

Review of Special Rules and Exemptions under the Employment Standards Act, 2000: Information Technology Professionals

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 information technology professionals (IT professionals). 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
- Pharmacists
- Architects
- Residential Care Workers
- Homemakers
- Domestic Workers

Who Is Covered by the ESA Exemptions Applicable to IT Professionals?

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

The term “information technology professional” is defined in O. Reg. 285/01 as an employee who is primarily engaged in the investigation, analysis, design, development, implementation, operation or management of information systems based on computer and related technologies through the objective application of specialized knowledge and professional judgment.

The exemptions were intended to apply only to those employees who work with “information systems” and “use specialized knowledge and professional judgment in their work.” The exemptions are not intended to apply to employees who perform routine tasks that do not require specialized knowledge and professional judgment.

What ESA Exemptions are Applicable to IT Professionals?

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, IT professionals are exempt from the following parts of the ESA:

- Part VII: Hours of Work and Eating Periods
- Part VIII: Overtime Pay

(See clauses 4(3)(b) and 8(l)) of O. Reg. 285/01.)

Participating in the ESA Exemptions Review for IT Professionals:

If you would like to participate in the Exemptions Review for IT professionals 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 IT professionals.

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.