

## ISSUES IN CANADIAN EMPLOYMENT & LABOUR LAW

PageTurner is an occasional publication from Turner, A Human Resources Law Firm™ that provides a general overview on topics of interest to our clients. The information contained in PageTurner usually addresses workplace issues or strategies that arise as a result of new legislation, legal developments or case law. At Turner, A Human Resources Law Firm™ our ongoing objective is to provide insightful and practical advice and representation to our clients. Our goal is to help our clients excel.

### CHANGES FROM 2025 TO ONTARIO'S *EMPLOYMENT STANDARDS ACT, 2000*

There were several changes to Ontario's *Employment Standards Act, 2000* (the "ESA") in the latter half of 2025 (as detailed further below) that employers should be reminded of as they enter the new year.

In addition to the new rules and exemptions for Job Postings and Job Posting Platforms recently reported in our January 7, 2026 PageTurner edition, Ontario employers should be aware of the following amendments to temporary lay-offs, employment information to new employees, and several new protected leaves of absence:

- Extended Temporary Lay-off Agreements
- Employment Information for New Employees
- Long-Term Illness Leave
- Job Seeking Leave
- Placement of a Child Leave (Adoption or Surrogacy)

#### Extended Temporary Lay-off Agreements

Historically, a temporary lay-off under the *ESA* was not permitted to last longer than 35 or more weeks in any period of 52 consecutive weeks unless certain conditions were met. However, as of November 27, 2025, under the new section 66.1, "Extended lay-off", an employee and employer may agree to an extended temporary lay-off, provided it is not longer than 52 or more weeks in any period of 78 consecutive weeks. This provision applies to non-unionized employees.

The agreement must be in writing and will not be valid unless the following information was provided to the employee *before* the agreement was made:

- i) the latest date the employer intends to recall the employee; and
- ii) a statement that the agreement cannot be withdrawn once entered into.

Applications for extended lay-off must be approved by the Director of Employment Standards and must be made using the approved form. Employers must also retain extended lay-off agreements for 3 years after such approval expires.

### **Employment Information for New Employees**

As of July 1, 2025, employers with 25 or more employees are required under the new regulation, O. Reg. 477/24 to provide each new employee with the below information, in writing, related to their employment, which must be provided to the employee before their first day of work or as soon after that date as is reasonably possible:

- the employer's legal name (and any operating or business name if different from the legal name);
- contact information for the employer, including address, telephone number, and one or more contact names;
- a general description of where it is anticipated that the employee will perform their work;
- the employee's starting hourly or other wage rate or commission (as applicable);
- the employees pay period and pay day; and
- a general description of the employee's initial anticipated hours of work.

These new requirements do not apply to assignment employees employed by a temporary help agency who perform work on a temporary basis for clients of the agency.

### **Long-Term Illness Leave**

Since June 19, 2025, a new leave of absence for long-term illness has enabled employees who have been employed for at least 13 consecutive weeks to take an unpaid leave of absence if both of the following criteria are met:

- i) the employee will not be performing the duties of their position because of a serious medical condition; and
- ii) a qualified health practitioner issues a certificate which:
  - a) states that the employee has a serious medical condition; and
  - b) sets out the period in which they will not be working as a result.

A "serious medical condition" is defined for the purposes of taking Long-Term Illness Leave as including both chronic and episodic conditions. Although this is broadly stated and ultimately up to the employee's qualified health practitioner to determine, if requested by an employer, the employee must furnish a copy the certificate noted above as soon as possible.

This leave may be taken for up to 27 weeks total in any 52-week period, even if the employee has more than one serious medical condition. The leave must be taken in entire weeks, regardless of whether the employee takes any part of a week as leave.

Notwithstanding the 27-week entitlement, if the certificate sets out a shorter period for the leave, the employee is only entitled to take that which is specified in the certificate, and the leave must end on the last date so specified.

If, following the end of an employee's leave taken under this section, the employee continues to have a serious medical condition, the employee may take a new Long-Term Illness Leave or an extension of the leave if:

- i) an additional certificate from a qualified health practitioner is issued that sets out a different period during which the employee will not be performing the duties of their position as a result of a serious medical condition;
- ii) the total amount of the leave that has already been taken and the amount of the new or extension of the leave does not exceed 27 weeks in total; and
- iii) the leave ends no later than the last day of the 52-week limitation period noted above.

For additional leaves after the 52-week limitation period has ended, an employee is entitled to take another leave and the above-noted requirements will apply to the new leave.

Specified records related to an employee's Long Term Illness Leave must be retained by employers for 3 years after the day on which the leave expired.

### **Job Seeking Leave**

As of November 27, 2025, a new leave of absence established under the *ESA* provides employees who have received a notice of mass termination (i.e. when an employer terminates 50 or more employees within a 4-week period) with 3 unpaid days of leave to engage in activities related to obtaining employment including job searches, interviews and training.

Eligible employees must notify their employer at least 3 days before beginning the leave, if possible, and employers are entitled to require evidence reasonable in the circumstances of the employee's entitlement.

Importantly, this leave is not in addition to any similar entitlements (whether paid or unpaid) provided under an employment contract; this means that if an employee takes time off for circumstances in which they would also be entitled to this new leave, the Job Seeking Leave will be deemed to have been taken.

Employees will also not be entitled to this leave if they are terminated with notice that is 25% or less of the required notice period and receive termination pay in lieu of the remaining required notice.

All documents related to an employee taking Job Seeking Leave must be retained by employers for 3 years after the day on which the leave expired.

### **Placement of a Child Leave**

Although not yet in force, a new leave established under the ESA's Part XIV Leaves of Absence now includes an unpaid leave of absence of up to 16 weeks (taken consecutively) due to either:

- i) the placement of a child into an employee's custody, care and control for the first time for the purposes of adoption; or
- ii) the arrival of a child into an employee's custody, care and control for the first time where the person who gave birth to the child is a surrogate.

Other prescribe events related to surrogacy or adoption may be established.

The employee may commence the leave up to 6 weeks before the expected date of placement. Interestingly, if during this leave, the employee is advised that the placement of the child will not occur, the leave may continue for up to 14 days.

To qualify for this type of leave, an employee must have worked for the employer for at least 13 weeks, and an employer may require the employee to provide evidence reasonable in the circumstances of their entitlement to the leave.

Records related to this leave must be retained for 3 years after the day on which the leave expires.

This leave will come into effect on a day to be proclaimed by the Lieutenant Governor.

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For assistance interpreting or applying the new ESA rules, please call Turner HR.

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Please note that material contained in this update is meant to provide a general discussion or overview with respect to certain areas of employment and labour law. PageTurner is not a substitute for legal advice or other professional advice. While we believe that the information provided in PageTurner is helpful and provides a solid foundation, many issues in the workplace turn on a specific set of facts for which customized advice should be obtained. Additionally, although PageTurner sets out the law as it stands at the time of publication, the law and statutes change and it is important to remain current.