, family caregiver leave, long term illness leave and more)
- **Administration/Enforcement:** continuity of employment (successor employers), posting of *ESA* information, record-keeping, reprisals, liability of directors, complaints and enforcement

Who is responsible for enforcing the *ESA*?

The Ministry of Labour (MOL) is responsible for enforcing the *ESA*.

There are many rights that apply to employees and their employers generally, but there are also exemptions to the minimum standards. The MOL has fact sheets that give more information about exemptions.

See the MOL website: <https://www.ontario.ca/document/industries-and-jobs-exemptions-or-special-rules>

Enforcing minimum standards

Information about how to file a claim under the *ESA* is available on the MOL website at <https://www.ontario.ca/document/your-guide-employment-standards-act-0/filing-claim>.

Keep in mind that you cannot sue in court for wrongful dismissal and file a claim to the MOL to recover the same money.

The *ESA* protects employees who try to enforce their rights. You may have a claim for “reprisal” if you were disciplined or fired because you tried to understand or enforce rights protected by the *ESA*.

Time for making a claim

Claims such as those for termination pay, unpaid wages, reprisal, or leave violations, **must be made within 2 years**.

Money you can claim

As of February 20, 2015, there is no dollar limit for claims. There is a helpful online calculator at: <https://www.ontario.ca/document/your-guide-employment-standards-act-0/educational-resources#section-1>.

Claim process

You can file a claim online, by mail or by fax. After you have filed a claim with the MOL, it will be investigated by an Employment Standards Officer (ESO). This person has the power to order fact finding meetings and inspect workplaces and documents and make an order for the employer to pay you.

Appeals

If you disagree with the decision of the ESO, you can apply for review to the Ontario Labour Relations Board (OLRB) within 30 days of the ESO's Order. For more information, refer to the OLRB website where you will find the forms needed.

Resources:

- Ministry of Labour, Employment Standards Information Centre: 1-800-531-5551 (TTY: 1-866-567-8893)
- Ministry of Labour website, Employment Standards educational videos:
www.ontario.ca/document/your-guide-employment-standards-act-0/educational-resources#section-2
- Ministry of Labour Guide to the *ESA*: www.ontario.ca/document/your-guide-employment-standards-act-0
- How to File a Claim Under the Employment Standards Act, 2000:
www.ontario.ca/document/your-guide-employment-standards-act-0/filing-claim
- Ontario Labour Relations Board website: <https://www.olrb.gov.on.ca/>
- Steps to Justice - <https://stepstojustice.ca/legal-topic/employment-and-work>

IMPORTANT: THIS TIP SHEET IS FOR INFORMATION PURPOSES ONLY AND IS **NOT** LEGAL ADVICE.