

Review of Special Rules and Exemptions under the Employment Standards Act, 2000: Residential Building Superintendents, Janitors and Caretakers

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 residential building superintendents, janitors and caretakers (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
- Information Technology Professionals
- Pharmacists
- Architects
- Residential Care Workers
- Homemakers
- Domestic Workers

Who Is Covered by the ESA Exemptions Applicable to Residential Building Superintendents, Janitors and Caretakers?

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

The exemptions apply to a person who is employed as the superintendent, janitor or caretaker of a residential building and resides in the building. The individual must live in the building for which he or she is responsible or in another building in the same complex.

What ESA Exemptions are Applicable to Residential Building Superintendents, Janitors and Caretakers?

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, residential building superintendents, janitors and caretakers are exempt from the following parts of the ESA:

- Sections 17, 18 and 19 of Part VII: Hours of Work
- Part VIII: Overtime Pay
- Part IX: Minimum Wage
- Part X: Public Holidays

(See sections 4(1)(e), 7(d), 8(i), and 9(1)(h) of O. Reg 285/01.)

Participating in the ESA Exemptions Review for Residential Building Superintendents, Janitors and Caretakers:

If you would like to participate in the Exemptions Review for residential building superintendents, janitors and caretakers 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 residential building superintendents, janitors and caretakers.

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.