

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.

NEW YEAR, NEW RULES FOR JOB POSTINGS

What's New?

Effective January 1, 2026, Ontario employers must ensure they are complying with the new pay transparency and job postings obligations, including the following, as is further detailed below:

- Listing expected compensation or range of compensation for publicly advertised postings
- Disclosure obligations for use of AI when screening, assessing or selecting applicants
- Not including Canadian experience requirements
- Notification to candidates within prescribed timelines
- Records retention obligations
- Job Posting Policy

Who does it Apply to?

These rules were enacted under the new Part III.1 provisions of the Ontario *Employment Standards Act, 2000* (the “ESA”). Accordingly, they apply to employers in Ontario who are governed by the ESA and who employ more than 25 employees at the time of the posting(s) in question.

The new rules do not apply to temporary help agencies, online platforms operated by an employer that only advertise publicly advertised postings for positions *with the employer*, or to any other such prescribed online platforms. They also do not apply to general recruitment campaigns that are not tied to a specific role, a general help wanted sign that does not advertise a specific position, postings for positions that are restricted to existing employees, or postings for positions for which work is to be performed outside Ontario (or outside *and* inside Ontario but the work performed outside Ontario is not a continuation of work performed in Ontario).

Why is this Required?

The new rules require, among other things, wage transparency in publicly advertised postings with the intended objective of increasing transparency and fairness in recruitment

and compensation practices. The legislation is also expected to cover all wage and job categories, reflecting the goal of system-wide fairness and transparency in compensation structures.

What Must Employers Comply With?

The new rules require information regarding the expected compensation or range of expected compensation for the position being posted (within \$50,000); however, pursuant to the new Ontario Regulation 476/24 (Rules and Exemptions re Job Postings), this requirement does not apply where expected compensation exceeds \$200,000.

Employers are also prohibited from including requirements related to Canadian experience in the posting or any related application forms. This is intended to prevent indirect discrimination and promote fair access to employment for all qualified candidates, regardless of where their experience was gained. Further, employers engaging the use of artificial intelligence (“AI”) to screen, assess or select applicants for a position must also disclose the use of AI.

Employers must also: confirm whether a posting is for a current vacancy; notify in writing or in person all candidates who have been interviewed of hiring decisions within 45 days; and retain hiring records for at least 3 years, including those related to the job posting, the application forms used, and any communications related to interview follow-up.

Finally, there is a new requirement that any person who operates a job posting platform has a mechanism or procedure in place for users to report fraudulent publicly advertised postings, as well as a written policy regarding same that must be conspicuously posted on the platform.

What to Do Next?

If your organization has not yet reviewed and adapted its hiring processes to reflect these new requirements, now is the time to do so. We also suggest developing and implementing reliable mechanisms (such as a tickler system) to ensure the 45-day notification obligations are being met, as well as a method for retaining proof of such communications and records.

Please call Turner HR with any questions and for assistance in ensuring you understand and are meeting these new obligations.

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.