

The **Employment Standards Amendment Act** came into force November 6, 2009, and was designed to discourage some of the unethical practices perpetrated by a few disreputable companies within the staffing industry. The changes to the law will promote fairness and sustainable employment for temporary employees. Just like any supplier your company deals with, your choice of provider should be companies that are ethical and have good business practice. Express has always complied with and often exceeded the requirements of the Employment Standards Act. In fact, Express complied with the majority of the new amendments before they were written.

The new amendments to the Employment Standards Act (ESA) include the following:

Permanent Hiring

A temporary help agency can no longer restrict a client from permanently hiring one of its assignment employees. ***Express has never restricted a client from hiring an associate; in fact we encourage this through our evaluation hire program.***

Prohibitions and Restrictions on Conversion Fees

After six months on assignment, temporary help agencies can no longer collect a conversion fee from the client. Also, associates can not be charged fees for services associated with their hiring or assignment. ***Express has modified agreements and policies to meet the new restrictions.***

Other Fees

Temporary help agencies can no longer charge the assignment employees certain fees, including a fee to become an assignment employee. ***Express has NEVER charged our associates fees.***

Job References for Temporary Employees

A temporary help agency can't restrict a client from providing an assignment employee with a reference. The assigning temporary agency must allow this. ***Express has NEVER restricted a client from providing our associates with references.***

Reprisals

Temporary help agencies and client businesses may not penalize assignment employees for asserting their rights under the ESA. ***Express has NEVER penalized our associates for asserting their rights under the ESA.***

Information to Agency Employees

Temporary help agencies must now provide assignment employees with certain kinds of information related to the assignment. Agencies must also provide an Information Sheet, published by the Director of Employment Standards, which outlines the assignment employee's ESA rights. ***Express already provided 95% of this information, and we have modified our system to comply 100% with the new amendments.***

Public Holidays

Assignment employees who are elect-to-work employees are generally entitled to public holidays and public holiday pay. This entitlement starts as soon as employment with the temporary agency begins. The amount of public holiday pay to which an employee is entitled is all of the *regular wages earned* plus the vacation pay payable, in the four work weeks before the work week with the public holiday, *divided by 20*. ***Express has always paid our associates for public holidays.***

Termination

Effective November 6, 2009, assignment employees have a right to notice of termination or pay in lieu of notice. The temporary help agency, as the employer, has the obligation to provide notice or pay in lieu of notice when terminating the employment of any assignment employee who has been employed for at least three months. The notice requirement ranges from one week (for those whose period of employment is less than a year) to eight weeks (for those whose period of employment is eight years or more), based on the length of the employee's relationship with the agency, not the duration of any particular assignment. ***The Express system has been modified to accommodate termination pay.***

Severance

Effective November 6, 2009, assignment employees have a right to severance pay if their employment is severed and they have been employed for at least five years, based on the length of the employee's relationship with the temporary help agency and not the duration of any particular assignment. The severance pay entitlement is equal to one week's pay for each year of employment to a maximum of 26 weeks of pay. ***The Express system has been modified to accommodate termination pay.***

Who must comply with this law?

Whether a temporary help agency assigns temporary employees to clients – or a business uses temporary staff hired through an agency – employers and agency clients must be aware of these legislative changes and must follow them. It's the law.

Paul Bertrand, Owner of the Express Employment Professionals office in Pickering and fellow member, would be more than happy to answer questions and help you understand these amendments.

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