

Changing Work Place - Recommendation from OES Inc.

Issue	OES Inc. Preferred Option		
Misclassification of Employees	Increase education of workers and employers with respect to rights and obligations.		
Definition of Employee in the ESA	Include a dependent contractor provision in the ESA, and consider making clear that regulations could be passed, if necessary, to exempt particular dependent contractors from a regulation or to create a different standard that would apply to some dependent contractors		
Who is the Employer and Scope of Liability	Create a joint employer test akin to the policy developed by the DOL in the US as outlined above.		
Exemptions, Special Rules and General Process	1) exemptions where we may recommend elimination or alteration without further review beyond that which we will undertake in this review process;	information technology professionals;	Amend the definition to try to make its scope clearer.

		managers and supervisors	<p>Include in the definition of managers and supervisors those who:</p> <ul style="list-style-type: none"> • earn more than a certain amount in wages/salary; and/or • managers only and not supervisors; and/or • exempt only supervisors and managers who regularly direct the work of two or more full-time employees or their equivalent, or some other number (and the employee must have the authority to hire or fire other employees, or have an effective power of recommendation with respect to hiring, firing, advancement, promotion or any other change of status); or • the employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
Hours of Work and Overtime	<ul style="list-style-type: none"> • Eliminate the requirement for employee written consent to work longer than the daily or 		

Pay	<p>weekly maximums but spell out in the legislation the specific circumstances in which excess daily hours can be refused.</p> <ul style="list-style-type: none"> • Eliminate or decrease the daily rest period below 11 hours which would effectively increase the potential length of the working day above 12 hours. • Eliminate requirement for Ministry approval for excess weekly hours between 48 and 60 hours. Maintain requirement for Ministry approval for excess hours beyond 60 hours only. Maintain requirement for employee written agreement.
Scheduling	Maintain the status quo.
Public Holidays	Maintain status quo – maintain the current public holiday pay calculations – i.e., total amount of regular wages earned and vacation pay payable to the employee in the 4 work weeks before the work week in which the public holiday occurred, divided by 20.
Paid Vacation	Increase entitlement to 3 weeks after a certain period of employment with the same employer – either 5 or 8 years.
Personal Emergency Leave	<p>Break down the</p> <p>10-day entitlement into separate leave categories with separate entitlements for each category but with the aggregate still amounting to 10 days in each calendar year. For example, a specified number of days for each of personal illness/injury, bereavement, dependent illness/injury, or dependent emergency leave but the total days of leave still adding up to 10.</p>
Paid Sick Days	<ul style="list-style-type: none"> • Introduce paid sick leave – Paid sick leave could: <ul style="list-style-type: none"> ○ have to be earned by an employee at a rate of 1 hour for every 35 hours worked with a cap of a set number of days(4 days);
Other Leaves of Absence	Review the ESA leave provisions in an effort to consolidate some of the leaves.
Termination, Severance and Just Cause	Require employees to provide notice of their termination of employment
Severance Pay	Maintain status quo
Just Cause	Maintain the status quo.
Greater Right or Benefit	Allow employers and employees to contract out of the ESA based on a comparison of all the minimum standards against the full terms and conditions of employment in order to determine whether the employer has met the overall objectives of the Act.
Written Agreements Between	

Employers and Employees to Have Alternate Standards Apply	Amend the ESA to reflect the Ministry of Labour ES Program policy that electronic agreements can constitute an agreement in writing.
Pay Periods	Maintain the status quo.
Creating a Culture of Compliance	<p>An Employment Standards compliance IRS could be accomplished by expanding the jurisdiction of existing joint health and safety committees and representatives (a committee is generally not required in small workplaces with fewer than 20 workers; a workplace representative is generally required only in workplaces with 6 to 19 workers):</p> <ul style="list-style-type: none"> • to give them authority to deal with ESA matters; or • to have other committees/representatives appointed in the workplace with jurisdiction to deal with ESA compliance.
Reducing Barriers to Making Claims	<ul style="list-style-type: none"> • Maintain the status quo with a general requirement to first raise the issue with employers but at the same time maintain the existing policy exceptions and maintain current approach of accepting anonymous information that is assessed and potentially triggers a proactive inspection. • Do not allow anonymous complaints, but protect confidentiality of the complainant, it being understood that the facts of the alleged violation must be disclosed to the employer by an ESO in order to permit an informed response
Reprisals	Maintain the status quo
Inspections, Resources, and Implications of Changing Workplaces for Traditional Enforcement Approaches	Maintain the status quo
Use of Settlements	Maintain the status quo
Remedies and Penalties	Maintain the status quo.
Applications for Review	Require ESOs to include all of the documents that they relied upon when reaching their decision (e.g., payroll records, disciplinary notices, medical certificates) when they issue the reasons for their decision. This will ensure that the OLRB has a record before it of the documents relied on by the ESO in making an order or in denying a complaint. Such a mandatory process should lead to a more consistent quality of decision-making by ESOs and would help explain the decision to the affected part
Collections	Maintain the status quo.

In addition to the above we wanted to include one additional topic about Travel Time:

Travel Time : when an employee is traveling in Business trips and they are in the way (in cars, airplanes, ..etc.) , we would like to suggest that they should not be paid for the time they spend in the way and not doing any work but get paid for the time they are performing the required job duties at the destination.