

Index

AGREEMENTS TO VARY FROM CERTAIN EMPLOYMENT STANDARDS

See also Overtime
Agreements in writing, **1:6**
Areas where parties permitted to vary statutory standards, **1:6**
Guidelines regarding agreements to vary
generally, **1:6**
clear and specific, **1:6**
electronic agreements, **1:6**
excess hours agreement, **1:6**
future arrangements, **1:6**
invalid if coerced or forced to sign, **1:6**
overtime entitlements, **1:6**
parties required to know and understand contents, **1:6**
“informed consent,” **1:6**
provisions to be included, **1:6**
signed by both parties, **1:6**
vacation time, **1:6**

AMBULANCE SERVICES EMPLOYMENT

Reg. 491/06 — Ambulance Services, **APP B § B:7**

ASSOCIATED OR RELATED BUSINESSES

Examples of, **1:23**
Test of, **1:23**
Treat as one employer in some cases, **1:23, APP A § A:3 [ESA 4]**

AUTOMOBILE INDUSTRY EMPLOYMENT

Reg. 502/06 — Automobile Manufacturing, Automobile

AUTOMOBILE INDUSTRY

EMPLOYMENT—Cont'd

Parts Manufacturing,
Automobile Parts Warehousing
and Automobile Marshalling,
APP B § B:8

BENEFIT PLANS

Differentiation prohibited based on age, gender or marital status,
1:25, APP A § A:17 [ESA 44]
Reg. 286/01 — Benefit Plans,
1:25, APP B § B:1

BEREAVEMENT LEAVE

See also Leaves of Absence
Defined, **1:61**
Entitlement, **1:61**
Who may apply, **1:61**

BUILDING SERVICES

PROVIDERS

“Building services” defined, **1:100, APP A § A:1, APP A § A:25 [ESA 1(1)]**
“Building services provider” defined, **1:100, APP A § A:1, APP A § A:25 [ESA 1(1)]**
Employment not deemed to be terminated or severed where employment continued, **1:100, APP A § A:4 [ESA 10(2)]**
Information to be furnished to new provider of building services, **1:100, APP A § A:25 [ESA 77]**
New building services provider generally, **1:100**
compliance with termination and severance provisions generally, **1:100, APP A § A:25 [ESA 75(2)]**

BUILDING SERVICES

PROVIDERS—Cont'd

- New building services provider
 - Cont'd
 - compliance with termination and severance provisions
 - Cont'd
 - compliance not required where employee did not perform duties, **1:100**
 - compliance not required where employee refuses offer, **1:100**
 - compliance not required where employee retained, **1:100**
 - compliance required where employment not continued, **1:100**
 - “prescribed” employees not entitled to termination or severance pay, **1:100**
- Reg. 287/01 — Building Services Providers, **1:100, APP B § B:2**
- Replaced building services provider, **1:100**
 - accrued vacation pay to be paid where ceasing operations, **1:100, APP A § A:25 [ESA 76(1)]**

**CHILD DEATH LEAVE AND
CRIME-RELATED
DISAPPEARANCE LEAVE**

- See also Leaves of Absence
- Child defined, **1:68, APP A § A:18 [ESA 49.6(1)]**
- Child has died or has disappeared as result of a crime, **1:68**
 - crime defined, **1:68, APP A § A:18 [ESA 49.6(1)]**
- Employer may request evidence “reasonable in the circumstances,” **1:68, 49.6(14)], APP A § A:18 [ESA 49.5(10)]**
- Length of leave, **1:68, 49.6(2)], APP A § A:18 [ESA 49.5(2)]**

**CHILD DEATH LEAVE AND
CRIME-RELATED
DISAPPEARANCE LEAVE
—Cont'd**

- Notice in writing, **1:68, 49.6(11)], APP A § A:18 [ESA 49.5(7)]**
 - rules if child found, **1:68, APP A § A:18 [ESA 49.6(6)]**
 - written plan, **1:68**
- Qualification to take leave, **1:68**
- When leave may be taken, **1:68**

COMPENSATION ORDER

- See also Enforcement of ESA, 2000
- Generally, **1:110**

COMPLIANCE ORDERS

- See also Enforcement of ESA, 2000
- Generally, **1:112**

CONCURRENT PROCEEDINGS

- Civil proceeding not allowed where complaint filed, **1:120, APP A § A:28 [ESA 97]**
 - exception where complaint withdrawn, **1:120, APP A § A:28 [ESA 97(4)]**
- Complaint not permitted where civil proceedings, **1:120, APP A § A:28 [ESA 98(1)]**
- “Cooling off period,” **1:120**

CONSTRUCTIVE DISMISSAL

- See also Termination of employment
- Generally, **1:97**

COVID-19, IMPACT OF

- Access to a protected infectious disease emergency leave, **1:1, 1:56, 1:69**
- Assignment employee, **1:105**
- COVID-19 declared “designated infectious disease,” **1:56, 1:69**
- COVID-19 period established, **1:1, 1:56, 1:69**
- Deemed hours of work, **1:53**

COVID-19, IMPACT OF—Cont'd

- Emergency leave for declared emergencies and infectious disease emergencies, **1:69**
- Emergency orders and order-making powers under Reopening Ontario (A Flexible Response to COVID-19) Act, **1:69**
- Extending unpaid protected emergency leave, **1:1**
- Hybrid and remote workplaces, considerations, **1:11**
- Incremental approach to re-opening businesses, **1:1**
- Infectious Disease Emergency Leave (Regulation 228/20), **1:97, APP B § B:17**
- Notable 2022 changes to ESA, 2000, **1:128**
- Records of declared emergency and infectious disease leave kept for three years, **1:20**
- State of emergency declared under Ontario Emergency Management and Civil Protection Act, **1:1**
- Temporary measures ended, **1:1**
- Temporary paid infectious disease emergency leave, **APP A § A:33**

CRITICAL ILLNESS LEAVE

- See also Leaves of Absence
- Care or support of critically ill adult family member leave of 17 weeks, **1:66**
 - defined, **1:66, APP A § A:1 [ESA 41.4(5)]**
- Care or support of critically ill minor child leave of 37 weeks, **1:66, APP A § A:18 [ESA 49.4(2)]**
 - defined, **1:66**
- Certificate from health practitioner, **1:66, APP A § A:18 [ESA 49.4(20)]**

CRITICAL ILLNESS LEAVE**—Cont'd**

- Compassionate care benefits attestation form, **1:66**
- Critically ill defined, **1:66, APP A § A:18 [ESA 49.4(1)]**
- Employment Insurance benefits, **1:66**
- End of leave, **1:66**
- Extension of leave, **1:66**
- Family member defined, **1:66**
- Leaves need not be taken consecutively, **1:66**
- Leaves need not be taken in complete weeks, **1:66**
- No limit on number of leaves, **1:66**
- Notice in writing, **1:66, APP A § A:18 [ESA 49.4(17)]**
 - written plan, **1:66**

DECLARED EMERGENCY LEAVE

- See also Leaves of Absence; Emergency leave for declared emergencies and infectious disease emergencies
- 14 days unless terminated or extended, **1:69**
- Emergency declared under Emergency Management and Civil Protection Act (EMCPA), **1:69, APP A § A:18 [ESA 50.1(1)]**
- Emergency orders, **1:69, APP A § A:18 [ESA 50.1(4)]**
- Employer, small or large, **1:69**
- Evidence reasonable in circumstances, **1:69, APP A § A:18 [ESA 50.1(4)]**
- Notification in advance, **1:69**
- Overpayment recovery, Reg. 637/21, **APP B § B:18**
- Part-time or full-time employees, **1:69**
- Private or public companies, **1:69**

DECLARED EMERGENCY

LEAVE—Cont'd

- Right to a leave, **1:69**
- eligibility criteria, **1:69**
- Unpaid leave, **1:69**

DEFINITIONS

- Generally, **APP A § A:1 [ESA 1(1)]**
- Training includes trial periods, **APP A § A:1 [ESA 1(2.1)]**

DIGITAL PLATFORM

WORKERS' RIGHTS ACT

- Gratuities, **1:10**
- Maintain records, **1:10**
- Non-compliance, **1:10**
- Operators, **1:10**
- Recurring pay period and pay day, **1:10**
- Worker rights, **1:10**

DIRECTORS, LIABILITY FOR WAGES

- Liability, **APP A § A:26 [ESA 81]**
- Maximum liability, **1:117, APP A § A:26 [ESA 81(7)]**
- Types of payments
 - generally, **1:117**
 - holiday pay, **1:117, APP A § A:26 [ESA 81(5)]**
 - overtime, **1:117, APP A § A:26 [ESA 81(6)]**
 - vacation pay, **1:117, APP A § A:26 [ESA 81(4)]**
- wages
 - generally, **1:117, APP A § A:26 [ESA 81(3)]**
 - insolvent company, **1:117**
 - order by employment standards officer, **1:117**
 - order by OLRB, **1:117**

DISCONNECTING FROM WORK

- Generally, **1:11, 1:33, 1:128**
- Definitions, **APP A § A:9 [ESA 21.1.1]**

DISCONNECTING FROM WORK —Cont'd

- Policy
 - copy to be provided to employees, **21.1.2(3), APP A § A:9 [ESA 21.1.2(2)]**
 - employer with 25 or more employees to have policy, **APP A § A:9 [ESA 21.1.2(2)]**
 - mandatory written policies, **1:31, 1:32**
 - prescribed information, **APP A § A:9 [ESA 21.1.2(4)]**
 - records of policies to be kept, **APP A § A:7 [ESA 15(8.1)]**

DOMESTIC OR SEXUAL VIOLENCE LEAVE

- See also Leaves of Absence
- Effective January 1, 2018, **1:67**
- Entitlement after 13 weeks to 10 days and 15 weeks, **1:67, (4), APP A § A:18 [ESA 49.7(2)]**
- First 5 days paid leave, **1:67, APP A § A:18 [ESA 49.7(5)]**
- Partially paid leave, **1:67**
- Purposes, **1:67**
- Request reasonable evidence from employee, **1:68, APP A § A:18 [ESA 49.7(15)]**

DRESS CODES

- Deduction by employer from wages, **1:107**
- Determined by employer, **1:107**
- Violation of collective agreement, **1:107**
- Violation of human rights, **1:107**

ELECTRONIC MONITORING, WRITTEN POLICY

- Generally, **1:1, 1:11, 1:33, 1:128**
- Complaints, **APP A § A:15 [ESA 41.1.1(6)]**
- Copy to be provided to employees, **APP A § A:15 [ESA 41.1.1(3) to 41.1.1(5)]**

**ELECTRONIC MONITORING,
WRITTEN POLICY—Cont'd**
 Employer to provide, **APP A § A:15**
[ESA 41.1.1(1)]
 Mandatory written policies, **1:33**
 Record of policy to be kept, **APP A**
§ A:7 [ESA 15(8.2)]
 Required information, **APP A**
§ A:15 [ESA 41.1.1(2)]
 Use of information, **APP A § A:15**
[ESA 41.1.1(7)]

**EMERGENCY LEAVE FOR
DECLARED EMERGENCIES
AND INFECTIOUS DISEASE
EMERGENCIES**
 See also COVID-19, impact of
 At direction of employer, **1:69**
 Conflict with transitional regula-
 tions, **1:69, APP A § A:33**
[ESA 141(2.0.4)]
 Declared emergency ends after 14
 days, **1:69**
 Deemed taken in entire days, **APP**
A § A:18 [ESA 50.1(1.6)]
 Definitions under, **APP A § A:18**
[ESA 50.1(1)]
 Election re unpaid days, **APP A**
§ A:18 [ESA 50.1(1.8) to
50.1(1.10)]
 Eligibility
 generally, **1:69**
 circumstances of eligibility, **1:69**
 without pay, **APP A § A:18 [ESA**
50.1(1.1)]
 with pay, **APP A § A:18 [ESA**
50.1(1.2)]
 Employee deemed to have taken
 infectious disease emergency
 leave, **1:69, APP A § A:33**
[ESA 141(2.2)]
 Job-protected leave without pay
 during declared emergency,
1:69, APP A § A:18 [ESA
50.1(1.1)]
 Length of leave, **APP A § A:18**
[ESA 50.1(1.3)]

**EMERGENCY LEAVE FOR
DECLARED EMERGENCIES
AND INFECTIOUS DISEASE
EMERGENCIES—Cont'd**
 Medical certificate request
 prohibited, **1:69**
 Overpayment recovery, **APP A**
§ A:18, APP B § B:18
 Paid days taken first, **APP A § A:18**
[ESA 50.1(1.7)]
 Paid leave, public holiday, **APP A**
§ A:18 [ESA 50.1(1.13)]
 Paid leave, rate of pay, **APP A**
§ A:18 [ESA 50.1(1.11) to
50.1(1.12)]
 Paid leave taken under employment
 contract, **50.1(1.5), APP A**
§ A:18 [ESA 50.1(1.4)]
 Reimbursement of certain pay-
 ments, **APP A § A:18 [ESA**
50.1.1]
 Transitional regulations, **1:69, APP**
A § A:33 [ESA 141(2.0.3.7),
(2.0.3.8)]
 Where hours of work considered
 reduced, **1:69**

**EMERGENCY MANAGEMENT
AND CIVIL PROTECTION
ACT**
 Generally, **1:1, 1:69, APP B § B:17**

**EMPLOYEE DISCOUNTS, NOT
COVERED BY ESA, 2000**
 Generally, **1:107**

**EMPLOYMENT PROTECTION
FOR FOREIGN NATIONALS
ACT**
 Generally, **1:105**

**EMPLOYMENT STANDARDS
AMENDMENT ACT
(INFECTIOUS DISEASE
EMERGENCIES), 2020**
 Regulations re emergency leaves,
 declared emergencies, infec-
 tious disease emergencies,

**EMPLOYMENT STANDARDS
AMENDMENT ACT
(INFECTIOUS DISEASE
EMERGENCIES), 2020**

—Cont’d

APP A § A:33 [ESA 141(2.2)]

Regulations re infectious disease
emergencies, **APP A § A:33**
[ESA 141(2.1)]

**EMPLOYMENT STANDARDS
OFFICER**

See Enforcement of ESA, 2000

ENFORCEMENT OF ESA, 2000

Collection powers of Director
generally, **APP A § A:30 [ESA**
125 to 125.3]

authorization of collectors, **APP**
A § A:30 [ESA 127]

powers of collectors, **APP A**
§ A:30 [ESA 128]

settlement by collector, **APP A**
§ A:30 [ESA 129]

Complaint procedure

generally, **1:108**

employee complaint, **1:108**

approved form, **1:108, APP A**
§ A:28 [ESA 96(2)]

employee represented by
union, **1:108, APP A**
§ A:28 [ESA 99]

employment standards officers
authorized to attempt settle-
ment of claims, **1:108**

filing a claim, **1:108**

“self-help” efforts no longer
required, **1:108**

two-year time limit, **1:117**

Compliance orders

generally, **1:109 to 111, APP A**
§ A:28 [ESA 108]

issued in conjunction with other
monetary orders, **1:110,**
1:112

non-monetary violations,
remedying, **1:112**

ENFORCEMENT OF ESA, 2000

—Cont’d

Compliance orders—Cont’d

payment of wages or compensa-
tion not permitted, **1:112**

specific orders, **1:112**

Director, liability of, **1:117**

powers of, **88.1, 88.2], APP A**
§ A:27 [ESA 88]

Employer recognition, **1:116**

Employment standards officer,
investigation by
generally, **1:108**

absence of a complaint, **1:108**

fact-finding meeting, attendance
by employer and employee
at, **1:108, APP A § A:28**
[ESA 102]

failure to attend meetings,
1:108, APP A § A:28
[ESA 102(10)]

powers of investigation and
inspection, **1:108, 1:125,**
APP A § A:27 [ESA 91]

policies, officers to follow,
1:108, APP A § A:27
[ESA 89]

without warrant, **1:108**

self-audit notice to employer,
APP A § A:27 [ESA
90(10.1)]

warrants, **APP A § A:27 [ESA**
92]

Limitations on recovery See Limita-
tions on recovery

Notice of contravention

generally, **1:113, APP A § A:28**
[ESA 113]

deemed contravention if

employer failing to apply for
review of notice, **1:113,**
APP A § A:28 [ESA 113(5)]

dispute of notice, **1:113**

information describing nature of
contravention, **1:113, APP A**
§ A:28 [ESA 113(2)]

ENFORCEMENT OF ESA, 2000**—Cont'd**

- Notice of contravention—Cont'd
 - penalties, **1:113, (6), APP A § A:28 [ESA 113(1.1)]**
 - publication of, **APP A § A:28 [ESA 113(6.2)]**
 - payment of penalties, **1:113**
 - review of notice of contravention, application for, **1:113, APP A § A:29 [ESA 122]**
 - hearing by OLRB, **1:113, APP A § A:29 [ESA 123(2)]**
 - onus on Director of Employment Standards to establish contravention, **1:113, APP A § A:29 [ESA 122(4)]**
 - service of notice, **1:113, APP A § A:28 [ESA 113(3)]**
 - unionized employee, not used where, **1:113**
- Obstruction, **APP A § A:27 [ESA 91(11)]**
- Offences and penalties See Offences and penalties
- Order for compensation or reinstatement
 - generally, **1:110, APP A § A:28 [ESA 104]**
 - administration fee, **1:109**
 - amount of compensation to be set out, **1:109**
 - damages recoverable, types of
 - generally, **1:110**
 - benefit plan entitlements, **1:110**
 - direct earning loss, **1:110**
 - emotional “pain and suffering,” **1:110**
 - expenses incurred in seeking new employment, **1:110**
 - loss of employee’s reasonable expectation of continued employment, **1:110**

ENFORCEMENT OF ESA, 2000**—Cont'd**

- Order for compensation or reinstatement—Cont'd
 - damages recoverable, types of
 - Cont'd
 - pre-reinstatement compensation, **1:110**
 - reasonable foreseeable damages, **1:110**
 - severance pay, **1:110**
 - time required to find new job and termination notice or pay, **1:110**
 - no limit on amount of order, **1:110**
 - obligation to mitigate losses, **1:110**
 - security, warrants and liens, **1:115, 1:126.2, 1:126.3, APP A § A:30 [ESA 125.1]**
 - Order to pay wages, **1:109, APP A § A:28 [ESA 103(1)]**
 - administration fee, **1:109, APP A § A:28 [ESA 103(2)]**
 - appeal within 30 days, **1:109**
 - Penalties for notice of contravention, **1:113, APP B § B:4**
 - payment of penalty, **1:113**
 - Reinstatement, **1:110**
 - Review application See Review application
 - Third party demands, **1:111**
 - Director can demand money held by third party, **1:111**
 - Ticketing See Ticketing
- EQUAL PAY FOR EQUAL WORK**
- Differentiating between sexes permitted on certain basis, **1:24, APP A § A:16 [ESA 42(2)]**
 - Reducing wages of employee to comply not permitted, **1:24, APP A § A:16 [ESA 42(3)]**
 - Same rate of pay for males and females, **1:24, APP A § A:16 [ESA 42(1)]**

**EXEMPTIONS, SPECIAL RULES
AND MINIMUM WAGE**

Business consultants and IT consultants, **1:43, APP A § A:3**
 Information technology professionals, **1:44**
 Reg. 285/01 — When Work Deemed to be Performed, Exemptions and Special Rules, **1:5, 1:30, 1:35, 1:44, 1:48, 1:101, APP B § B:3**
 Supervisory/managerial employees, **1:42**

FAMILY CAREGIVER LEAVE

See also Leaves of Absence
 Care or support of family member with serious medical condition, **1:65, APP A § A:18 [ESA 49.3(2)]**
 list of included family members, **1:65, APP A § A:18 [ESA 49.3(5)]**
 Certificate from health practitioner, **1:65, (8), APP A § A:18 [ESA 49.3(2)]**
 Eight weeks leave need not be taken consecutively, **1:65**
 Eight weeks leave need not be taken in complete weeks, **1:65**
 No limit on number of leaves, **1:65**
 Notice in writing, **1:66, APP A § A:18 [ESA 49.3(6)]**

FAMILY MEDICAL LEAVE

See also Leaves of Absence
 “Compassionate Care Benefits Attestation” form, **1:62**
 Employment Standards Act changes, **1:59**
 Entitled to 28 weeks unpaid leave, **1:62, APP A § A:18 [ESA 49.1(2)]**
 Family members, specified, **1:62**
 Federal “compassionate care leave” benefits, **1:62**

FAMILY MEDICAL LEAVE

—Cont’d

Full-time and part-time employees, **1:62**
 Further job-protected leave, **1:62, APP A § A:18 [ESA 49.1(11)]**
 Leave taken in periods of entire weeks, **1:62, APP A § A:18 [ESA 49.1(7)]**
 Leave without pay, 28 weeks, **1:62**
 Medical certificate, **1:62, (10), APP A § A:18 [ESA 49.1(2)]**
 Notification in writing, **1:62, APP A § A:18 [ESA 49.1(8)]**
 Qualifying period, **1:62**
 Reg. 535/17 — Family Medical Leave and Critical Illness Leave, **APP B § B:14**
 Risk of dying, **1:62, APP A § A:18 [ESA 49.1(2)]**
 Seniority continuing to be earned, **1:63**
 Serious medical condition, **1:62**
 Sharing of leave of absence, **1:62**
 Where family member dying, **1:62**

**FAMILY RESPONSIBILITY
LEAVE**

See also Leaves of Absence
 Generally, **APP A § A:18 [ESA 50.0.1]**
 Defined, **1:60**
 Entitlement, **1:60**
 “Urgent matter,” **1:60**
 Where employer provides comparable leave, **1:60**
 Who may apply, **1:60**

HOURS OF WORK

See also Hybrid and remote workplaces, Overtime
 Calculating, **1:50 to 1:55**
 COVID-19, effects of, **1:35**
 Disconnecting from work, Bill 27, **1:32**
 Emergency situations exemption, **1:49**

HOURS OF WORK—Cont'd

- Excess daily hours
 - generally, **1:35**
 - consent of employee, **1:35**
 - copy of rights and employer's obligations under ESA, **1:35**
 - exact number of hours specified, **1:35**
 - excess hours of work agreement, **1:35**
 - revocation of agreement, **1:35**
 - reasonable notice by employer, **1:35**
 - single-occasion agreement, **1:35**
- Excess weekly hours
 - generally, **1:35**
 - above and beyond 48 hours per week, **1:35**
 - consent of employee, **1:35**
 - copy of rights and employer's obligations under ESA, **1:35**
 - excess weekly hours of work agreement in writing, **1:35**
 - "overtime" wording to be avoided, **1:35**
 - revocation of agreement upon notice, **1:35**
 - reasonable notice by employer, **1:35**
 - single-occasion agreements, **1:35**
 - specific number of hours to be set out, **1:35**
- Exemption for information technology professional, **1:44**
 - "information technology professional" defined, **1:44**
- Exemption for supervisory or managerial employees, **1:42 to 1:44**
- Exemption in certain emergency situations, **1:49, APPA § A:8 [ESA 19]**
 - where necessary to avoid serious interference with working of operations, **1:49**
 - emergency situation, **1:49**
- General rule, **1:35**

HOURS OF WORK—Cont'd

- "Gold" permit preventing unilateral withdrawal by employee, **1:35**
- Infectious diseases, **1:36**
 - payment for at least three hours, **1:36**
 - regular rate calculation, **1:36**
- Information technology professional exempted, **1:44**
- Limit of 10 hours per day where approved agreements, **1:35**
- Limit of 60 hours per week where approved agreements, **1:35**
- Limit on 8 hours per day or 48 hours per week, **1:35, APPA § A:8 [ESA 17]**
- "Overtime" wording to be avoided, **1:35**
- Requirement to work excess hours during unforeseen and emergency situations, **1:35**
- Scheduling and "three-hour rule" changes
 - categories of employees exempted, **1:36**
- Supervisory or managerial employees exempted, **1:42**
- Unilateral withdrawal by employee not permitted where "gold" permit, **1:35**

HUMAN RIGHTS CODE

- Prohibition against making work on Sunday as condition of employment, **1:30**

HYBRID AND REMOTE WORKPLACES

- Calculating hours of work, overtime and minimum wage, **1:11**
- Constructive dismissal, **1:11**
- Disconnecting from work, **1:11**
- Electronic monitoring of employees, **1:11**
- Hours of work, **1:11**

INFORMATION RE RIGHTS AND OBLIGATIONS

Employer must provide copy, **1:21**, APP A § A:2 [ESA 2]

Translated versions, **1:21**

Updated versions, **1:21**

INFORMATION TECHNOLOGY PROFESSIONAL

Defined, **1:44**

Hours of work exemption, **1:44**

INTERNS

See also Trainees/Students/Interns

Generally, **1:48**

LAY-OFFS

COVID-19 period gave rise to protected leave, **1:89**

Not regular work week, APP A § A:19 [ESA 56(3.3)]

deemed lay-off, **1:89**

“excluded week” not counting, **1:89**, APP A § A:19 [ESA 56(3.4)]

Regular work week, APP A § A:19 [ESA 56(3.1)]

deemed lay-off, **1:89**

“excluded week” counting for 20 or 52 week periods, **1:89**

Temporary lay-off

generally, **1:89**, APP A § A:19 [ESA 56(2)]

constructive dismissal, **1:89**

definition, **1:89**

severance pay purposes, **1:89**

termination pay, **1:89**

LEAVES OF ABSENCE

See also Child death leave and crime-related child disappearance leave, Critical illness leave, Declared emergency leave, Domestic or sexual violence leave, Family caregiver leave, Family medical leave, Family responsibility leave, Organ donor leave,

LEAVES OF ABSENCE—Cont’d

Parental leave, Pregnancy leave, Reservist leave and Sick leave

Generally, **1:56 to 1:61**

Attendance management programs and, **1:61**, **1:74**

employees not penalized for taking leave of absence, **1:61**

Benefit plans, employer continuing to pay share of premiums for, **1:70**; A § A:18 [ESA 51(3)]

unless employee electing not to continue participation, **1:70**

Bonus entitlements and, **1:73**

perfect attendance and, **1:73**

Greater right or benefit, leave provisions not giving, **1:4**, **1:70**

Leaves apply separately, APP A § A:18 [ESA 53.1]

Paid plans, **1:56**

Part-time position, no obligation to provide, **1:70**

Public holiday during leave, **1:72**

Rights during

generally, **1:70**, APP A § A:18 [ESA 51]

factors in determining whether position comparable, **1:70**

no obligation to create comparable position, **1:70**

position modified, where, **1:70**

unless employment ended for reasons solely unrelated to leave, **1:70**

wage rate with salary increases, entitled to be paid, **1:70**

Service and seniority continuing to accrue, **1:70**, APP A § A:18 [ESA 52]

probationary employees, exception for, **1:70**

Sick leave, **1:59**

Unpaid, job-protected leaves, **1:70**

LEAVES OF ABSENCE—Cont'd

- Vacation entitlements, interaction with
 - generally, **1:71, APP A § A:18 [ESA 51.1]**
 - active and non-active employment included in determining entitlements, **1:71**
 - leave included in calculating length of employment and seniority, **1:71**
 - probationary period, **1:71**
 - vacation pay and vacation time accruing while on leave
 - generally, **1:71**
 - accrual of paid vacation entitlements on monthly basis being greater benefit, **1:71**
 - deferral of vacation until leave expiring, **1:71**
 - greater contractual right prevailing, **1:71**
 - taking of vacation immediately after leave expiring, **1:71**
 - unpaid leave does not accrue vacation pay on no wages, **1:71**
 - vacation entitlements based on length of service accrue during unpaid leave, **1:71**
 - vacation pay in lieu of taking vacation, electing, **1:71**
 - vacation time does accrue even if no vacation pay, **1:71**

LIMITATIONS ON RECOVERY

- Concurrent proceedings, **1:120**
- Monetary limits, **1:119**
- Time limits
 - generally, **1:118, APP A § A:28 [ESA 114]**
 - complaint, filing of, **1:118**
 - outside time limits, **1:118**
 - two-year time limit, **1:118**

LIMITATIONS ON RECOVERY**—Cont'd**

- Time limits—Cont'd
 - fraudulent concealment doctrine, **1:118**
 - employer responsible for delay, **1:118**

LIVE PERFORMANCES, TRADE SHOWS AND CONVENTIONS

- Reg. 160/05, **APP B § B:9**

MASS TERMINATION

- See also Termination of employment
- Exemption, **1:94**
- Notice of termination, minimum, **1:94**
- 50 or more employees, **1:93**
- Prescribed information to be provided to Director, **1:94**

MEAL BREAKS AND REST PERIODS

- Emergency situations exemptions, **1:49, APP A § A:8 [ESA 19]**
- Meal break of 30 minutes after 5 hours of work
 - generally, **1:40, APP A § A:8 [ESA 20(1)]**
 - agreement by employer and employee to divide up 30-minute break, **1:40**
 - divided portions of meal break totaling 30 minutes, **1:40**
 - employer not required to pay employee for meal break, **1:40, APP A § A:8 [ESA 21]**
 - employer not required to provide coffee breaks, **1:40**
 - meal breaks in designated place, **1:40**
 - “on call” while on meal break, **1:40**

MEAL BREAKS AND REST

PERIODS—Cont'd

- Meal break of 30 minutes after 5 hours of work—Cont'd uninterrupted 30-minute total meal break, **1:40**
- Rest period of 24 hours between each work week, **1:40, APP A § A:8 [ESA 18(4)]**
- Rest periods in each day and between shifts, **1:40**
 - period of 8 hours between shifts, **1:40, APP A § A:8 [ESA 18(3)]**
 - period of 11 hours free from work, **1:40, APP A § A:8 [ESA 18(1)]**

MEDIATION

- See Review application and Settlements

MINERAL EXPLORATION AND MINING

- Reg. 159/05 — Terms and Conditions of Employment in Defined Industries — Mineral Exploration and Mining, **APP B § B:10**

MINIMUM WAGE

- See also Wages
- Bill 43, increase, **1:50**
- Minimum wage rates, **1:50, APP A § A:12 [ESA 23.1]**
 - annual adjustment, **APP A § A:12 [ESA 23.1(4)]**
- Room and board allowances, **1:52, APP A § A:12 [ESA 23(2)]**
- “Wages” defined, **1:50, APP A § A:1 [ESA 1(1)]**

NON-COMPETE AGREEMENTS

- Definitions, **67.2(5), APP A § A:20 [ESA 67.1]**
- Prohibition, **1:1, 1:12, APP A § A:20 [ESA 67.2]**

OFFENCES AND PENALTIES

- Additional order, **1:123, APP A § A:31 [ESA 135]**
- General offences, **1:123, APP A § A:31 [ESA 132]**
 - offence to contravene ESA, 2000 or fail to comply, **1:123**
 - Reg. 289/01 — Enforcement, **1:113, APP B § B:4**
- Penalties applying upon conviction, **1:123**
- Prove case beyond a reasonable doubt, **1:123**
- Specific offences, **1:123**
 - false or misleading information, providing, **1:123, APP A § A:31 [ESA 131(2)]**
 - false records, making, keeping or producing, **1:123, APP A § A:31 [ESA 131(1)]**

ON-CALL EMPLOYEES

- See also Work deemed to be performed
- On-call employees waiting off-site not entitled to be paid, **1:53**
- On-call employees waiting on-site entitled to be paid, **1:53**

ORGAN DONOR LEAVE

- See also Leaves of absence
- Date on which organ donor leave beginning, **1:64, APP A § A:18 [ESA 49.2(8)]**
- Duration of organ donor leave, **1:64, APP A § A:18 [ESA 49.2(5)]**
 - job-protected unpaid leave of 13 weeks, **1:64**
- Entitlement to take organ donor leave, **1:64, APP A § A:18 [ESA 49.2(3)]**
- Medical certificate stating extended leave of additional 13 weeks, **1:64, APP A § A:18 [ESA 49.2(6)]**

ORGAN DONOR LEAVE—Cont'd

Medical certificate stating has undergone or will undergo surgery, if requested, **1:64, APP A § A:18 [ESA 49.2(3)]**

Notice of two weeks by employee, **1:64, APP A § A:18 [ESA 49.2(12)]**

OVERTIME

Agreement to average hours of work for calculating overtime pay generally, **1:38, APP A § A:11 [ESA 22(2) to (6)]**

averaging periods of two weeks, **APP A § A:11 [ESA 22(2)]**

expiry date, **1:38**

revocation, **1:38, APP A § A:11 [ESA 22.1(14)]**

statement notifying employee that agreement may affect entitlement, **1:38**

Average work week exceeding 44 hours, **1:37, APP A § A:11 [ESA 22(1)]**

Commissioned salespersons, **1:46**

COVID-19, effects of, **1:37**

Dual role employees entitled to overtime pay or paid time off, **1:45, APP A § A:11 [ESA 22(9)]**

One and one-half times regular pay after 44 hours, **1:37, APP A § A:11 [ESA 22(1)]**

Paid time off in lieu of being paid overtime, **1:39, APP A § A:11 [ESA 22(7)]**

Special considerations, **1:51**

PARENTAL LEAVE

See also Leaves of absence

Commencement of parental leave immediately after pregnancy leave ending, **1:58**

“Parent” defined generally, **1:58, APP A § A:18 [ESA 45]**

PARENTAL LEAVE—Cont'd

“Parent” defined—Cont'd

adoptive, **1:58**

birth, **1:58**

other parents, **1:58**

spousal-like relationship with a parent, **1:58**

“Resignation” notice requirement, **1:58**

four weeks’ written notice, **1:58**

Unpaid parental leave of 61 weeks, if employee also took pregnancy leave, **1:58**

Unpaid parental leave of 63 weeks, if employee did not take pregnancy leave, **1:58**

PAYROLL ADMINISTRATION

Direct deposit account as condition of hire, **1:14**

Enforcing payment, **1:14, APP A § A:5 [ESA 11]**

Methods of paying wages generally, **1:14**

by cash, **1:14**

by cheque, **1:14**

by direct deposit, **1:14**

Regular, recurring pay period and pay day, **1:14**

PENALTIES

See Offences and penalties

PERSONAL PROTECTIVE EQUIPMENT

Generally, **1:107**

PREGNANCY LEAVE

See also Family medical leave, and Leaves of absence

Date on which pregnancy leave beginning, **1:57, APP A § A:18 [ESA 46(2)]**

where child “overdue,” **1:57**

Employment for at least 13 weeks before, **1:57**

PREGNANCY LEAVE—Cont'd

- Entitlement to take pregnancy leave, **1:57, APP A § A:18 [ESA 46(1)]**
- job-protected pregnancy leave of 17 weeks, **1:57**
- Medical certificate stating due date, if requested, **1:57**
- Notice of two weeks by employee, **1:57, APP A § A:18 [ESA 46(4)]**

PUBLIC HOLIDAYS AND PUBLIC HOLIDAY PAY

- Calculation of public holiday pay, **1:79**
- Lay-off, interaction with, **1:81**
- Leaves of absence, interaction with, **1:73, APP A § A:13 [ESA 29(2.1)]**
- List of public holidays, **1:75**
- Non-working day, public holiday falling on
 - generally, **1:78, APP A § A:13 [ESA 29]**
 - public holiday pay, **1:78**
 - substitute day off, **1:78**
 - written record prior to, **1:78**
- One and one-half times regular wages, **1:76, APP A § A:13 [ESA 24(2)]**
- Qualifying conditions, **1:76**
- Regular working day, public holiday falling on
 - generally, **1:77, APP A § A:13 [ESA 26]**
 - employee electing to work, where generally, **1:77, APP A § A:13 [ESA 27]**
 - regular public holiday pay plus premium pay, **1:77, APP A § A:13 [ESA 27(2)]**
 - hours worked not considered in calculating overtime pay, **1:77**
 - substitute day off with holiday pay, **1:77, APP A § A:13**

PUBLIC HOLIDAYS AND PUBLIC HOLIDAY PAY

—Cont'd

- Regular working day, public holiday falling on—Cont'd
 - employee electing to work, where—Cont'd
 - [ESA 27(2.1)]**
 - written record prior to, **1:78**
 - given day off work and receiving public holiday pay, **1:77**
 - Special public holiday rules: retail business establishments and certain other operations, **1:27, APP A § A:13 [ESA 28]**
- Vacation of employee, public holiday falling during, **1:80**
 - public holiday pay without substitute day off, **1:81**
 - substitute day off with public holiday pay, **1:81**
- Work refusal, **1:30**
 - retail workers, **1:30**

PUBLIC TRANSIT SERVICES

- Reg. 390/05 — Terms and Conditions of Employment in Defined Industries — Public Transit Services, **APP B § B:11**

RECORD KEEPING

- Retention of information pertaining to employees for three years, **1:20, APP A § A:7 [ESA 15(5)]**
 - information to be retained, **1:20**
 - records and documents readily available for inspection, **1:20**
 - where in electronic form, **1:20**
- Salaried employees, hours of work information not required for, **1:20**
- record of disconnecting from work policies to be kept, **APP A § A:7 [ESA 15(8.1)]**

RECORD KEEPING—Cont'd

- Salaried employees, hours of work information not required for, **1:20—Cont'd**
 - record of electronic monitoring policy to be kept, **APP A § A:7 [ESA 15(8.2)]**
 - record of excess hours to be kept, **1:20, APP A § A:7 [ESA 15(8)]**
- Student employees, **1:20**
- Third party to retain documents relating to leaves of absence, **1:20, APP A § A:7 [ESA 15(7)]**
- Types of information to be recorded, **1:20, APP A § A:7 [ESA 15(1)]**
- Vacation records
 - generally, **1:20, 1:87, APP A § A:7 [ESA 15.1]**
 - information to be recorded, **1:20, 1:87**
 - vacation pay, **1:20, 1:87**
 - vacation time, **1:20, 1:87**
 - when to be prepared, **1:87**

REOPENING ONTARIO (A FLEXIBLE RESPONSE TO COVID-19) ACT

Generally, **1:69, APP B § B:17**

REPRISALS

- Enforcement by employment standards officer
 - generally, **1:125**
 - authority of employment standards officer if employee subject of reprisal, **1:125**
 - compensation order, **1:125**
 - no maximum recovery amount, **1:125**
 - payment of amount to Director with administration fee, **1:125**
- Four-step test to determine generally, **1:124**

REPRISALS—Cont'd

- Four-step test to determine—Cont'd mandatory direction to court, **1:126**
 - order employer to take specific action or refrain from taking specific action, **1:126**
 - order to hire or compensate applicant if lie detector used, **1:126**
 - order to pay wages or reinstatement or compensation order, **1:126**
 - Onus on employer to prove actions not reprisal, **1:124, APP A § A:23 [ESA 74(2)]**
 - exception to reverse onus where employer applying for review, **1:124**
 - Penalties for failure to comply with court order, additional, **1:127**
 - Prohibition against intimidating, dismissing or penalizing employee, **1:124, APP A § A:23 [ESA 74(1)]**
 - Prohibition against penalizing employee due to court order or garnishment, **1:124, APP A § A:23 [ESA 74(1)]**
 - Remedies and penalties upon conviction, **1:126**
- RESERVIST LEAVE**
- See also Leaves of absence
 - Duration of leave depending upon deployment, **1:63**
 - Eligibility, **1:63, APP A § A:18 [ESA 50.2(1)]**
 - Entitlement to unpaid leave of indefinite length, **1:63, APP A § A:18 [ESA 50.2(4)]**
 - Job-protected leave for military reservists, **1:63**
 - domestic operations or national disasters, **1:63**
 - Pension or benefit plan contributions not required to be

RESERVIST LEAVE—Cont’d

- continued during leave, **1:63**
- Reasonable notice in writing, **1:63**,
APP A § A:18 [ESA 50.2(5)]
- Reinstatement able to be postponed,
1:63
- Reinstatement to same or compara-
ble position, **1:63**
- “Reservist” defined, **1:63**, **APP A**
§ A:1 [ESA 1(1)]
- Restriction on leave, **1:63**, **APP A**
§ A:18 [ESA 50.2(3)]
- Seniority and service credits
continuing to accumulate, **1:63**

REST PERIODS

- See also Meal breaks and rest
periods
- Generally, **1:40**

RETAIL BUSINESS

ESTABLISHMENTS

- Definition, **1:27**, **APP A § A:22**
[ESA 72(1)]
- Establishments not covered by
special rules, **1:27**, **APP A**
§ A:22 [ESA 72(2)]
- Special rules
 - generally, **1:27 to 1:30**
 - publicly advertised job postings,
1:26
 - public holidays, right to refuse
work on, **1:28, (3)**, **APP A**
§ A:22 [ESA 73(1)]
 - Sunday work, right to refuse,
1:30
 - after September 4, 2001, **1:30**
 - where agreement to work on
Sunday, **1:30**
 - where no agreement to work
on Sunday, **1:30**
 - before September 4, 2001,
1:29
 - Human Rights Code, **1:30**
 - prohibition against making
working on Sunday as

RETAIL BUSINESS

ESTABLISHMENTS—Cont’d

- Special rules—Cont’d
- Sunday work, right to refuse,
1:30—Cont’d
- Human Rights Code, **1:30**
—Cont’d
 - condition of employ-
ment, **1:30**
 - where adversely affecting
employees of certain
religious backgrounds,
1:30

REVIEW APPLICATION

- Application form, **1:122**
 - facts and reasons for application
to be set out, **1:122**
 - reasons why extension of time
warranted, **1:122**
- Application to OLRB, **1:122**, **APP**
A § A:29 [ESA 116]
 - quasi-judicial administrative
tribunal, **1:122**
- Application within 30 days after
order or letter served, **1:122**,
APP A § A:29 [ESA 116(4)]
 - extension of time for applying,
1:122, **APP A § A:29 [ESA**
116(5)]
- Compensation order, where, **1:122**
 - payment of amount ordered to
Director first, **1:122**
- Decision being final and binding on
parties, **1:122**, **APP A § A:29**
[ESA 119(13)]
- Hearing before OLRB for purposes
of review, **1:122**, **APP A**
§ A:29 [ESA 116(6)]
 - regional center closest to
workplace, **1:122**
- Judicial review of OLRB’s deci-
sion, **1:122**, **APP A § A:29**
[ESA 119(14)]
- Labour relations officer, role of,
1:122
 - mediation process, **1:122**

REVIEW APPLICATION—Cont'd

- Mediation of settlement prior to hearing, **1:122**
- distribution of monies held in trust upon settlement being reached, **1:122**
- Order to pay wages, where, **1:122**
- Parties to, **APP A § A:29 [ESA 116(7)]**
- Powers of OLRB, **1:122, APP A § A:29 [ESA 119]**
 - notice of contravention rescinded, affirmed or amended, **1:122**
 - substituting its own decision for that of officer, **1:122**
- Review of certain decisions of employment standards officers generally, **1:122**
 - compensation order, **1:122**
 - compliance order, **1:122**
 - notice of contravention, **1:122**
 - order to pay wages, **1:122**
 - refusal to make an order, **1:122**
 - reinstatement order, **1:122**

SALE OF BUSINESS

- Continuity of employment, **1:22**
- Employee deemed not to have employment terminated, **1:22, APP A § A:4 [ESA 9]**
- Length of employment with seller included in calculating vacation entitlement, **1:22**
- Transfer of vacation pay liability, **1:22**

SALESPERSON /**COMMISSIONED**

- Defined, **1:46**
- Exempt from hours of work, overtime, public holidays, vacation provisions, **1:46**
- Route salesperson not exempt, **1:46**

SETTLEMENTS

- Administrative surcharge pro rated where settlement concerning

SETTLEMENTS—Cont'd

- order to pay wages, **1:121, APP A § A:28 [ESA 112(6)]**
- example of pro rating, **1:121**
- incentive to settle, **1:121**
- Notification to employment standards officer generally, **1:121, APP A § A:28 [ESA 112]**
- disclosure of all terms of settlement, **1:121**
- joint statement of parties, **1:121**
- Settlement agreement respecting contravention generally, **1:121**
 - complaint deemed withdrawn, **1:121**
 - order respecting contravention void, **1:121**
 - restrictions on settlements, **1:121, APP A § A:28 [ESA 112(7)]**
 - future contraventions, not permitting, **1:121**
 - settlement void where OLRB finding fraud or coercion, **1:121, APP A § A:28 [ESA 112(8)]**

SEVERANCE OF EMPLOYMENT

- See also Termination of employment
- Defined, **1:95, APP A § A:19 [ESA 63(1)]**
- Payments on severance, **1:99**
- Recall rights, **APP A § A:19 [ESA 67]**
- Severance occurring in certain circumstances, **1:95**
- Severance pay generally, **1:95**
 - calculation generally, **1:95, APP A § A:19 [ESA 65]**
 - “actuarially unreduced pension benefits” standards, **1:95**

SEVERANCE OF EMPLOYMENT

—Cont'd

- Severance pay—Cont'd
 - calculation—Cont'd
 - employees without regular work week, **1:95**
 - employees with regular work week, **1:95**
 - 26-week maximum, **1:95**
 - greater right or benefit exemption, **1:95**
 - circumstances where employee not entitled, **1:95**
 - deductions from, **APP A § A:19 [ESA 65(8)]**
 - exemptions
 - generally, **1:95**
 - alternative employment, refusal of, **1:95**
 - employees guilty of wilful misconduct or neglect of duty, **1:95**
 - frustration of contract, **1:95**
 - on-site maintenance, **1:95**
 - permanent discontinuance of business, **1:95**
 - retirement and unreduced pension, **1:95**
 - instalment payments, **1:95, APP A § A:19 [ESA 66(1)]**
 - qualifications for entitlement, **1:95, APP A § A:19 [ESA 64(1)]**
 - timing of payments, **1:99**

SICK LEAVE

- See also Leaves of Absence
- Generally, **APP A § A:18 [ESA 50]**
- Defined, **1:59**
- Entitlement, **1:59**

STUDENTS

- See also Trainees/Students/Interns
- Generally, **1:48**

SUPERVISORY OR MANAGERIAL EMPLOYEES

- Actual functions of person to be assessed, **1:42**

SUPERVISORY OR MANAGERIAL EMPLOYEES

—Cont'd

- Dual role employees, **1:45**
- Exclusion from hours of work and overtime provisions, **1:42**
- Managerial functions, performing, **1:42**
- Supervision of employees rather than machines, **1:42**
- “Supervisory or managerial” definition
 - generally, **1:42**
 - including employees performing non-supervisory or non-managerial tasks, **1:42**
 - “irregular and exceptional basis,” **1:42**
 - “irregular” implying that unscheduled or sporadic, **1:42**
 - non-supervisory or non-managerial duties performed outside of course of duties, **1:42**

TEMPORARY HELP AGENCIES

- Generally, **1:101**
- Agency, role and responsibility, **1:75.5, 1:75.8, 1:101, APP A § A:24 [ESA 74.4]**
- Assignment employees, **1:102**
- Client business, role and responsibility, **1:75.12], 1:101, APP A § A:24 [ESA 74.4.2]**
- Employment relationship, **APP A § A:24 [ESA 74.3]**
- Enforcement, **APP A § A:24 [ESA 74.13 to 74.18]**
- Licensing requirements, **1:105**
- Notice requirements, **1:101**
- Prohibited conduct, **1:103**
- Public holiday pay, **1:101, APP A § A:24 [ESA 74.10]**
- Records requirements, **1:101, APP A § A:24 [ESA 74.4]**

TEMPORARY HELP AGENCIES**—Cont'd**

- Reg. 99/23 - Recruiters, **APP B § B:19**
- Reg. 398/09 — Terms and Conditions of Employment in Defined Industries — Temporary Help Agency Industry, **APP B § B:12**
mass termination does not apply, **1:101**
notice of (or pay in lieu of), **1:101, APP A § A:24 [ESA 74.10.1(2), 74.11]**
- Reprisals against employees, **1:101, APP A § A:24 [ESA 74.12]**
- Temporary lay-off, **1:105**
- Termination, **1:101, APP A § A:24 [ESA 74.10.1]**

TEMPORARY LAYOFFS

See Lay-offs

TEMPORARY PAID INFECTIOUS DISEASE EMERGENCY LEAVE

- Generally, **APP A § A:18 [ESA 50.1]**
- Entitlement only from April 19, 2021 to July 30, 2022, **APP A § A:18**
- Overpayment, **APP A § A:18 [ESA 50.1.1], APP B § B:18**
- Reimbursement of employers, requirements, **APP A § A:18 [ESA 50.1]**
- Up to 3 days' paid leave, **1:56**
- Where employer provides comparable leave, **1:59**

TERMINATION OF EMPLOYMENT

- See also Severance of employment
- Bonus during termination period, **1:91**
- Constructive dismissal, **1:97**
defined, **1:97**

TERMINATION OF**EMPLOYMENT—Cont'd**

- Defined, **1:90, APP A § A:19 [ESA 56]**
- Establishment, **APP A § A:190 [ESA 53.2]**
- Mass termination
generally, **1:93**
exemption, **1:93**
information, **1:93, APP A § A:19 [ESA 58(2)]**
notice of termination, minimum, **1:93**
50 or more employees, **1:93, APP A § A:19 [ESA 58(1)]**
prescribed information to be provided to Director, **1:93**
- Notice of termination requirements
generally, **1:58], 1:90, APP A § A:19 [ESA 54]**
combination of notice and pay in lieu of notice, **1:90**
employees not entitled to notice
generally, **1:94**
alternative employment,
refusal of, **1:94**
construction employee, **1:94**
definite term or specific task,
hired for, **1:94**
during strike or lock-out, **1:94**
employee guilty of wilful
misconduct or neglect of
duty, **1:94**
frustration of contract, **1:94**
retirement age, **1:94**
temporary lay-off, **1:94**
length of notice, minimum, **1:90**
mass termination, **1:93**
maximum notice/pay, **1:90**
notice in writing, **1:90**
effective date, **1:90**
pay in lieu of notice, **1:90, APP A § A:19 [ESA 61]**
reason for termination, **1:90**

TERMINATION OF

EMPLOYMENT—Cont'd

- Notice of termination requirements
—Cont'd
where required notice not given,
1:90
- Payment of wages, **1:90**
- Postponing the termination date
after notice, **1:92**
- Quit versus fired, **1:98**
- Reg. 288/01 — Termination and
Severance of Employment,
**1:92, 1:93, 1:95, 1:96, APP B
§ B:5**
- Service of notice, **1:90**
- Statement of wages upon termina-
tion, **1:17**
- Statutory notice period, **1:90**
benefit plans to be maintained,
1:90
wage rate not to be reduced, **1:90**
- “Termination” defined, **1:90**
- Termination pay
generally, **1:90**
exemptions
generally, **1:94**
alternative employment,
refusal of, **1:94**
construction employee, **1:94**
definite term or specific task,
hired for, **1:94**
during strike or lock-out, **1:94**
employee guilty of wilful
misconduct or neglect of
duty, **1:94, 1:96**
frustration of contract, **1:94**
retirement age, **1:94**
temporary lay-off, **1:94, APP
A § A:19 [ESA 56(2)]**
lump sum payment, **1:90**
“regular wages” during written
notice period, **1:90, APP A
§ A:19 [ESA 60(1)]**
- Timing of payments, **1:99**
- Two different periods of employ-
ment, **1:90**

TICKETING

- See also Enforcement of ESA, 2000
- Employment standards officers as
provincial offences officers,
1:114
- Fines
set fine of § 295, **1:114**
victim fine surcharge, **1:114**
- Mandatory employer self-audit,
1:114
- Options for ticketed employer,
1:114
- Proactive inspections or after
investigation, **1:114**
- Ticketable offences, **1:114**
categories of offences, **1:114**
Schedules to Regulation 950,
1:114

TIPS, PROTECTION OF

- Employers cannot withhold tips from
employees, **1:15, APP A § A:6
[ESA 14.2]**
- Method of payment, **1:15, APP A
§ A:6 [ESA 14.1]**
- Policy re employer, etc., sharing in
tips, **APP A § A:6 [ESA
14.4(6)]**
- Pooling of tips/gratuities, **APP A
§ A:6 [ESA 14.4]**
- Protecting Employees’ Tips Act,
2015, **1:15**
- Reg. 125/16 - Tips and Other
Gratuities, **APP B § B:13**
- Tips or other gratuity defined, **1:15,
1:50, APP A § A:1 [ESA 1(1)]**

TRAINEES/STUDENTS/INTERNS

- Exemptions from the Act
secondary school, college and
university programs, **1:48**
students employed in certain
recreational programs, **1:48**
students in professional training,
1:48

TRAINING TIME

- Mandatory training time, **1:55**
 - condition of employment, **1:55**
 - pursuant to statute or regulation, **1:55**
- Option of employee, **1:55**
 - not constituting hours of work, **1:55**

TRAVEL TIME

- Commuting time not counted, **1:54**
 - exceptions, **1:54**
- Travel for purpose of getting to where work performed, **1:54**

VACATION RECORDS

- Detailed records, **1:87**
- Information included in records, **1:87**
- When to be prepared, **1:87**

VACATION TIME AND VACATION PAY ENTITLEMENTS

- Entitlement periods
 - generally, **1:82, APP A § A:14 [ESA 33]**
 - basic rule, **1:82**
 - definitions, **1:82**
 - “alternative vacation entitlement year,” **1:82, APP A § A:1 [ESA 1(1)]**
 - “standard vacation entitlement year,” **1:82, APP A § A:1 [ESA 1(1)]**
 - “stub period,” **1:82, APP A § A:1 [ESA 1(1)]**
 - “vacation entitlement year,” **1:82, APP A § A:1 [ESA 1(1)]**
 - 12-month period of employment, **1:82**
- Leaves of absence, interaction with generally, **1:71, 1:81**
 - active and non-active employment included in determining entitlements, **1:71**

VACATION TIME AND VACATION PAY ENTITLEMENTS—Cont’d

- Leaves of absence, interaction with —Cont’d
 - leave included in calculating length of employment and seniority, **1:71**
 - vacation pay and vacation time accruing while on leave, **1:71**
 - accrual of paid vacation entitlements on monthly basis being greater benefit, **1:71**
 - deferral of vacation until leave expiring, **1:71**
 - greater contractual right prevailing, **1:71**
 - taking of vacation immediately after leave expiring, **1:71**
 - vacation pay in lieu of taking vacation, electing, **1:71**
- Record-keeping requirements, **1:86 to 1:88**
 - detailed records, **1:86**
 - information included, **1:86, 1:87**
 - stub period, in respect of, **1:87**
 - when required to be prepared, **1:87**
- Statements provided to employees annually, **1:88**
 - not entitled where vacation pay received as accruing, **1:88**
 - when provided, **1:88**
 - where request made during stub period or vacation entitlement year, **1:88**
- Vacation with pay, **1:83**
 - carryover of unused vacation, **1:83**
 - election not to take vacation, **1:83, APP A § A:14 [ESA 41]**
 - length of vacation periods, **1:83**
 - between one and two week

**VACATION TIME AND
VACATION PAY**

ENTITLEMENTS—Cont'd

Vacation with pay, **1:83**—Cont'd
length of vacation periods, **1:83**
—Cont'd
blocks taken in row
where, **1:83**
unless employer agreeing to
shorter periods, **1:83**
first five days taken in row,
unless agreeing otherwise,
1:83
shorter periods, scheduling in,
1:83
same, **1:83, APPA § A:14 [ESA
36(3), (4)]**
six percent of gross wages if ten-
ure more than 5 years
entitlement, **1:83, APPA
§ A:14 [ESA 35.2]**
tenure of less than 5 years entitle-
ment, **1:83, APPA § A:14
[ESA 34(2)]**
tenure of more than 5 years
entitlement, **1:83, APPA
§ A:14 [ESA 34(3)]**
timing and manner of providing
vacation pay, **1:86**
lump sum before taking vaca-
tion, **1:83, APPA § A:14
[ESA 36(1)]**
four exceptions, **1:83**
timing of vacation, **35.1], APP
A § A:14 [ESA 35**
unlimited vacation policy, **1:83**
vacation pay: payment during
such time off work, **1:83**
four per cent of gross wages if
tenure less than 5 years,
**1:83, APPA § A:14
[ESA 35.2]**
vacation time: time off work,
1:83
vacation time vs. vacation pay,
1:83
vacation pay where terminated

**VACATION TIME AND
VACATION PAY**

ENTITLEMENTS—Cont'd

Vacation with pay, **1:83**—Cont'd
vacation time vs. vacation pay,
1:83—Cont'd
before vacation taken,
**1:83, APPA § A:14
[ESA 38]**
when to be taken, **1:83**
“Alternative Vacation Entitle-
ment Year,” **1:83**
rules, **1:83**
“Standard Vacation Entitle-
ment Year,” **1:83**
“Stub period,” **1:83**

VOLUNTEERS

Generally, **1:47**

WAGES

See also Minimum wage, and
Overtime
Cash shortage, lost property, etc.,
**1:18, APPA § A:5 [ESA
13(6)]**
Deductions from wages, **1:18, APP
A § A:5 [ESA 13]**
circumstances in which employer
can withhold wages, **1:18**
return of wages by employee,
1:18
Defined, **1:50, APPA § A:1 [ESA
1(1)]**
Equal pay for equal work, **1:24**
Methods of paying wages, **1:14,
11(4), APPA § A:5 [ESA
11(2)]**
Priority of wages over other
unsecured creditors, **1:19, APP
A § A:5 [ESA 14(1)]**
Protection of payments to employ-
ees, **1:13 to 1:15**
Regular, recurring pay period and
pay day, **1:12, APPA § A:5
[ESA 11(1)]**
can be changed by employer,
1:14

WAGES—Cont'd

- Statement of wages
 - generally, **1:16, APP A § A:5 [ESA 12(1)]**
 - content of written statement, **1:16**
 - electronic mail, **1:17, APP A § A:5 [ESA 12(3)]**
 - termination, upon, **1:17, APP A § A:5 [ESA 12.1]**
 - content of statement, **1:17**
 - when provided, **1:17**
- Termination, payment of wages upon, **1:90, APP A § A:5 [ESA 11(5)]**
 - statement of wages, **1:17**
- Three-hour rule, **1:36, APP A § A:10 [ESA 21.2]**

WHO IS COVERED BY ESA, 2000

- Application of Act, **1:5, APP A § A:1 [ESA 1]**
 - Reg. 477/18, Non-application of Act, **APP B § B:15**
- Contracting out of standards not allowed, **1:3**
- Crown employees, covered, **1:5**
- Dual role employee, **1:5**
- Employees not covered at all, **1:5**
- Employer may not rely on a greater benefit in one standard to offset a lesser benefit, **1:4**
- Factors not relevant as to whether ESA applying, **1:5**
- Hybrid and remote workplaces, **1:11**
- Most employees and employers covered, **1:5**
- Special exemptions or rules
 - generally, **1:5**
 - Reg. 285/01, **1:5**
 - special rules, **1:5**
 - AI in the workplace, **1:9**
 - commissioned salespersons, **1:46**

WHO IS COVERED BY ESA, 2000**—Cont'd**

- Special exemptions or rules
 - Cont'd
 - special rules, **1:5—Cont'd**
 - independent contractor and person receiving services, **1:5, 1:8**
 - teachers at private/independent schools, **1:5**
 - volunteers, **1:47**
- Work performed in Ontario or both in Ontario and outside Ontario, **1:5**
 - whether continuation of work performed in Ontario, **1:5**

WOMEN'S COATS, SUITS AND DRESS EMPLOYMENT

- Reg. 291/01 — Terms and Conditions of Employment in Defined Industries — Women's Coat and Suit Industry and Women's Dress and Sportswear Industry [repealed], **APP B § B:6**

WORK DEEMED TO BE PERFORMED

- Appropriate compensation for employees, ensuring, **1:53**
- Commuting time counted, whether, **1:53**
 - exceptions, **1:53**
 - meaning of "commuting time," **1:53**
- Deeming work to be performed in certain circumstances, **1:53**
- On-call employees waiting off-site not entitled to be paid, **1:53**
- On-call employees waiting on-site entitled to be paid, **1:53**
- Overtime pay required even though working without employer's permission, **1:53**
- Purpose of provisions, **1:53**

**WORK DEEMED TO BE
PERFORMED—Cont'd**

Work not deemed in certain circum-
stances, **1:53**
meal period, **1:53**