



Know Your New Rights!

THE FAIR WORKPLACES, BETTER JOBS ACT – THEN AND NOW





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Together, we made significant strides to raise the standard of work across the province. After 20 years of woefully outdated labour and employment laws, the Government of Ontario introduced the *Fair Workplaces, Better Jobs Act* in 2017. This was a result of many hard-fought struggles and the collective voice of millions demanding immediate action to modernize the *Employment Standards Act* and the *Labour Relations Act*.

This document provides a summary of the recent changes introduced through the *Fair Workplaces, Better Jobs Act* and our demands going forward.

If you believe that your rights are being violated, please contact:

- your union steward
- the [Ontario Federation of Labour](#): 1-800-668-9138
- the [Workers Action Centre](#): 1-855-531-0778
- the [Ministry of Labour](#): 1-800-531-5551

You can also report your boss to the [Bad Boss Hotline](#) at 1-855-531-0778.

EMPLOYMENT STANDARDS ACT

Changes are in effect as of January 1, 2018 unless otherwise noted.

Right to a fair wage

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- \$11.60 per hour for the general minimum wage; \$10.10 per hour for liquor servers; and \$10.90 per hour for students under 18.

Workers won:

- An increase to the general minimum wage – \$14 per hour in 2018, \$15 per hour in 2019, tied to inflation afterwards;
- An increase to the minimum wage for liquor servers – \$12.20 per hour in 2018, \$13.05 per hour in 2019, tied to inflation afterwards;
- An increase to the minimum wage for students under 18 – \$13.15 per hour in 2018, \$14.10 per hour in 2019, tied to inflation afterwards; and
- The minimum wage in the legislation, making it harder for the government to change it without transparency.

Workers still need:

- No exemptions to the minimum wage – particularly for students and liquor servers.

Right to equal pay for equal work

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- No protections against receiving lower wages – despite doing the same work – simply because of their employment status (i.e., part-time and temporary workers).

Workers won:

- *The right to equal pay for equal work – regardless of their employment status;¹
- *The right to request a review of their wages – without fear of reprisal – if they believe they are not receiving equal wages; and
- The right of temp agency workers to be paid the same as client employees and to receive one-week notice if they are terminated after three months on the job.

**comes in effect April 1, 2018*

Workers still need:

- Stronger legislative language so employers cannot manipulate job duties to avoid equal pay obligations;
- To be aware of the wage structure in their workplace to know they are receiving equal pay for equal work;

¹ In the event of a conflict between the Act and a collective agreement that is in effect on April 1, 2018, the collective agreement will prevail; however, conflicting language in collective agreements made or renewed on or after April 1, 2018 will not prevail.

- The removal of grounds for differential pay (i.e., “a system that measures earnings by quantity or quality of production” as well as “other factors”); and
- Equal benefits for equal work.

Right to fair scheduling practices

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- No protections except the “three hour rule”; this rule states that a worker who regularly works more than three-hour shifts, but is given a shift shorter than three hours when they report to work, must be paid three hours at the minimum wage or their regular wage for the time worked – whichever is greater.

Workers won²:

- *Pay for on-call duty (3 hours pay at regular rate);
- *Pay for call-in shifts (3 hours pay at regular rate);
- *Pay for cancelled shifts with less than 48 hours’ notice (3 hours regular pay); and
- *Protection for refusing shifts with less than 96 hours’ notice.

**comes in effect April 1, 2019*

Workers still need:

- At least two weeks’ notice of their work schedules;
- Protections against employers who use an “emergency” as an excuse to remove a worker’s right to refuse an unscheduled shift;
- Protections against employers who use “weather” as an excuse to remove a worker’s right to receive pay for the cancellation of shifts with insufficient notice; and
- The removal of any further exceptions so employers cannot avoid scheduling rules.

Right to take time off work

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- Two weeks of vacation at four per cent of wages;
- Entitlement to Personal Emergency Leave only if their workplace had 50 or more workers;
- No paid sick days;
- No separate leave for survivors of domestic and/or sexual violence;
- A complex method of calculating public holiday pay that disadvantaged workers not working a regular work week;
- Eight weeks in a six-month period for Family Medical Leave;
- 37 weeks in a one-year period for Critically Ill Child Care Leave; and
- Six weeks leave for pregnancy loss; 35 weeks if pregnancy leave was taken and if not, 37 weeks for parental leave; no leave for death or disappearance of child.

Workers won:

- An extra week of vacation after five years of service with the same employer at six per cent of wages;

² In the event of a conflict between the Act and a collective agreement that is in effect on January 1, 2019, the collective agreement will prevail; however, conflicting language in collective agreements made or renewed on or after January 1, 2020 will not prevail.

- Ten days of Personal Emergency Leave for all workers – two of which are paid and can be used as sick days with no medical note required;
- Five paid days for survivors of domestic and/or sexual violence, followed by job-protected leave;
- Public holiday pay based on the average daily wage of days worked from the worker's immediate pay period prior to the statutory holiday;
- Family Day as an official public holiday;
- 28 weeks in a one-year period for Family Medical Leave;
- *37 weeks for a critically ill minor child and 17 weeks for a critically ill adult in a one-year period; and
- *12 weeks leave for pregnancy loss; 61 weeks if pregnancy leave is taken and if not, 63 weeks for parental leave; and 104 weeks for death or disappearance of child.

**comes in effect December 3, 2017*

Workers still need:

- Three weeks of paid vacation as the minimum standard for all workers;
- Seven paid days of Personal Emergency Leave – all of which can be used as sick days with no medical note required;
- Ten paid days for survivors of domestic and/or sexual violence, followed by job-protected leave; and
- Vacation pay included in the calculation of public holiday pay.

Right to overtime

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- A complicated blended system to determine overtime pay, where a worker holds two or more positions with one employer and works overtime.

Workers won:

- Overtime pay based on the rate of pay for the job being performed during that overtime hour.

Workers still need:

- No overtime averaging agreements.

Right to accountable employers

Before the *Fair Workplaces, Better Jobs Act*, there were:

- Employers that used contracting as a key strategy to reduce labour costs, increase profits, and shift liability for indirect employees down the chain.

Workers still need:

- The legal recognition that employers who enter into contracts with subcontractors or other intermediaries, either directly or indirectly, are jointly and severally liable for owed wages and rights outlined in the *Employment Standards Act*.

Right to protection under the law

Exemptions

Before the *Fair Workplaces, Better Jobs Act* there were:

- 85 exemptions and special rules to the *Employment Standards Act*;
- Less than 25 per cent of workers completely covered by the *Employment Standards Act*; and
- The misclassification of workers as independent contractors so employers could avoid the direct costs of *Employment Standards Act* compliance (e.g., vacation, public holiday, overtime, termination, and severance pay).

Workers won:

- Greater coverage for Crown employees under the *Employment Standards Act*;
- *The prohibition of misclassifying employees as independent contractors; and
- *The requirement that employers bear the burden to prove that an individual classified as an independent contractor is not an employee.

**comes in effect November 27, 2017*

Workers still need:

- Removal of all exemptions and special rules to the *Employment Standards Act*; and
- Recognition of and coverage for dependent contractors under the *Employment Standards Act*.

Enforcement

Before the *Fair Workplaces, Better Jobs Act*, workers were required:

- To first attempt enforcement of their *Employment Standards Act* rights with their employer before they could make a claim.

Workers won:

- The elimination the 'self-help' requirement.

Workers still need:

- A formal, anonymous complaints process to file claims confidentially;
- An expedited anti-reprisal process with interim reinstatement while reprisal claims are investigated; and
- Just cause protection.

Just cause protection

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- No protections from unjust dismissals or access to "make whole" remedies unless they were unionized.

Workers still need:

- Just cause protection after a non-unionized worker has worked for three months with the same employer.

LABOUR RELATIONS ACT

Changes are in effect as of January 1, 2018.

Right to access a union

Exemptions

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- No protections under the *Labour Relations Act* if they were licensed professionals (e.g., members of the architectural, dental, land surveying, legal, or medical profession), agricultural, horticultural, and domestic workers.

Workers still need:

- The removal of exemptions so all workers can access their constitutional right to join a union.

Voting procedures

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- To vote, more often than not, to join a union in person at the workplace, where employers could survey and scrutinize them as they voted.

Workers won:

- The ability to hold votes outside the workplace, including electronically and by telephone.

Workers still need:

- To have their vote count the first time (i.e., card-based certification in all sectors).

Card-based certification

Before the *Fair Workplaces, Better Jobs Act*, workers were required:

- To vote twice to show whether they wanted to join a union, in every sector of the economy – except in the construction industry.

Workers won:

- The expansion of card-based certification in three sectors (i.e., temp agency industry, building services sector, and home care and community services industry) – provided the union has 55 per cent membership support.

Workers still need:

- Card-based certification in all sectors.

Remedial certification

Before the *Fair Workplaces, Better Jobs Act*, workers were required:

- To meet the rigorous requirements (i.e., whether a second vote was likely to reflect workers' true wishes and whether a union had adequate membership support) in cases where employers contravened the *Labour Relations Act*.

Workers won:

- The removal of those rigorous requirements.

Right to organize

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- No access to workplace information until the organizing campaign filed for certification of the bargaining unit.

Workers won:

- Early access to workplace information (i.e., employee names, phone numbers, and personal email addresses and in some cases, job titles and business addresses) — provided the union has 20 per cent membership support; and
- The ability to gain other means of contact other than home address.

Workers still need:

- Access to workplace information by including workers' mailing addresses, job classification, employment status, and an organizational chart once the union has 20 per cent membership support.

Right to meaningful collective bargaining

Consolidation of bargaining units

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- No real bargaining power where workplaces were too small to organize.

Workers won:

- The ability of workplaces with the same employer and same union at one or more locations to bargain together in cases where the employer and union agree; and
- The ability of newly certified workplaces to combine with other existing unionized workplaces with the same employer and same union.

Workers still need:

- Multiple locations of the same franchisor to be able to bargain together.

First collective agreements

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- Experienced, more often than not, significant delays to reaching a first collective agreement.

Workers won:

- Automatic access to first collective agreements in cases where employers contravene the *Labour Relations Act*.

Workers still need:

- Automatic access to first collective agreements in all cases.

Successorship rights

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- No protections, where unionized contract workers could lose both their collective agreement and their bargaining rights if the service contract covering their worksite changed hands.

Workers won:

- Protections against contract flipping in the building services industry (e.g., security, food services, and cleaning) with the possibility of extending such protections to publicly-funded services.

Workers still need:

- Protections against contract flipping in all sectors – whether it is a publicly or privately funded contracted service.

Right to strike

Before the *Fair Workplaces, Better Jobs Act*, workers had:

- The right to return to work following a lawful strike or lockout – but only within the first six months; and
- No protections against employers who wanted to “clean house” following a union organizing campaign and a strike/lockout.

Workers won:

- The right to return to work, following a lawful strike or lockout – regardless of how long they are on strike; and
- Just cause protection from employers who want to “clean house” following a union organizing campaign and a strike/lockout.

Workers still need:

- Protections against replacement workers, who undermine the fight for decent work.

OCCUPATIONAL HEALTH AND SAFETY ACT

Changes are in effect as of November 27, 2017.

Right to fair dress codes

Workers had:

- The right to refuse to wear footwear they considered unsafe – but had little protection to enforce it.

Workers won:

- The right to wear flat shoes at work unless a shoe with a heel is required to perform work safely or if someone is a performer in the entertainment and advertising industry.



Know Your New Rights!

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The Ontario Federation of Labour (OFL) represents 54 unions and one million workers.
It is Canada's largest provincial labour federation.

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