



Summary of Working for Workers Four Act Bill149 Amendments

On March 21, 2024, Bill 149 – Working for Workers Four Act, 2024 received Royal Assent. Initially announced on November 14, 2023, Bill 149 introduces various legislative changes. Specific to the hospitality sector it imposes new requirements regarding wage deductions, employment trial periods, vacation pay, tips, pay transparency, job postings, Canadian work experience and the use of AI. Amendments to the *Employment Standards Act, 2000* (“ESA”) take into effect on different dates and are as follows:

Effective March 21, 2024:

Employment Trial Periods:

The definition of “employee” has been amended to include work performed during a **trial period** considered to be training is deemed as work performed and must be paid.

Wage Deductions for Customer Theft:

Employers cannot make deductions from an employee’s wages or cause the employee to return their wages to the employer. The act now specifically includes circumstances where a customer of a restaurant, gas station or other establishment leaves the establishment without paying for the goods or services taken from, consumed at or received at the establishment. For example, a restaurant employer would be expressly prohibited from deducting the wages of a server when a customer “**dines and dashes.**”

Effective June 21, 2024:

Tips and Other Gratuities:

- 1) An employer must pay an employee’s tips or other gratuities by:
 - a) **cash or cheque** payable only to the employee. If an employer opts to pay their employees tips and gratuities by cash or cheque, such payments must be given to the employee at their workplace or at some other place agreeable to the employee.
 - b) **direct deposit** to an account selected by the employee and in the employee’s name. No other person other than the employee or person authorized by the employees has access to the account.

- 2) Additionally, employers who pool/share employee tips with the employer (or a director or shareholder of the employer) will be required to post their **tip sharing/pooling policies** in a

conspicuous place in the workplace. A copy of the policy must be retained for three years after the policy ceases to be in effect.

Note: All employers must ensure compliance with Ontario's Tipping Legislation (Bill 12) and CRA's rules. You can find ORHMA's resource guide to tipping here (<https://www.orhma.com/tips>) and a webinar on Establishing Direct Tips System here (<https://www.orhma.com/webinars>)

Vacation Pay:

Employers may pay vacation pay accrued during a pay period on the pay day for that period (instead of as a lump sum prior to an employee's vacation) if the employee and employer have made an agreement of this. Employers must pay an employee vacation pay according to the timing set out in any such agreement.

On a day to be named in Proclamation:

Job Postings:

- 1) Every employer who publicly advertises a job posting must include the **compensation amount** or the range of expected compensation for the position.
- 2) Employers are not allowed to include in the job posting, or any associate application form, that **Canadian experience** is a requirement.
- 3) Employers are required to have a disclosure statement which will identify their use of **artificial intelligence** to screen, assess or select applicants from a publicly advertised job posting.
- 4) Employers must now retain, or arrange with another person, **copies of publicly advertised job** and any associate applications for three years after access to the posting by the general public is removed.

Also related to the hospitality sector, Bill 149 made amendments to *the Workplace Safety and Insurance Act, 1997 (WSIA)*:

Indexing of Benefits

Currently, any benefits received by an injured worker are adjusted annually based on the federal Consumer Price Index (CPI) to reflect the cost of living. Bill 149 will give the Lieutenant Governor discretion to add an additional indexing factor, known as **super indexing**. If applied, super indexing will increase the benefits paid to a worker which, in turn, will increase an employer's claims costs and WSIB premiums.

For more information on Bill 149 please visit: <https://www.ola.org/en/legislative-business/bills/parliament-43/session-1/bill-149>