

UPDATE FOR ONTARIO EMPLOYERS: PROPOSED CHANGES RELATED TO REMOTE WORKERS

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The Ontario Government recently [announced](#) proposed amendments to the province's employment laws that would clarify remote employees' entitlements in situations of mass termination.

The [amendments](#) are proposed in response to the large increase in remote work initiated by the COVID-19 pandemic. Although the immediate effects of the pandemic have subsided, many employees continue to work remotely. The Ontario Government reported that 2.2 million people worked remotely in the fourth quarter of 2022.^[1]

Under the *Employment Standards Act, 2000* ("**ESA**"), special rules apply regarding notice of termination or pay in lieu of notice when 50 or more employees are terminated at an employer's establishment within a four-week period (a "**mass termination**"). While the notice period is normally calculated based on an employee's length of employment, in mass terminations, employees are entitled to the enhanced notice period of eight, twelve, or sixteen weeks based on the number of employees' terminated. Remote workers do not currently qualify for these enhanced notice periods as they work from remote workplaces and not their employer's "establishment".

If enacted, the proposed amendments will expand the definition of "establishment" under the ESA to include employees' remote workplaces. This would result in remote employees receiving the same enhanced notice of termination or pay in lieu of notice as in-office or other employees, if they are terminated in a mass termination.

Additionally, in an effort to protect precarious workers, the proposed amendments would require employers to provide all new employees with information in writing about their job, such as the employee's rate of pay, work location and hours of work, and would specify the date by which this information must be provided (e.g. before the employee's first shift). Currently, employers are only required to provide new employees with the latest version of the Ontario Government's employment standards poster, which outlines ESA workplace rights and responsibilities.

While the proposed amendments are not yet in force, Ontario employers should proactively consider how these changes may affect their current practices if they are passed into law. McMillan's [Employment and Labour Relations Group](#) will continue to monitor legislative developments affecting employers.

[1] Government of Ontario, [Ontario Tightening Rules Around Mass Layoffs](#), March 13, 2023.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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