



# LRA Exclusion of Domestic Workers Toolkit

Prepared by the Ministry of Labour – Current to October 18, 2017

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Tab 1

## **Review of the Exclusion of Domestic Workers from the Labour Relations Act, 1995**

On May 30, 2017, the Government of Ontario announced that it would review the recommendation in the [Changing Workplaces Review](#) (CWR) Final Report to remove certain exclusions from the [Labour Relations Act, 1995](#) (LRA).

Certain groups of workers and professionals are excluded entirely from, or excluded from certain parts of, the LRA.

The Ministry of Labour is seeking input on the current exclusion that applies to **domestic workers employed in a private home**. The Ministry invites feedback from all interested stakeholders on the impact of this exclusion.

### **Who Is Covered by the LRA Exclusion Applicable to Domestic Workers?**

The exclusion applicable to domestic workers employed in a private home is found under section 3(a) of the LRA.

The term “domestic workers” is not defined under the Act, however; the Ontario Labour Relations Board (OLRB) has indicated that the meaning could be interpreted broadly.

Domestic workers have been excluded from coverage under the LRA since the 1940s, with the exception of a period from 1993 to 1995. The historic rationale for the exclusion of domestic workers was based on the belief that these workers formed intimate social bonds with the private households they worked for, and that the possibility of unionization would be an inappropriate barrier to this bond (A. Macklin, “On the Inside Looking In: Foreign Domestic Workers in Canada,” in *Maid in the Market: Women’s Paid Domestic Labour*, eds. W. Giles and S. Arat-Koc (Halifax: Fernwood Publishing, 1994), p.32).

### **Notice to Consultation Participants**

Submissions and comments provided are part of a public consultation process to solicit views on reforms to Ontario's employment and labour law regime that may be recommended to protect workers and support business in the context of changing workplaces. This process may involve the Ministry of Labour publishing or posting to the internet your submissions, comments, or summaries of them. In addition, the Ministry may also disclose your submissions, comments, or summaries of them, to other parties during and after the consultation period, including relevant regulatory bodies for professionals. Therefore, you should not include the names of other parties (such as the names of employers or other employees) or any other information by which other parties could be identified in your submission.

Further, if you, as an individual, do not want your identity to be made public, you should not include your name or any other information by which you could be identified in the main body of the submission. If you do provide any information which could disclose your identity in the body of the submission this information may be released with published material or made available to the public. However, your name and contact information provided outside of the body of the submission, such as found in a cover letter, will not be disclosed by the Ministry unless required by law. An individual who provides a submission or comments and indicates a professional affiliation with an organization will be considered a representative of that organization and his or her identity in their professional capacity as the organization's representative may be disclosed.

Personal information collected during this consultation is under the authority of the [Employment Standards Act, 2000](#) and the [Labour Relations Act, 1995](#), and is in compliance with subsection 38(2) of the Freedom of Information and Protection of Privacy Act.

If you have any questions regarding the collection of personal information as a result of this consultation you may contact the Ministry's Freedom of Information Office, 400 University Avenue, 10th Floor, Toronto, Ontario, M7A 1T7, or by calling 416-326-7786.

Tab 2

## **Review of the Exclusion of Domestic Workers from the Labour Relations Act, 1995**

### **Discussion Questions**

Under Ontario's [Labour Relations Act, 1995](#) (LRA), certain groups of workers and professionals are excluded entirely from, or excluded from certain parts of, the LRA.

As part of the Government of Ontario's response to the [Changing Workplaces Review](#) (CWR) Final Report, the Government is reviewing the exclusion in the LRA that applies to **domestic workers employed in a private home**.

Please consider and respond to the questions outlined below as part of your written submission to the Ministry of Labour regarding whether the exclusion of domestic workers from the LRA should be maintained. If a question is not applicable to you, please respond "N/A".

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1. Do you: (a) currently work as a domestic worker; (b) have previous experience working as a domestic worker; (c) currently employ a domestic worker; (d) have previous experience employing a domestic worker; or (e) advocate on behalf of domestic workers? Please identify.
2. In your experience as a domestic worker (or, as an employer of a domestic worker) what would a typical working day look like (for example, what are the main job duties/responsibilities, hours of work, rest and eating periods, etc.)?
3. At the time of your experience as a domestic worker (or, as an employer of a domestic worker) were you the only domestic worker employed at the private home (or, did you employ more than one domestic worker at the private home)?
4. At the time of your experience as a domestic worker (or, as an employer of a domestic worker) were you able to discuss employment-related issues or concerns (for example, request changes to main job duties/responsibilities, hours of work, rest and eating periods, etc.) with your employer (or, employee)?
5. In your experience as a domestic worker (or, as an employer of a domestic worker) were you unionized?
6. Do you think that unionization could create positive outcomes for the employment relationship between a domestic worker and his or her employer? Please explain.
7. It has been suggested that domestic workers do not have meaningful access to unionization and collective bargaining because the majority are involved in a one-employer-one-employee employment relationship, and therefore, do not meet the LRA definition of "bargaining unit" which requires the existence of more than one employee at a workplace.
  - a. In your opinion, does the LRA definition of "bargaining unit" need to be reviewed?

- b. Does the current bargaining process under the LRA work for domestic workers who are interested in unionization and collective bargaining? Please explain.
  - c. Is there another model of collective representation that could better meet the needs of domestic workers who are interested in unionization and collective bargaining? Please elaborate on this model.
- 8. Would you like to see the exclusion of domestic workers from the LRA maintained? Please explain.
- 9. Is there any additional information about the occupation (or employment) of a domestic worker that you wish to provide that may be relevant to the Ministry of Labour's review process with respect to this LRA exclusion?

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