

Ontario, Canada Proposes ESA Amendments Relating To Remote Workers And New Hires



On March 13, 2023, Ontario announced that it is proposing two amendments to the *Employment Standards Act, 2000* (ESA) and related regulations.

Employees Who Work Solely from Home to Become Eligible to Receive Enhanced Notice in Context of Mass Termination

Ontario proposes to make employees who work solely from home eligible to receive enhanced notice in the context of a mass termination by expanding the ESA definition of “establishment” to include employees’ remote home offices. Under the ESA, in the context of an individual termination, an employee whose employment is terminated after five years of service is entitled to five weeks’ paid notice or pay-in-lieu. If, however, an employee’s employment is terminated in the context of a “mass termination” they are entitled to enhanced notice.

A “mass termination” occurs when the employment of 50 or more employees is terminated at an employer’s “establishment” within a four-week period. In such circumstances, an employee would be entitled to a minimum of eight weeks’ notice; however, the number of weeks’ notice an employee is entitled to receive depends on the number of employees affected:

Notice Required	Number of Employees Affected
At least 8 weeks	50 to 199
50 to 199	50 to 199
At least 16 weeks	At least 16 weeks

If the proposed amendment to the ESA definition of “establishment” is passed, employees who work solely from home would be required to receive the same enhanced notice as “in office” and other employees in the event of a mass termination.

New Hires to be Provided Information in Writing About Their Jobs

Ontario’s announcement also indicates that proposed regulatory changes would

require employers to provide new hires with information in writing about their jobs, such as pay, work location and hours of work, and the date by which that information must be provided (e.g., before their first shift). At the moment, the ESA requires employers to share with new employees only the latest version of the employment standards poster, which outlines ESA workplace rights and responsibilities.

It remains to be seen whether these proposed changes will be passed via the legislative process once a Bill is introduced. We will follow developments as they unfold and provide updates when information becomes available.

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