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May 7, 2015

Although we are all *thrilled* that the sun is shining and spring is finally in the air, this is also the time to take note of some **NEW compliance requirements** and amendments to the Employment standards Act, 2000 ("ESA") that will become effective **May 20, 2015**.

### **NEW POSTER REQUIREMENTS**

**As of May 20, 2015**, employers will be required to provide each employee with a copy of the most recent ESA information poster published by the Ministry of Labour. This requirement is in addition to the existing obligation to post the poster in a conspicuous place in the workplace.

Check out the Ministry of Labour's website for more information and for a **free download** of the poster (available in several languages).  
<http://www.labour.gov.on.ca/english/es/pubs/poster.php>

**NOTE: New employees must be given a copy of the poster within 30 days of their first day of work.** Existing employees must be given a copy within 30 days of May 20, 2015 (by June 19, 2015).

### **SELF-AUDITS**

**The May 20, 2015 amendments** will also provide Employment Standards Officers ("ESOs") with the authority to require an employer to conduct an examination of their records and/or practices, to determine whether they are in compliance with one or more provisions of the ESA or the regulations. The ESO will need to provide written notice to the employer, which must outline:

The period to be covered by the examination;

The provision or provisions of the ESA or the regulations to be covered by the examination; and

The date by which the employer must provide a report of the results of the examination to the ESO.

The written notice may also specify:

The method to be used by the employer in carrying out the examination;

The format of the report to be provided by the employer;

A requirement that the employer include in the report an assessment of whether they have complied with the ESA or the regulations;

A requirement that the employer include in the report an assessment of whether one or more employees are owed wages; and/or

A requirement that the employer pay wages owed (if the employer assesses that one or more employees are owed wages).

In addition, if the employer's report includes an assessment that one or more employees are owed wages, the employer must include the following in the report to the ESO:

1. The name of every employee who is owed wages and the amount of wages owed.
2. An explanation of how the amount of wages owed to the employee was determined.
3. If the notice requires payment, proof of payment to the amount owed to the employee.

If the employer's report includes an assessment that they have not complied with the ESA or the regulations but no employees are owed wages, the employer will also need to include a description of the measures that they have taken (or will undertake) to ensure that the ESA and/or regulations will be complied with going forward.

Even if an employer reports that it is in compliance, the ESO still has the authority to conduct an investigation or inspection, and to take any enforcement measures under the ESA as the ESO considers appropriate, including issuing an order under section 103 (Order to pay wages) or 108 (Compliance order) of the ESA. Section 103 was amended on February 20, 2015 to remove the \$10,000 maximum cap on orders made for unpaid wages on a go-forward basis.

For information about these changes or any other HR inquiry, **please contact Lisa Kay at 416-822-3471** or [lisa@peakperformancehr.com](mailto:lisa@peakperformancehr.com)

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