



# LABOUR LAW REFORM

As inequality and precarious work are on the rise, joining a union is a key path out of poverty for Ontario workers. Being unionized allows workers to take a role in improving their own working conditions and wages and it has the power to transform poorly paid jobs into decent jobs.

Ontario's recently launched "Changing Workplaces Review" is a once-in-a-generation opportunity to modernize Ontario's outdated labour laws. However, this consultation process must hear about the experiences of workers throughout the province.

***RECOMMENDATIONS: Modernize Ontario's Labour Relations Act to make it easier for employees to join a union without employer intimidation and the Employment Standards Act to ensure that every job is a decent job and every worker is treated fairly. Public consultations must be held across the province, so they are accessible to workers in every community and every region.***

## Modernizing Labour Relations

### 1. Card Check Certification

Public and private sector unions are calling for card-based certification. "Card-check" levels the playing field by providing fewer opportunities for employers to exert undue influence on the certification process. The mandatory secret ballot required under current law (for workers outside the construction sector) serves as a public announcement to the employer of workers' balloting preferences – before a union is even certified. This additional requirement gives the employer an extended period of time in which to intimidate, coerce and otherwise dissuade workers from joining a union. Since the Mike Harris government imposed the mandatory ballot, the number of successful certifications has declined.

***RECOMMENDATION: Allow workers to vote only once to join a union by signing a union card. When a clear majority of workers have done so, the union should be certified.***

### 2. Successor Rights in the Contract Sector

Businesses or companies that use contractors for the provision of services, such as security, cleaning, homecare and personal support work, have little obligation to the employees of those contractors. During the competitive bidding process – when a company puts its service requirements out to tender – those contractors who pay their employees fairly and responsibly may lose contracts because their non-union competitors pay their employees much less. The result in most cases is that the very same employees who worked for the unionized company are called back to work for a new company. They do the same job, but for less pay and security.

***RECOMMENDATION: Extend successor rights to the growing number of vulnerable workers in the contract services sector who are at risk of losing all collective agreement protections when contracts are re-tendered.***

### 3. First Contract Arbitration

While in principle most workers in Ontario have the right to associate for the purposes of collective bargaining, this is not always the case in practice due to barriers to reaching a first agreement. Across Canadian jurisdictions, first contract arbitration has been shown to create an incentive for the parties to reach a first agreement without resorting to work stoppages. Although existing legislation in Ontario provides for the settlement of a first contract through a process of arbitration, the threshold for accessing this route is still too high.

***RECOMMENDATION: Adopt measures that provide additional routes to binding arbitration.***

### 4. Reinstatement During Organizing

Employees in precarious employment are extremely vulnerable to employer intimidation and threats of job loss because they cannot afford any reduction or delay in receiving their pay. When just one worker who is known to support collective bargaining disappears from the workplace or loses hours, it can place a chill on other workers' organizing efforts. Workers must be confident that they can exercise their right to organize without impacting their own or the material well-being of their family.

***RECOMMENDATION: Protect employees who are terminated or have their hours of work changed during an organizing campaign. Reinstatement all employees when an unfair labour practice is alleged, until the hearing.***

# Modernizing Employment Standards

For the nearly one million Ontarians earning at or around the minimum wage, who do precarious work and who lack union representation, an improved and enforced *Employment Standards Act* could raise the floor for every worker, improve job security and provide dignity in their work.

**RECOMMENDATION:** *Ontario's Employment Standards Act should lift every worker from poverty, prevent wage theft and end exploitation.*

## 1. A \$15 Minimum Wage, Inflation Adjusted

In 2014, the Ontario government took the encouraging step of increasing the provincial minimum wage to \$11 an hour and introducing the province's first annual inflation adjustments. However, the fact remains that any worker earning less than \$15 an hour is living below the poverty line. Working hard should lift people out of poverty, not entrench them in it. Studies show that when workers can provide for their families, they contribute as well to the local economy and have a net positive impact on the economy.

**RECOMMENDATION:** *Raise the provincial minimum wage to \$15 an hour, adjusted annually for inflation.*

## 2. Fairness in Employment Standards

A decent minimum wage is a central part of lifting workers out of poverty, but there are many other changes that need to be made to reverse the trend towards low-wage and precarious work. Workers need hours that they can live on, paid sick days so they can afford to get well, better protections from reprisals and easier access to unionization, and laws that protect everyone and are enforced.

**RECOMMENDATION:** *Protect vulnerable and precarious workers by ensuring that:*

- *All temp agencies pay workers at the same rate and benefits as permanent employees;*
- *Client companies are responsible for wage theft by agencies or sub-contractors; and*
- *Other recommendations of the Workers' Action Centre are implemented with respect to paid sick days, hours of work, scheduling, job security, proper enforcement of labour and employment laws, and safeguards for temporary and contract employees: [www.workersactioncentre.org](http://www.workersactioncentre.org)*

## 3. A Migrant Workers' Bill of Rights

Many migrant workers who find themselves working in Canada encounter a new and unfamiliar country, where they don't know the laws and often don't speak the language. In many cases, they have travelled from some of the world's most economically depressed conditions to strive for a better life for their families. These circumstances that make migrant workers so deserving of protection also make them vulnerable to exploitation.

While major changes to the Temporary Foreign Worker Program fall to the federal government, the Ontario government should pursue comprehensive reforms to ensure migrant workers are protected from exploitation.

**RECOMMENDATION:** *Introduce an Ontario Migrant Workers' Bill of Rights and legislative changes that would:*

- *Establish a registration and licensing system for employers and recruiters;*
- *Provide the financial and human resources needed for proactive enforcement;*
- *Ensure that human and labour rights are protected, as per the OFL's recommendations in its 2013 report on Migrant Workers: [www.ofl.ca/wp-content/uploads/2013.08-MigrantWorkers-Report.pdf](http://www.ofl.ca/wp-content/uploads/2013.08-MigrantWorkers-Report.pdf)*

---

**BRIEFING NOTE: LABOUR LAW REFORM, May 2015**

**Ontario Federation of Labour**

15 Gervais Drive, Suite 202, Toronto, ON M3C 1Y8 • Tel: 416-441-2731 • Fax: 416-441-1893 • [info@ofl.ca](mailto:info@ofl.ca)

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

This document was proudly produced with unionized labour: JD/SS/ss:cope343