

Review of Special Rules and Exemptions under the Employment Standards Act, 2000: Pharmacists

On May 30, 2017, the Government of Ontario announced that there would be a review of the regulatory exemptions and special rules under the *Employment Standards Act, 2000* (ESA). The first phase of this review is now underway.

The Ministry of Labour is seeking input on the current exemptions that apply to the profession of pharmacy (see the description below). The Ministry invites feedback from all interested stakeholders on the impact of the exemptions.

Other exemptions and special rules being examined in this phase of the review are as follows:

- Managerial and Supervisory Employees
- Residential Building Superintendents, Janitors and Caretakers
- Architects
- Information Technology Professionals
- Residential Care Workers
- Homemakers
- Domestic Workers

Who Is Covered by the ESA Exemptions Applicable to Pharmacists?

The exemptions applicable to the profession are found in a regulation of the ESA, O. Reg. 285/01, *Exemptions, Special Rules and Establishment of Minimum Wage*.

The exemptions apply to two kinds of employees:

i) Duly Registered Practitioners of Pharmacy:

Persons employed as “duly registered practitioners of pharmacy” are exempted from certain Parts of the ESA, as well as from the entitlement to personal emergency leave in certain circumstances.

In order for the exemptions to apply, the employee must be both “duly registered” (i.e. registered by the College) and a “practitioner” of the profession (i.e. actually practising the profession of pharmacy).

ii) Students in Training:

The exemptions also apply to persons employed as “students in training” to become duly registered practitioners of pharmacy. The completion of a structured practical training program is a requirement for individuals seeking registration under the *Pharmacy Act, 1991* regulations. Individuals engaged in these structured practical training programs are subject to the same exemptions from the ESA as duly registered practitioners of pharmacy.

Note: For ease of reference, throughout this document, persons employed as duly registered practitioners of pharmacy and students in training will both be referred to as practitioners of pharmacy or pharmacists.

What ESA Exemptions are Applicable to Pharmacists?

The ESA provides the minimum standards for most employees working in Ontario. It sets out the rights and responsibilities of employees and employers in most Ontario workplaces.

As set out in O. Reg. 285/01, pharmacists are exempt from the following parts of the ESA:

- Part VII: Hours of Work and Eating Periods
- Part VIII: Overtime Pay
- Part IX: Minimum Wage
- Part X: Public Holidays
- Part XI: Vacation with Pay

(See sections 2(1)(b)(vii) and 2(1)(e) of O. Reg. 285/01.)

In addition, O. Reg. 285/01 provides that personal emergency leave (section 50 of the ESA) does not apply to pharmacists where taking the leave would constitute an act of professional misconduct or a dereliction of professional duty. The rest of Part XIV (Leaves of Absence) of the ESA does apply to pharmacists.

Participating in the ESA Exemptions Review for Pharmacists:

The Ministry of Labour is consulting directly with the Ontario College of Pharmacists as part of its review of the ESA exemptions that apply to the profession of pharmacy. The Ontario College of Pharmacists will be conducting its own consultation with its members and the public and will report its feedback to the Ministry.

If you would like to participate in the Exemptions Review for pharmacists please contact Exemptions.Review@ontario.ca. Please ensure that your email includes your name and contact information and states that you are requesting the Exemptions Toolkit for pharmacists.

The Ministry of Labour's Exemptions Toolkit includes:

- Information about relevant provisions of the ESA, as well as proposed changes to the ESA that are contained in Bill 148, the *Fair Workplaces, Better Jobs Act, 2017*.
- An overview of the policy framework used by the Ministry of Labour to determine whether to grant exemptions to the minimum standards in the ESA to an occupation or sector.
- A list of questions that will provide the Ministry of Labour with the information necessary to conduct an informed and balanced analysis of the exemptions.

Accessible formats and French translations of documents are available upon request.