

# Ontario Employment Matters: 2023 Round Up and What's Ahead in 2024

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As 2023 winds down and the new year approaches, below are some of the key employment law changes recently made in Ontario, as well as some potential developments that may be enacted in 2024.

## **Recent Changes in Ontario:**

### ***Employment Standards Act***

Bill [79](#), Working for Workers Act, 2023, made a number of changes to the *Employment Standards Act, 2000* ("ESA") that came into force on October 26, 2023, including the following:

- **Group Terminations.** Employees who work fully remotely now count towards the threshold for determining whether a reduction in force amounts to a "group termination" under the ESA. Accordingly, employers must consider remote workers whose employment they intend to terminate when determining whether the employer will terminate 50 or more employees at an employer's "establishment" in the same 4-week period. Where that is the case, the employer must comply with the ESA's group termination provisions, which require, among other things, the provision of additional notice to employees and submission of a report to the Ministry of Labour.
- **Reservist Leave.** Statutory-protected reservist leave has been expanded to include time off an employee requires to recover from a physical or mental health illness, injury or medical emergency related to participation in a military operation or training. Further, the waiting period for new hires to be eligible to take reservist leave has been reduced from three to two months of consecutive employment. Employers who describe reservist leave entitlements in their employee handbooks or workplace policies should update those materials to reflect these changes.

### ***Workplace Safety***

On December 1, 2023, the Workplace Safety Insurance Board of Ontario (“WSIB”) added a new “Communicable Diseases” [policy](#) to its Operational Policy [Manual](#) that provides guidelines for claims for communicable illnesses. The new policy defines a “communicable illness” as “an illness resulting from infectious agents such as viruses, bacteria, and fungi” and establishes that an employee has initial entitlement to workers’ compensation benefits if an employee’s communicable illness “arose out of and in the course of employment, in that the employment made a significant contribution to contracting the communicable illness.” The policy sets out guidelines, factors, and evidence to be considered in making such a determination and applies to employee claims made to WSIB with an accident date on or after December 1, 2023.

### **Looking Ahead to 2024:**

Bill [149](#), Working for Workers Four Act, 2023, was tabled on November 14, 2023 and has been referred to the Ontario Legislature’s Standing Committee on Social Policy. If passed as currently drafted, Bill 149 would make a number of changes to the ESA, including the following:

- **Canadian Experience.** Employers would be prohibited from including any requirements related to “Canadian experience” in publicly advertised job postings or any associated application forms. This change is intended to remove barriers to employment imposed on internationally trained immigrants and is consistent with the Ontario Human Rights Commission’s [position](#) that strict “Canadian experience” requirements are often discriminatory in contravention of the Ontario *Human Rights Code*.
- **Pay Transparency.** Employers would be required to disclose the expected compensation for a position or the range of expected compensation for a position in public job postings. Similar requirements already exist in British Columbia and Prince Edward Island. As employers can expect greater public scrutiny of their pay practices resulting from this potential requirement, they should ensure their pay equity plans and practices are up to date and comply with Ontario’s *Pay Equity Act* and consider that competitors will have insight into their employee compensation. Accompanying regulations, if enacted, may further inform how employers approach this pay transparency requirement.
- **Artificial Intelligence.** Employers would be required to disclose in public job postings whether they will use artificial intelligence to screen, assess or select applicants for the position. In addition to complying with this expected disclosure requirement, employers who use artificial intelligence in their hiring processes should be cognizant of the potential for biases built into such tools to produce prohibited discriminatory effects, as well as employer privacy and consent obligations when collecting and storing personal information provided by candidates.

We will continue to monitor the progress of this proposed legislation and will provide future updates.

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National Law Review, Volume XIII, Number 353

Source URL: <https://natlawreview.com/article/ontario-employment-matters-2023-round-and-whats-ahead-2024>