

# Employment Contracts

## CHANGING LEGISLATIVE LANDSCAPE

- Stronger Fairer Ontario Act
- Fair Workplaces Better Jobs Act
- Making Ontario Open for Business Act
- Restoring Ontario's Competitiveness Act
- Working for Workers Act

## Contracts

- Employment contracts serve two important purposes:
  - To give both the employee and employer clarity.
  - To reduce risk when disputes arise.
- Written contracts form basis of intent between parties.
  - Serve as a source of truth.
  - Limit the discretion of/latitude in the court's decisions



## Enforceability

- Must meet minimum standards required by legislation.
- When a clause violates legislation, the legislation prevails.
- Main pieces of legislation for Employment Contracts:
  - Employment Standards Act (ESA), Ontario Human Rights Code (OHRC), Occupational Health and Safety Act (OHSA)



## Termination Clauses

- If you see references to the Employer's right to terminate at their 'sole discretion', for 'any reason' or 'at any time', you may want to consider updates.
- If there is any potential way that a termination provision could violate the Employment Standards Act, the courts will strike down.

### Other quick enforceability checks:

<b>Sick Days</b>	If intending to provide ESA minimums, look for clauses that provide anything other than three (3) unpaid days of job protected leave.
<b>Vacation</b>	Contracts must provide a minimum of 2 weeks to start, <u>and</u> specify an increase to at least 3 weeks after 5 years of service. As of June 21, 2024, a written agreement is required in order to pay % vacation on each pay.
<b>Temporary Layoff</b>	If you use temporary layoffs, ensure contracts have a clause that expressly provides you with the right.
<b>Hours of Work and Overtime</b>	If you have shifts longer than 8 hours, or more than 44 hours in some weeks without overtime, ensure there are provisions in contract.
<b>Non-Competes</b>	Not allowed in contracts since October 2021.
<b>Non-Solicitation</b>	In excess of 12 months, consider legal opinion. The shorter the period, the more likely the clause is enforceable.



- Know the risks.
- Review your contracts at least annually.
- When presenting a contract allow candidates/employees a minimum of three (3) business days to review the contract.
- Ensure candidates/employees know they can seek legal advice.
- Update contracts any time the terms of employment change throughout an employee's life cycle.