

Ontario Extends Deadline for Temporary Help Agencies and Recruiters to Get Licensed

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[As previously reported](#), the Ontario *Employment Standards Act, 2000* (ESA) has been amended to include new licensing requirements for recruiters and temporary help agencies (THAs). Certain aspects of the licensing regime came into force on July 1, 2023, including a formal licence application process, record-keeping requirement, and administrative penalties for non-compliance. The remaining provisions, which prohibit recruiters and THAs from operating without a licence, were scheduled to come into force on January 1, 2024.

Notably, the date by which recruiters and THAs must have a licence to operate has changed from January 1, 2024 to July 1, 2024. This gives recruiters and THAs an additional six months to apply for a licence.

Employers will be in breach of the ESA if they knowingly engage the services of an unlicensed recruiter or THA on or after July 1, 2024. As a result, employers should be prepared to ask for licence verification after this deadline and should begin building appropriate representations and indemnities into their commercial agreements with these service providers. We recommend contacting a member of the Cassels Employment & Labour group for assistance preparing these contractual provisions.

Any recruiters or THAs that have not already submitted their licensing applications should review the following summary of key elements of the new licensing requirements under the ESA and should also contact a member of the Cassels Employment & Labour group for further guidance or assistance with their applications.

Who is Required to Get Licensed?

A THA is defined as “an employer that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer.”¹ This includes THAs located outside of Ontario that assign employees to work in Ontario.

A recruiter is defined as “any person who, for a fee, finds, or attempts to find, employment in Ontario for prospective employees” or “any person who, for a fee, finds, or attempts to find, employees for prospective employers in Ontario.”² The regulations under the ESA list multiple exceptions to the definition of recruiter and should be reviewed prior to applying for a licence.

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The Licensing Application

Applicants must apply [online](#). The application requires payment of the \$750 application fee, submitting an electronic irrevocable letter of credit in the amount of \$25,000, and the inclusion of specific information, such as:

- The applicant's contact information, the address of each physical location that the applicant carries on business, and five statutorily prescribed statements set out in the ESA relating to the employment of foreign nationals.
- Confirmation of whether the applicant has been issued an order under the [Occupational Health and Safety Act](#).
- Confirmation of whether the applicant is registered with the Workplace Safety and Insurance Board and is compliant with the [Workplace Safety and Insurance Act, 1997](#).
- Verification of tax compliance status with the Ontario Ministry of Finance.

If an Application is Refused

Applicants may be denied a licence under certain circumstances, including if the applicant is not registered with the Workplace Safety and Insurance Board, is in default of filing a return under a tax statute, or has been convicted of certain crimes.

If the initial application of either a recruiter or THA is submitted before July 1, 2024 and the application is refused, the recruiter and THA may only continue to operate for 30 days after the day the Director of Employment Standards serves a notice of the refusal. A recruiter or THA can file an application with the Ontario Labour Relations Board to review a refusal decision and may be permitted to continue to operate during the review process.

Notably, if an employment relationship is severed because the Director of Employment Standards “has refused to issue or renew, or has revoked or suspended, a licence to operate a temporary help agency or act as a recruiter,” then the “contract of employment has not become impossible to perform or been frustrated.”³ As such, any employees whose employment is terminated as a result of the inability of a recruiter or THA to obtain or maintain a licence would still be entitled to applicable statutory or contractual termination entitlements.

Penalties

As of July 1, 2024, a notice of contravention may be issued for any of the following offences under the ESA:

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- operating as a THA without a licence;
- acting as a recruiter without a licence;
- clients knowingly using an unlicensed THA;
- employers, prospective employers, or other recruiters knowingly engaging or using the services of an unlicensed recruiter; or
- if any person provides false or misleading information in the context of an application for a THA or recruiter licence.

Penalties may include fines ranging from \$15,000 up to \$50,000.⁴

It is important to note that Ontario's new licencing regime creates potential obligations for both agencies and their clients. Please do not hesitate to reach out to a member of the Employment & Labour team here at Cassels for assistance and information about these new requirements.

¹ *Employment Standards Act, 2000*, S.O. 2000, c. 41, s 1.

² O. Reg. 99/23: Licensing - Temporary Help Agencies and Recruiters, s. 1.

³ O. Reg. 288/01: Termination and Severance of Employment, s. 2(4).

⁴ O. Reg. 289/01: Penalties and Reciprocal Enforcement, s 1.