



## May 30 Announcement: BIG WIN FOR \$15 & Fairness!

The May 30 announcement by the Ontario government is a package of reforms coming out of the Changing Workplaces Review and our Fight for \$15 and Fairness.

**If enacted, the changes represent a huge victory for workers across Ontario!**

Although we didn't get everything we wanted, we have won major improvements in most areas of our campaign.

Here are some highlights (but more details are provided below):

- ✓ **A \$15 general minimum wage within 18 months**
- ✓ **Equal pay for part-time, casual, temporary and contract workers, including temporary agency workers**
- ✓ **Fairer scheduling**
- ✓ **An extra week's paid vacation (after 5 years of service)**
- ✓ **10 emergency leave days for all workers, two (2) of which will be paid and no doctor's note will be required for any worker taking emergency leave**
- ✓ **Protection for contract service workers against contract flipping in the building services sector and publicly-funded institutions (like colleges and universities)**
- ✓ **A modest – but important – extension in card-based certification for union organizing**

- ✓ **Other measures to make it easier for workers to join unions**
- ✓ **An increase in public staffing resources for enforcement**

That the government has moved on so many of our demands is a testament to the hard work, tenacity and ongoing organizing efforts of all of you: workers, students, trade unionists, community groups, faith and other community allies.

**Congratulations and thank you!** Whether you signed a petition, mobilized, demonstrated, knocked on doors, canvassed, emailed the Premier, tweeted, put up posters, handed out flyers, met with or emailed your MPP, called coworkers, friends and family members, we are only this far ahead because of your work.

**But there is no room for complacency.**

The business lobby is already using their vast resources to peddle their narrative that any changes in support of workers will ruin the economy. The evidence shows this kind of fear mongering is false. But we will need to work hard to get the message out that higher wages and better working conditions will improve our workplaces, our communities and our lives, including the lives of our families.

We have included a useful fact sheet at the end of this analysis to help counter the false claims of the big business lobbyists.

## FAIRER WAGES

### Minimum wages

#### **A \$15 minimum wage is coming to Ontario!**

Of course we would have preferred it be implemented immediately, but this is one of the fastest phase-in periods yet across North America. This was made possible because each and every one of us involved in this movement took bold action for decent wages. Today's announcement shows that we can fight for real change – and win.

The \$15 minimum wage will be phased in as follows:

**October 1, 2017:** ...\$11.60 (CPI adjustment)

**January 1, 2018:** ...\$14.00

**October 1, 2018:**....Adjusted by the CPI increase (we won't know the CPI until next year)

**January 1, 2019:** ...\$15.00

**October 1, 2019 and every year following:** Adjusted by the CPI increase

Unfortunately, our movement wasn't yet strong enough to eliminate the sub-minimum wage rates set out in the ESA, so the pay differentials for students under 18, liquor servers, farm workers and hunting and fishing guides, remain.

We must redouble our efforts to fight these discriminatory measures.

Equal pay for part-timers, contract and temp workers

For too long, workers have received lower wages than their full time coworkers doing the same job just because they work part-time, contract, temporary or casual.

That is going to stop. The government has proposed changes to eliminate that discrimination and require employers to pay

workers doing the same job the same wage regardless of how many hours worked. This could take away some of employers' incentives to hire people on a part time or temporary basis. This measure is a crucial step forward for women and workers of colour and will help close the gender pay gap and reduce inequality.

Additionally, workers would be protected when inquiring about their wage rate or asking another employee about their wage rate. The employer must respond to the request with a pay adjustment or written explanation. This would come into force on April 1 2018.

### Temp Agency Workers

Temp agency workers make about 40% less than permanent workers. The government has proposed changes to require temp agency workers to be paid the same as workers directly hired by the company doing the same job.

That would take away some of the cost advantage of hiring workers through temp agencies rather than directly by the company. It would shift some of the cost of temporary work on to agencies and client companies and off of workers' back.

Temp agency workers would also be protected from repercussions for inquiring about their wage rate and the rate of an employee of the client so that temp agency workers can enforce their rights. This would come into force April 1 2018.

Temp agency workers would also get better protection when their assignment is suddenly terminated. Temp agency workers would get one week notice or pay in lieu of notice if the assignment scheduled to last longer than 3 months is suddenly terminated.

## DECENT HOURS

Fairer scheduling

New rules will shift some of the burden of erratic schedules on to employers.

Here are some examples:

- ✓ Workers will get three (3) hours of pay if the employer cancels their shift within 48 hours of its start time.
- ✓ Workers will get the right to refuse a shift that is scheduled within four (4) days of that shift. Workers would have the right to request a schedule or location change after three (3) months of employment, without fear of reprisal.
- ✓ When a worker is “on-call” and not called in to work then s/he must be paid 3 hours at regular pay (per 24 hour on-call period).

New Scheduling rules would come into force January 1, 2019.

Paid Vacation

The Fight for \$15 and Fairness called for an additional week of paid vacation for all workers. While we did not achieve the extra paid week for all, we did push the government to increase paid vacations by the full week after five (5) years of service with the same employer. This will take effect January 1, 2018.

Public Holiday Pay

One of the biggest causes of wage theft is employers that don't pay public holiday pay correctly. The government is proposing simplifying the way public holiday pay is determined which should help workers get their proper holiday pay.

## PAID SICK DAYS

Personal Emergency Leave, Paid Sick Days and Doctor's Notes

At present, the ESA provides for 10 unpaid personal emergency leave days for workers.

Unfortunately, businesses with fewer than 50 employees are exempted from this provision and as a result, over 1.7 million workers in Ontario are denied job-protected emergency leave.

The government proposes to extend this protection to all workers, regardless of firm size so that all workers will have job-protected emergency leave. In addition, the definition of emergency leave will be expanded to include domestic or sexual violence as a reason for taking emergency leave. Furthermore, no doctor's note will be required for taking emergency leave, paid or unpaid.

The government will also make it a matter of law that two (2) of these 10 emergency leave days be paid.

We campaigned hard for seven paid sick days (one hour of paid sick time for every 35 hours worked) because we know that under-paid workers can scarcely afford to take an unpaid day off when sick. Although we did not win the 7 paid sick days, we have moved this issue forward and have opened the door to potential improvements down the road.

We also campaigned for the removal of doctor's notes more generally, because we know that this employer-imposed requirement increases the burden on workers, clogs our health care system and is generally unnecessary.

If the government's proposed changes go through, workers will now have access to at least two (2) paid leave days – with no doctor's note required.

## RIGHT TO ORGANIZE & UNIONIZE

Measures to make it easier to join unions

Our labour laws have made it hard to form unions. Barriers facing workers that are spread out in franchises, small subcontracting shops, or with multiple players like home care industries make it hard to unionize.

The government is proposing some steps to make it easier to unionize such as:

- ✓ Extended card-based certification to workers in temporary help agencies, the building services sector and home care and community services industry.
- ✓ A package of changes that make forming a union easier such as making it harder for employers to threaten us when we form a union and to get a first contract.

### Contract flipping

When we form a union, contractors can flip contracts with service providers leaving us with lower wages, working conditions and lack of union protection.

The government is proposing extending protection against contract flipping in the building services sector.

They are also proposing to give the government new regulatory power so that this protection can be extended to retendering publicly-funded contracted services.

The Ministry of Labour will work with stakeholders to review workers excluded from unionizing. Workers such as domestic/caregivers and farm workers can't legally form a union. We must continue to push for their right to unionize.

## RULES THAT PROTECT EVERYONE

### Misclassification

Employers misclassify workers as "independent contractors" to cheat workers out of legal protections under the ESA and to avoid making employer contributions to Employment Insurance, Canadian Pension Plan, and Workers Safety and Insurance premiums.

The government wants to prohibit misclassification under the Act.

Employers found in violation could face fines, prosecution and public disclosure of a conviction. If a worker disputes being treated as an independent contractor then it's up to the *employer* to prove the worker is *not* an employee.

Although a small step forward, this provision still places undue burden on workers themselves to enforce their rights, in circumstances where they have little power and experience great insecurity.

These proposed changes would come into effect after the Bill is passed into law.

### Wage Theft

The government is proposing changes that would remove the requirement for workers to first approach their employer to try to enforce their rights, before being able to file a claim.

At present, the Ministry of Labour may refuse to investigate an ESA claim if the worker does not have enough information on their case. It appears as though the government is proposing to remove this provision so that the Ministry of Labour can investigate all claims.

In addition, the workers would get interest on unpaid wages and any fees that were unlawfully charged to workers.

## Enforcement

What good are rights if they can't be enforced? Not much.

We have been pushing hard for a real enforcement system that catches employers in violation, recovers workers' unpaid wages and entitlements and penalizes employers to deter them from violating employment standards again.

The government has proposed small steps to close loop holes that allow employers to evade paying workers. For example, related businesses would be treated as one employer and held jointly and severally liable for monies owed to workers. But much more is needed in the new economy to make lead companies in control take responsibility for violations down the chain of subcontracting.

The government intends to very modestly increase fines for employer violations, however, the proposed new fines are negligible. New higher fines are good but only if they act as real penalties and are actually applied to employers found to be in violation of the law.

The government proposes to improve collections of unpaid wages and entitlements by:

- ✓ Placing liens on personal property and to hold a security while a payment plan is underway
- ✓ Enable the government to collect and share personal information.

The government plans to hire up to 175 employment standards officers by 2020-21 to improve education, claims processing and enforcement.

## MUCH MORE WORK STILL NEEDED

Extending the ESA to protect all who work

Too many workers are left out of ESA protection. Unfortunately, the government made no proposals to meaningfully expand the ESA to protect all who work.

### Exemptions

Over 85 exemptions and special rules leave 75% of Ontario workers without full protection under the ESA. These exemptions mean employers don't have to follow the rules for things like overtime, minimum wages, public holidays and more.

Exemptions particularly target workers in low-income jobs, without union protection and who are young workers, women and recent immigrants. These exemptions cost Ontario workers close to \$2 billion in lost earnings each year.

The government did *not* follow our recommendations to remove exemptions preventing domestic workers/caregivers, agricultural and horticultural workers, and lawyers and others from their constitutional right to unionize and collectively bargain.

The government is promising that the Ministry of Labour will start reviewing ESA and LRA exemptions in the Fall of 2017. We will need to ensure that this happens in a fair and open process that maintains universality of entitlements and ensures a basic minimum floor of rights.

The government failed to remove the sub-minimum wage rates for students under 18, liquor servers, farm workers and hunting and fishing guides. These workers' wages will increase by the same percentage as the general minimum wage. We must organize to get these exemptions removed when the government starts its review of exemptions this fall.



## Workers' Protection

### Third party and anonymous complaints

The government's proposed changes do little to help enforce the ESA while workers are still in the workplace. For instance the government did not follow our recommendations to bring in anonymous and third party complaints.

### Expedited Anti-Reprisals

Nor did the government propose expedited anti-reprisals investigations for those workers who are penalized for trying to enforce their rights. In particular, it failed to bring in an anti-reprisals process for workers under the Temporary Foreign Worker Program (TFWP). This is particularly egregious because a reprisal faced by workers under the TFWP is very often deportation. This reality makes it a matter of great urgency that we redouble our efforts to ensure fairness for migrant workers.

### Protection for Concerted Activity

The government did not propose protections for workers seeking to improve wages and working conditions as is the case in the U.S. where workers can take "concerted activity" to improve their conditions with protection under the National Labour Relations Act.

### Proactive Enforcement

While we welcome the commitment to hire an additional 175 employment standards officers to enforce the ESA, there really is nothing new on enforcement to deal with changing workplaces.

The government failed to address fissured workplaces where employers have shifted many of the costs, responsibilities and liabilities down the sub-contracting chain, or other intermediaries like franchisees and temp agencies. This makes it extremely difficult to negotiate wages and working

conditions and collect unpaid wages when workers can't deal directly with the firm that has actual power and resources.

The government's proposed enforcement plan is more of the same: education for employers, reduce claims processing time and to go after the "bad apples."

The government fails to outline plans for a proactive enforcement program that includes expanded inspections on claims that confirm violations, strategic inspections in high risk sectors, additional research on fissured labour markets to identify targeted enforcement strategies, mandatory penalties in confirmed violations to deter non-compliance and so much more.

## HISTORIC BREAKTHROUGHS

Regardless of the road ahead, there is no doubt that the gains announced today are historic improvements in Ontario's labour standards regime.

That we have further to go should come as no surprise. But we should all be incredibly proud of the work we have done – and energized for the struggles to come.

## LET'S KEEP FIGHTING!

# Everyone wins when workers receive fair wages.

*Higher wages mean more spending and that's good for the economy. A \$15 minimum wage will improve the earnings of over one-quarter of Ontario's workforce – about 1.5 million people.*

## \$15 Minimum Wage is a \$5 Billion Boost



### Strengthen the local economy

Because minimum wage earners tend to spend most of their earnings, this money will be put to work where it's needed most – in local communities. Raising Ontario's minimum wage to \$15 an hour would stimulate Ontario's economy by putting more than \$5 billion additional dollars in workers' pockets.

This increased spending generates even more economic activity, creating an effect that cascades throughout the economy and multiplies the impact of the initial \$5 billion stimulus. And it wouldn't cost the Ontario government a cent.



### Create jobs

Increasing the minimum wage to \$15 an hour makes good economic sense. Household spending is a key economic driver accounting for more than half – 54% – of Canada's GDP. Businesses need customers to thrive – and to generate job growth. Without customers who can afford to buy what businesses are selling, there's no point for them to produce more goods and services. This helps explain why tax cuts for corporations and the rich have failed to create the jobs we were promised.

No amount of tax cuts will convince businesses to produce more if they can't sell what they are already producing! So today businesses are not reinvesting their profits, but simply stockpiling them – to the tune of hundreds of billions of dollars. Even the big banks and the previous Bank of Canada Governor Mark Carney have warned about this stash of "dead money."

Increasing the minimum wage will put money to work and create demand for additional goods and services, which in turn creates jobs.



### Reduce income inequality

Raising the minimum wage will benefit nearly 1.5 million people, almost 60% of whom are at least 25 years old. Women, newcomers and racialized workers face systemic discrimination in the labour market and this helps explain why they are over-represented among minimum wage earners. Over 58% of minimum wage earners are women and, according to the Wellesley Institute, 35% are racialized. The share of racialized employees earning minimum wage is 47% higher than for the total population. Raising the minimum wage will help close the income gap for workers facing barriers on the job market.

But workers under 25 also deserve higher wages. We cannot assume that young workers aren't also breadwinners supporting themselves and or dependents. Decent wages for all workers mean that young people can leave abusive situations to live independently when necessary. Moreover, young workers' are very often students whose earnings go toward the cost of education, including tuition fees, housing and living expenses.



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